



Financial Services & Products ADVISORY ■

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Fannie Mae and Freddie Mac Sunset the QM Patch

by *[Stephen Ornstein](#)*

In a development that is likely to confuse the residential mortgage industry, on April 8, 2021, Fannie Mae and Freddie Mac announced in separate pronouncements that effective for loans with application dates after June 30, 2021 (for [Fannie Mae](#); for [Freddie Mac](#), applications received on or after July 1, 2021), the loans must conform with the revised qualified mortgage (QM) loans rules—and cannot be QM Patch loans. These pronouncements contradict the Consumer Financial Protection Bureau (CFPB) proposal to delay the mandatory effective date of the revised QM rules until October 1, 2022, and in effect, during the period between March 1, 2021 and October 1, 2022, give creditors the option of originating QM loans either under the legacy QM rules, including the QM Patch, or the revised QM rules.

Background

On December 10, 2020, former CFPB director Kathy Kraninger [issued the revised QM rules](#) that replaced Appendix Q and strict 43% debt-to-income ratio (DTI) underwriting threshold with a priced-based QM loan definition. The revised QM rules also terminated the QM Patch, under which certain loans eligible for purchase by Fannie Mae and Freddie Mac do not have to be underwritten to Appendix Q or satisfy the capped 43% DTI requirement. The rule was to take effect on March 1, 2021, but compliance would not be mandatory until July 1, 2021. Under the rulemaking, the QM Patch would have expired on the earlier of July 1, 2021 or the date that government-sponsored enterprises (GSEs) exit conservatorship.

On March 3, 2021, the CFPB issued a notice of proposed rulemaking to delay the mandatory compliance date of the revised QM rule from July 1, 2021 to October 1, 2022. Notably, under this proposal, the QM Patch would not expire until October 2022. At this juncture, it is anticipated that the CFPB will adopt this rulemaking, which will give creditors the option of originating QM rules under either the legacy QM rules or the revised QM rules between March 1, 2021 and October 1, 2022.

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The GSE Pronouncements

In their April 8, 2021 pronouncements, Fannie Mae and Freddie Mac, citing certain obligations mandated under their senior preferred stock purchase agreement with the U.S. Department of the Treasury, announced that they, in effect, will adhere to the mandatory effective date of the revised QM rules as originally promulgated by Kraninger in December 2020.

In particular, in Fannie Mae Lender Letter 2021-09, Fannie Mae indicated it will no longer acquire loans that are QM Patch loans that do not meet the revised QM rules. To be eligible for purchase by Fannie Mae, QM Patch loans must:

- have application dates on or before June 30, 2021, and
- be purchased as whole loans on or before Aug. 31, 2021, or in MBS pools with an issue date on or before Aug. 1, 2021.

Similarly, in Freddie Mac Bulletin 2021-13, Freddie Mac noted that it will no longer purchase QMs under the QM Patch effective for mortgages with “Application Received Dates” on or after July 1, 2021 and all mortgages with “Settlement Dates” after August 31, 2021.

Takeaways

The GSE announcements clash with and contradict the CFPB’s stated goal of giving creditors optionality in originating QM loans under either rule until October 1, 2022. While the true motives of the Federal Housing Finance Agency, the entity that supervises the GSEs in conservatorship, and the CFPB in their rulemakings are beyond the scope of this writing, the GSE pronouncements will only confuse the residential mortgage markets, and unless amended to conform with the CFPB proposal, will hasten the termination of the QM Patch and usher in the implementation of the far more subjective revised QM rules earlier than expected.

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