

## Consumer Lending Update

MAY 2021

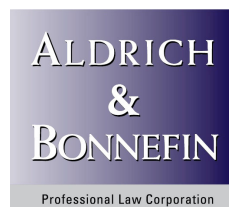
### CFPB EXTENDS TEMPORARY GSE QM; GSEs MAY NONETHELESS KILL IT

There has been a bit of drama with regard to the Temporary GSE Qualified Mortgage (QM). Remember that under Regulation Z's ability-to-repay (ATR) rule, this QM applies to loans that are eligible for purchase or guarantee by Fannie Mae or Freddie Mac (that is, the government-sponsored enterprises (GSEs)), or are eligible for insurance or guarantee by certain federal agencies. Originally, this QM was going to expire on January 10, 2021 or the date a GSE exits federal conservatorship, whichever happens first. In October 2020, the CFPB issued a final rule delaying the Temporary GSE QM's expiration. 85 FR 67938. The October 2020 final rule did not set a date for the QM's expiration. Instead, it promised to issue another final rule in the future that would amend the General QM and set the Temporary GSE QM's expiration date to be the General QM amendments' effective date. In December 2020, the CFPB issued that final rule. 85 FR 86308. The General QM's amendments were effective on March 1, 2021, with a July 1, 2021 mandatory compliance date. That meant the Temporary GSE QM was going to expire on July 1, 2021 or the date the applicable GSE exits federal conservatorship, whichever happens first. However, in March 2021, the CFPB issued a proposal that

would delay the General QM amendments' mandatory compliance date and the Temporary GSE QM's expiration date to October 1, 2022. 86 FR 12839.

Here's what's new – on April 27, 2021, the CFPB issued a final rule formally extending the General QM amendments' mandatory compliance date to October 1, 2022. 86 FR 22844. The CFPB's April 2021 final rule also extends the Temporary GSE QM's expiration date to the earlier of October 1, 2022 or the date the applicable GSE exits federal conservatorship. If a creditor receives an ATR-covered application on or after March 1, 2021, but prior to October 1, 2022, it has the option of complying with the original General QM definition or the December 2020 final rule's revised General QM definition. If a creditor receives an ATR-covered application on or after October 1, 2022, only the revised General QM definition will be available.

Even though the CFPB has extended the Temporary GSE QM until October 1, 2022, the senior preferred stock purchase agreement between the GSEs and the Treasury does not reflect that extension. This is because they last revised that agreement on January 14, 2021, before the CFPB extended the July 1, 2021 mandatory compliance date to October 1, 2022. Thus, that agreement, in short, requires the GSEs to revise their programs so



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that they stop purchasing Temporary GSE QMs by July 1, 2021, which may effectively terminate the Temporary GSE QM prior to its regulatory October 1, 2022 expiration date. Now that the CFPB has finalized the October 1, 2022 expiration date, perhaps the Treasury and the GSEs will revise their agreement, allowing the GSEs to continue purchasing Temporary GSE QMs, but that is speculation at this point and had not been publicly announced as of May 14, 2021.

For more information on any Regulation Z requirement, including the ATR rule, contact Stephanie Shea at **[SShea@ABLawyers.com](mailto:SShea@ABLawyers.com)**.