

## Comparison of Regulation Z HPML & HOEPA Loan Regulations Effective for Loan Originations on or after October 1, 2009

	HPML (12 CFR § 226.35) Higher-Priced Mortgage Loans (Purchase-Money, Refinancings, and Home Equity Loans)	HOEPA (12 CFR § 226.32) High-Cost Mortgage Loans (Refinancings and Home Equity Loans Only)
<b>General</b>	TILA 2008/2009 amendments apply to homeowners that already own their homes similar to HOEPA <u>and</u> added coverage to new homeowners that entered into loans with a closing APR higher than published APOR	1994 TILA amendments apply to homeowners that already owned their homes and entered into loans that met or exceeded specific cost parameters. TILA 2008/2009 amendments enhance existing HOEPA protections to align with the HPML restrictions effective 10/1/09.
<b>Consumer Loan Type</b>	<p><b>** Principal dwelling only</b>, fixed rate or adjustable rate mortgages including:</p> <p>Closed-end purchase money loan Refinancing of closed-end purchase money or home equity loan Closed-end home equity loan</p>	<p><b>** Principal dwelling only</b>, fixed rate or adjustable rate mortgages including:</p> <p>Refinancing of closed-end purchase money or home equity loan Closed-end home equity loan</p>
<b>Thresholds</b>	<p>Thresholds based on average prime offer rate (APOR) as published via the FFIEC's rate spread calculator on website <a href="http://www.ffiec.gov/ratespread/newcalc.aspx">www.ffiec.gov/ratespread/newcalc.aspx</a> :</p> <p><b>Final APR</b> must exceed the <b>APOR</b> as of the <b>final interest rate lock date</b> by at least</p> <ul style="list-style-type: none"> <li>• 1.5 percentage points for first-lien loans <b>or</b></li> <li>• 3.5 percentage points for subordinate-lien loans.</li> </ul> <p><b>Note:</b> Same rate spread calculation used for HMDA purposes as of January 1, 2010.</p>	<p>Thresholds based on <u>either</u> APR Test <b>or</b> Points &amp; Fees Test:</p> <p><b>APR Test:</b> A closing date APR that exceeds the yield on Treasury securities with comparable maturities as of the 15<sup>th</sup> day of the month immediately preceding application by more than</p> <ul style="list-style-type: none"> <li>• 8.0 percentage points for first-lien loans <b>or</b></li> <li>• 10.0 percentage points for subordinate-lien loans</li> </ul> <p style="text-align: center;"><b>– OR –</b></p> <p><b>Points and Fees Test:</b> Points and fees exceeding the greater of</p> <ul style="list-style-type: none"> <li>• 8 percent of the total loan amount <b>or</b></li> <li>• \$579 in HOEPA fees for 2010 (fee threshold updated annually).</li> </ul>
<b>Disclosure</b>	No separate additional disclosures required.	<p>HOEPA disclosure must be given 3 business days prior to closing. If transaction is rescindable, give to <u>each</u> consumer who has the right to rescind. The following must be included in HOEPA disclosures:</p> <ul style="list-style-type: none"> <li>◦ "You are not required to complete this agreement merely because you have received these disclosures or signed a loan application. If you obtain this loan, the lender will have a mortgage on your home. You could lose your home, and any money you have put into it, if you do not meet your obligations under this loan." <b>plus</b></li> <li>◦ APR; amount of the regular monthly (or other periodic) payment and the amount of any balloon payment; if variable rate transaction, statement that interest rate and payment may increase and the maximum rate and payment possible; and the amount borrowed (note amount with notation if amount includes optional credit insurance or debt-cancellation coverage).</li> </ul>
<b>Prohibition</b>	<p>May <u>not</u> rely on the collateral securing the loan without regard to the consumer's ability to repay. Lender may consider current and reasonably expected income, employment, assets other than collateral, current obligations and mortgage-related obligations.</p> <p><b>Mortgage related obligations</b> include, but are not limited to, property taxes, insurance premiums including PMI, HOA or condo fees, secondary mortgage payments taken at or before closing in addition to this transaction's mortgage payment.</p>	<Same as HPML
<b>Prohibition</b>	<p>May <u>not</u> fail to escrow for property taxes and mortgage-related insurance (including insurance against loss of or damage to property, protecting mortgage lender against default or other credit loss, and flood insurance) when the high priced mortgage loan is secured by a <b>first lien</b>. Escrows requirements effective:</p> <ul style="list-style-type: none"> <li>• April 1, 2010 for site-built homes</li> <li>• October 1, 2010 for manufactured homes</li> </ul>	< <b>NONE</b>
<b>Prohibition</b>	May <u>not</u> structure a home-secured loan as an open-end plan to evade Regulation Z's <b>HPML</b> provisions.	May <u>not</u> structure a home-secured loan as an open-end plan to evade Regulation Z's <b>HOEPA</b> provisions

	HPML (12 CFR § 226.35) Higher-Priced Mortgage Loans (Purchase-Money, Refinancings, and Home Equity Loans)	HOEPA (12 CFR § 226.32) High-Cost Mortgage Loans (Refinancings and Home Equity Loans Only)
Prohibition	May <u>not</u> impose a prepayment penalty after 2 years	<Same as HPML
Prohibition	<p>May <u>not</u> impose a prepayment penalty at <u>any</u> time if <u>any</u> of the following is true:</p> <ul style="list-style-type: none"> <li>• Other applicable law prohibits such penalty;</li> <li>• The consumer's principal and/or interest mortgage payment can change during the first 4 years of the loan term (i.e., adjustable rate mortgage with first change during first 4 years) ; or</li> <li>• The source of the prepayment funds is a refinancing by the <u>same</u> mortgage lender or an affiliate.</li> <li>• <b><i>NONE</i></b>&gt;</li> </ul> <p><b>Note:</b> Prepayment penalty would be allowed on a 5-year ARM, but <u>not</u> on a 3-year or 4-year ARM. However, if loan allows negative amortization and lender has right to accelerate payment reset date at times such as when a higher principal balance outstanding caused by the negative amortization meets a contractually set threshold.</p>	<p>May <u>not</u> impose a prepayment penalty at <u>any</u> time if</p> <ul style="list-style-type: none"> <li>• &lt;Same as HPML</li> <li>• &lt;Same as HPML</li> <li>• &lt;Same as HPML</li> <li>• The consumer's total monthly debt payments (at loan consummation), including amounts owed under the mortgage, exceed 50% of the consumer's monthly gross income.</li> </ul>
Prohibition	<b><i>NONE</i></b> >	<p>May <u>not</u></p> <ul style="list-style-type: none"> <li>• impose, with limited exception, a balloon payment on loans with a term of less than 5 years;</li> <li>• impose negative amortization;</li> <li>• collect advance payments, i.e., the consolidation and collection of more than 2 periodic payments, paid in advance from the loan proceeds;</li> <li>• increase an interest rate upon default;</li> <li>• include, with limited exception, a due-on-demand clause;</li> <li>• unfairly calculate interest due to be rebated to a consumer in connection with loan acceleration resulting from default;</li> <li>• make, with limited exception, a direct payment of loan proceeds to a home improvement contractor, payable solely in the name of the contractor;</li> <li>• fail to furnish the required Regulation Z notice to an assignee of a high-cost mortgage (informs the assignee this mortgage is subject to special TILA protections and the assignee could be liable for claims and defenses the consumer could assert against the lender);</li> <li>• refinance a high-cost mortgage made by the same lender into another high-cost mortgage to the same homeowner within 1 year of consummation unless the refinancing is in the homeowner's interest, e.g., a lower interest rate.</li> </ul>