



September 29, 2009

Understanding Higher-Priced Mortgage Loans (HPML) and Average Prime Offer Rate (APOR)

As of October 1st, all mortgage lenders must be fully compliant with the Truth in Lending amendment regarding **Higher-Priced Mortgage Loans**. Summarized below are the sources for finding the current APOR index, how to perform the computation and other steps for compliance.

Higher-Priced Mortgage Loans (HPML) and the Average Prime Offer Rate (APOR)

The recent amendment to Truth in Lending established a new category called Higher-Priced Mortgage Loans. Known as HPMLs, provisions apply to applications received on or after October 1, 2009. HPMLs are not to be confused with HOEPA loans (Home Owner Equity Protection Act) which carry different rules, tolerance levels and state-specific regulations. HPMLs are loans secured by the borrower's principal dwelling that are priced at an APR (Annual Percentage Rate) exceeding a new index published by the Federal Reserve Board named the Average Prime Offer Rate (APOR).

Based on the date the interest rate is set (locked or re-locked) lenders must compare their APR with the Fed's APOR index. The loan will be considered a higher-priced mortgage loan if the APR exceeds the index by:

1.5 or more percentage points on First Liens

3.5 or more percentage points on Subordinate Liens

The Federal Financial Institutions Examination Council (FFIEC) publishes the Average Prime Offer Rate (APOR) on behalf of the Federal Reserve Board. To determine whether or not your loan is considered a Higher-Priced Mortgage Loan, go to the FFIEC website at <http://www.ffiec.gov/> and select Rate Spread Calculator from the Consumer Compliance menu on the homepage.

This link can be directly accessed as follows:
<http://www.ffiec.gov/ratespread/newcalc.aspx>

The FFIEC's goal is to have a "rate spread" calculator for HMDA reporting. The index that is applied to HPML is also used for HMDA. On this site you will notice the following links which take you directly to the tables:

continued on next page

Average Prime Offer Rates - Fixed

<http://www.ffiec.gov/ratespread/YieldTableFixed.CSV>

Average Prime Offer Rates - Adjustable

<http://www.ffiec.gov/ratespread/YieldTableAdjustable.CSV>

The site does not mention Truth in Lending and is dedicated to HMDA reporting. Nonetheless, there is a quick calculator available on the bottom right of the page that can be used to compare your APR to the index. After choosing Fixed or ARM, enter the lock-in date, APR, # years and lien status. Click on "submit" and the system will calculate the spread. Please note there is no answer box. The page will pop back up to the top and you need to scroll back down to see the answer on the blank space underneath. If the rate spread exceeds 1.5%, the message will display the calculated rate spread. If you are within compliance, the message will state "N/A."

To view the tables themselves, click on the appropriate Fixed or Adjustable links. Both tables are provided in gigantic Excel spreadsheets that begin in the year 2000. The current weekly index will be over 500 rows down. Since the spreadsheet was not formatted to continuously show the column headings, I suggest you scroll directly to column "AE" if the loan is a 30-year, highlight that column, and then scroll all the way down to the bottom row.

The intersection of these two points (row & column) will provide the current APOR index. For first liens, add 1.5 % to the listed index if the loan was locked in (or re-locked) during the week following the date. For example, if your APR is 7.09 and you subtract 1.5 your answer is 5.59. If your answer is higher than the posted index,

which is currently 5.09 your loan is classified as an HPML.

Freddie Mac's Primary Mortgage Market Survey (PMMS)

The information which forms the basis for the Federal Reserve's index is the Freddie Mac Primary Mortgage Market Survey (PMMS). The PMMS posts the weekly interest rates for 15 and 30-year fixed loans and the rates for 1 and 5-year ARMs. The survey also posts the weekly average fees and points, reflected as a percentage of the loan amount. The new regulation requires lenders to compare their APR to the index; however, the PMMS provides useful rate information. The PMMS can be accessed from the following link:

<http://www.freddiemac.com/dlink/html/PMMS/display/PMMSOutputYr.jsp>

Higher-priced mortgage loans do not include:

- Construction Financing
- Temporary or bridge loans 12 months or less
- Reverse mortgages
- Home Equity Line of Credit

If you have determined that your loan is an HPML, what's next?

Make sure that you document the borrower's ability to pay.

To comply with the new law, lenders must verify the consumer's repayment ability as follows:

- Verify income to cover repayment ability

through W-2, tax returns, paystubs, financial institution records or third party verifications

- **Verify the borrower(s)' current obligations through credit reports and other documents.** A creditor is presumed to have complied with this rule if they have verified the borrower's repayment ability and determined repayment ability of P&I scheduled for the first seven years, taking into account their obligations. The lender may utilize debt ratios or disposable income.

For certain loans, such as terms of 7 years or less or increases in principal balance, no presumption of compliance is available. Creditors are prohibited, within one year of having extended credit subject to this new law, from refinancing any loan to the same borrower into another loan unless the refinancing is in the borrower's interest. The law has other provisions regarding escrows, selling and assigning a mortgage.