



Ability-to-Repay & Qualified Mortgages

VI. What Charges Count Toward the QM Points and Fees Cap?

QM: Points and Fees Caps for 2016

Loan Amount Range*	Allowable Points and Fees*
\$101,749 and up	3%
\$61,050 - \$101,748.99	\$3,052
\$20,350 - \$61,049.99	5%
\$12,719 - \$20,349.99	\$1,017
\$0 - \$12,718.99	8%

** Adjusted annually*

Prepaid Finance Charges (PPFC) Categorical Exclusions

Always excluded:

§ **Daily interest, or other interest**

§ **Government guaranty fees**

- Ex: FHA upfront and annual premiums, VA funding fee, USDA guarantee fee

§ **All monthly PMI charges and premiums payable after consummation**

- However, *upfront* PMI charges must meet certain conditions to be excluded

PPFC Conditional Exclusions – Third Party Charges

§ PPFC paid to bona fide third parties may be excluded from points and fees

- But - any part of the charge retained by the creditor, loan originator, or affiliate is counted
- However, if required elsewhere that the fee be included, then that trumps this exclusion and the fee must be counted
 - *Example: upfront PMI*

PPFC Conditional Exclusions – Discount Points

The number of discount points that can be excluded depends on the loan's rate:

- § If the pre-discount rate *does not exceed APOR + 1%*:
you can exclude up to 2 *bona fide* discount points
- § If the pre-discount rate *does not exceed APOR + 2%*:
you can exclude up to 1 *bona fide* discount point

PPFC Conditional Exclusions – Discount Points

§ **Discount points can be excluded only if they are “bona fide”**

§ **To be bona fide, the points must:**

- Buy a rate reduction for the borrower
- Reduce the loan rate by an amount consistent with “industry norms”

Third Party Loan Origination Compensation

§ **Compensation paid to third party originators is included in points and fees**

- Including compensation paid through the interest rate

§ **However - compensation to your own employee loan originators is not included**

Real Estate Settlement Fees: Conditional Exclusions

§ Real estate settlement costs

- Costs described in the Truth in Lending finance charge rule 1026.4(c)(7)
 - *Title-related charges, appraisal fees, credit report fees, and document preparation fees, etc*

§ To be excluded, the fees must meet 3 conditions:

1. Reasonable
2. Without direct or indirect compensation to the creditor, and
3. Not paid to an affiliate of the creditor

Right to Cure

- § **Limited post-consummation right to cure for loans that exceed the points and fees limit, but otherwise meet the QM requirements.**
- § **Subject to certain conditions, e.g. refund, time limitations, policies and procedures.**
- § **Sunsets on January 10, 2021.**