



Ability-to-Repay & Qualified Mortgages

IV. Qualified Mortgage Presumptions

Presumptions of Compliance – Two Kinds

§ “Safe Harbor” Presumption

- *Irrebuttable Presumption*
- The lender is considered to have complied with the ability-to-repay requirement as a matter of law

§ Rebuttable Presumption

- The presumption that the creditor complied with the law can be rebutted

Safe Harbor QM

§ APR is less than 3.5% above APOR for:

- All small creditor portfolio QMs
- All subordinate liens

§ APR is less than 1.5% above APOR for:

- First lien QMs, *except the small creditor QMs*

Rebuttable Presumption QM

§ APR is **3.5%** or more above APOR for:

- All small creditor portfolio QMs
- All subordinate liens

§ APR is **1.5%** or more above APOR for:

- First lien QMs, *except the small creditor QMs*

Small Creditor Definition

Assets

**Beginning in 2016: \$2.052* Billion
(Assets of *both* the creditor and its
affiliates count)**

***2016, adjusted annually**

Originations

**Beginning in 2016: 2,000 or fewer
1st-lien originations (creditor &
affiliates) – *only counts loans not
held in portfolio by lender or
affiliates***