



# Compliance - The Regulatory Road Ahead

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- About Ellie Mae
- Ellie Mae's Compliance Team and Process
- CFPB Final Rules and Ellie Mae's Plans for Implementation:
  - > Higher-Priced Mortgage Loan (Escrow Requirements)
  - > Loan Originator Compensation and Qualification
  - > Ability-to-Repay (ATR) and Qualified Mortgage (QM) Standards
  - > RESPA Pre-Loan Counseling
  - > High-Cost Mortgage Loan
  - > Higher-Priced Mortgage Loan (Appraisal Requirements)
  - > ECOA (Reg B) Appraisal Requirements
  - > RESPA/TILA Integrated Mortgage Disclosures (TBD)
  - > HMDA and HMDA-LAR (TBD)
- Questions

## **Who is Ellie Mae?**

16

Years Serving Mortgage Bankers

20%

US Mortgage Market Flowing Through Encompass360

1,500+

Lenders on Encompass360

2,000

Connections to Industry Partners

82,000+

Active Users

1,200,000+

Monthly Network transactions

## Ellie Mae's Compliance Team and Process

- Expert Minds at Work - Internal
  - > Four Product Compliance Attorneys
  - > Product Compliance Enablement Manager
  - > Four Product Compliance Analysts
  - > Over Twenty-Two Employees Supporting and Implementing Compliance Updates
  
- Expert Minds at Work - External
  - > Hudson Cook, LLP
  - > Weiner Brodsky Kider PC
  - > BuckleySandler LLP
  - > Reed Smith LLP
  - > Other Regional Law Firms/Experts

# Ellie Mae Compliance Team – Expert Minds At Work With the Industry



- Regular Presenters at MBA Tech, Legal/Regulatory, QA/Risk Management and Other Industry Meetings
- Regularly communicate with federal and state regulators and investors on all varieties of compliance issues, including:
  - General Interpretations
  - Licensing
  - Disclosure, Document, and Calculation Requirements
  - Data and Integration Issues
  - Reports and Reporting Requirements
  - Underwriting Standards



- Monitor
  - > Legislation
  - > Regulations
  - > Case Law
  - > Official Interpretations
  - > Investor Requirements
  
- Formulate
  - > Research and Analyze
  - > Document
  - > Escalate
  - > Change Control Process

- Implement
  - > Encompass
    - Evaluation
    - QA
    - Review Unit Test Results
    - Escalation
  - > Encompass Compliance Service
    - Evaluation
    - Unit Test
    - QA
  
- Alert and Deploy
  - > Client Notification
  - > Deployment
  - > Effective Dates and ECS Archived Rules

- What percentage of the US Mortgage Market flows through Encompass360?

# Ellie Mae's Plans for Supporting and Implementing CFPB Final Rules

# Escrows for First Lien Higher-Priced Mortgage Loans

**Effective Compliance Date: June 1, 2013**

## ■ **Synopsis**

Expands length of first lien HPML required escrow accounts and extends exemptions

## ■ **Ellie Mae Response**

Revised ECS Compliance Tests

- Revised Threshold Tests
- Reflected Expanded Exemptions in Applicability Rules
- Updated messaging on required escrow account length and cancellation
- Designate Property in Rural or Underserved Area

## ■ **Potential Business Impact**

- Brokered Loans, Construction/Permanent, Jumbo, First Lien Home Equity, Small Loans, **Loans** with PMI or **FHA MI**
- 80% of first lien purchase money manufactured homes were HPMLs (2010)
- **Qualified Mortgage (QM) Presumption of Compliance Safe Harbor**

- Jacksonville is the largest city in the continental United States. How many square miles is it?
  - > 440
  - > 620
  - > 840
  - > 1020

## **Loan Originator Compensation and Qualification**

**Effective Compliance Date: June 1, 2013**

**Effective Compliance Date: January 10, 2014**



## ■ **Synopsis**

- > Updated Definitions
- > Updated Compensation Methods
- > Recordkeeping
- > SAFE Act Compliance
- > Qualification Standards
- > Loan Originator (Organization and Individual) Name and NMLS ID on Application, Contract, Security Instrument and Integrated Mortgage Disclosures
- > Prohibits mandatory arbitration clauses or barring federal court claim
- > Prohibits financed single-premium credit insurance

- **Ellie Mae Response**
  - > Encompass Compliance Service
    - Rules restricting financed single-premium credit insurance (*Delayed*)
  - > Encompass360
    - Updating Application, Notes, and Security Instruments with LO (Organization and Individual) Name and NMLS ID
  
- **Potential Business Impact**
  - > Review LO Compensation Methods
  - > Review Qualification and Screening Standards for ALL LOs

- Jacksonville has an average of how many days of sunshine per year?
  - > 100
  - > 200
  - > 300
  - > 365

# **Ability-to-Repay / Qualified Mortgage Standards (ATR/QM)**

**Effective Compliance Date: January 10, 2014**

# Ability-to-Repay / Qualified Mortgage: What is a “Covered Transaction”

- **Synopsis**

A creditor must not make a loan that is a covered transaction unless the creditor makes a reasonable and good faith determination at or before consummation that the consumer will have a reasonable ability to repay the loan according to its terms.

- “Covered Transaction” is a consumer purpose, closed-end loan secured by a 1-4 unit dwelling
- “Covered Transaction” is **Not** a HELOC, timeshare, reverse mortgage, bridge loan, initial construction, or construction phase of construction-to-permanent loan of 12 months or less

# Ability-to-Repay / Qualified Mortgage (QM) Standards

- Originate a Qualified Mortgage (QM) - Presumption of Compliance
  - > Standard QM
  - > Temporary (“Government Patch”) QM
  - > Balloon Payment QM (Small Creditor/Rural or Underserved Area)
  
- Refinance a “Non-Standard Mortgage” into a “Standard Mortgage”
  
- Originate a mortgage loan after considering and verifying eight factors
  1. Current or reasonably expected income/assets (exclude dwelling value)
  2. Current employment status, if creditor relies on employment income
  3. Monthly payment on the covered transaction
  4. Monthly payment on any simultaneous loan creditor knows or has reason to know will be made
  5. Monthly payment for mortgage-related obligations
  6. Current debt obligations, alimony, and child support
  7. Monthly debt-to-income ratio or residual income
  8. Credit history

# Qualified Mortgage (QM) Presumption of Compliance

- **SAFE HARBOR** - Prime Rate QMs
- First lien: APR less than 1.5% plus APOR
- Subordinate lien: APR less than 3.5% plus APOR
- It is conclusively presumed creditor complied with ATR requirement if loan meets QM standards.
  
- **REBUTTABLE PRESUMPTION** - Higher-Priced QMs
- First lien: APR equals or exceeds 1.5% plus APOR
- Subordinate lien: APR equals or exceeds 3.5% plus APOR
- Consumer claiming a violation has the opportunity to provide evidence a creditor did not make a “reasonable and good faith determination” of the consumer’s ability to repay. Consumer has burden to prove the claim.

# Standard Qualified Mortgage (QM)

- Loan Term not Exceeding 30 Years, No Interest Only, Neg Am, or Balloon (*except rural Small Creditor*)
- Total Points and Fees do not exceed:
  - > 3% of Total Loan Amount if Note Amount  $\geq$  \$100,000
  - > \$3,000 if Note Amount  $\geq$  \$60,000 < \$100,000
  - > 5% of Total Loan Amount if Note Amount  $\geq$  \$20,000 < \$60,000
  - > \$1,000 if Note Amount  $\geq$  \$12,500 < \$20,000
  - > 8% of Total Loan Amount if Note Amount < \$12,500
- Backend DTI does not exceed 43% (*total monthly debt to total monthly income*). Use Appendix Q (*based on FHA single-family handbook*)
- Underwriting takes into account monthly payment of all mortgage-related obligations (*Max Interest Rate during first 5 years*)
- Income or assets relied on in making ATR determination must be considered and verified



# Temporary “Government Patch” QM

- The 43% Back-End DTI Cap Does **NOT** apply
- Three of the Standard QM requirements apply:
  - > Loan Term not Exceeding 30 Years
  - > No Interest Only, Neg Am, or Balloon (except rural Small Creditor)
  - > Total Points and Fees do not exceed 3% or other applicable cap
- Loans must be eligible to be (replaces Standard QM DTI and underwriting provisions):
  - > Purchased or guaranteed by a GSE while under conservatorship or receivership; or
  - > Insured or guaranteed by HUD, VA, USDA, or RHS
- Expires upon the earlier of: effective date of rule issued by respective agency, end of conservatorship, or covered transaction consummated after 01/10/2021

## Balloon Payment QM (*Small Creditor Rural or Underserved Area*)

- Creditor eligible to make Rural Balloon-Payment QM if:
  - > Originates at least 50% of their first-lien loans in rural/underserved counties, has less than \$2 billion in assets, and (along with their affiliates) originate no more than 500 first-lien mortgages per year
- Creditor must generally hold loans in their portfolio for 3 years in order to maintain “QM” status
- Three of the Standard QM requirements apply:
  - > Loan Term not Exceeding 30 Years
  - > No Interest Only or Neg Am
  - > Total Points and Fees Do Not Exceed 3% or other applicable cap
- Loan Term 5 years or more and Fixed Interest Rate
- Must meet certain basic underwriting standards (*DTI and RI, but not 43% DTI/App Q*)

# Refinance “Non-Standard” Mortgage into “Standard” Mortgage

## ■ **Non-Standard Mortgage**

- > ARM loan with initial fixed rate period  $\geq$  1 year, I/O or Neg Am Feature

## ■ **Standard Mortgage**

- > No I/O, Neg Am, or Balloon Features
- > Total Points and Fees  $\leq$  QM Points and Fees Limit
- > Loan Term  $\leq$  40 Years
- > Interest Rate Fixed  $\Rightarrow$  5 Years
- > Proceeds pay off non-standard mortgage and closing/settlement fees
- > Creditor is current holder of existing non-standard mortgage
- > Monthly payment for standard mortgage is materially lower
- > Creditor considers whether standard mortgage likely will prevent a default
- > Creditor receives written application within certain timeframes associated with late payments on the non-standard mortgage and within 2 months of the non-standard mortgage recast

- VyStar Credit Union is hosting this meeting. VyStar was founded in 1952 as Jax Navy Federal Credit Union to serve civil service, military employees, and their families at Naval Air Station Jacksonville.
  
- How much money did the credit union count in assets after the first year of operation?
  - > Just over
    - \$2,000
    - \$12,000
    - \$24,000
    - \$28,000

- Additional Exemptions from Rule:
  - > Credit Extended Under a Housing Finance Agency Administered Program
  - > Credit Extended by Certain Nonprofit Creditors
  - > Credit Extended under EESA and HHF Programs
  - > Federal Agency or GSE Refinancing Programs
  
- Add Small Creditor Portfolio Loans as QMs
  - >  $\leq$  2 billion in assets and
  - > originated  $\leq$  500 first lien loans covered by Rule in prior calendar year
  
- Raise Higher-Priced Loan Threshold for Rural Balloon Payment and Small Creditor QM
  
- **Revisions to Section 32 Commentary on LO Compensation**

- **Ellie Mae Response - Identify which ATR/QM standard applies:**
  - APR, Loan Term, and Features
  - 3% or Applicable Points and Fees Tests
  - Applicable Back-End DTI Limit
  - Residual Income
  - UW Guidance
  - AUS Validation
  - DU/LP vs. Loan File
  - > Encompass Compliance Service Tests
    - Rate and Points and Fees Thresholds
    - Prepayment Penalty Limitations
  - > TQL
  - > Documentation for Borrower, Lender, Investor
  
- **Potential Business Impact**
  - > GSEs only purchase QM loans
  - > QRM will be based on QM

- Jacksonville has Florida's youngest population. The median age in the River City is?
  - > 20.5
  - > 25.5
  - > 35.5
  - > 40.5

## **High Cost Mortgage Loan**

**Effective Compliance Date: January 10, 2014**

## **Homeownership Counseling**

**Effective Compliance Date: January 10, 2014**



## ■ **Synopsis**

- > Extends Coverage to: Closed and Open End 1-4 Primary Dwelling
  - Excludes: Reverse, Initial Construction, HFA Creditor and USDA Direct
  
- > Revised Rate Definition and Threshold
  
- > Revised Points and Fees Definition and Threshold (*same definition as QM*)
  
- > New Prepayment Penalty Threshold
  
- > Updated Prohibited Predatory Practices

## ■ **Ellie Mae Response**

- > Encompass Compliance Service
  - New High Cost Rate Threshold
  - New High Cost Points and Fees Threshold
  - Update Worksheets
  - Update Prohibited Predatory Practice Tests
  - Analyzing 30 State High Cost Tests for Federal law Impact
  
- > Encompass
  - Revise Federal High-Cost Disclosure
  - Update Worksheets

## ■ **Potential Business Impact**

- > Brokered Loans, Construction/Permanent, Manufactured, First Lien Home Equity, Small Loans, Loans with PMI or FHA MI
- > Little (No) appetite for High Cost Loans in Secondary Market

# Homeownership Counseling Requirements RESPA and TILA

- **Synopsis**

- > On all “Federally Related Mortgage Loan”, provide a List of Homeownership Counselors within 3 business days of Application
- > Pre-Loan Counseling High Cost or First Time Homebuyer (NegAm)

- **Ellie Mae Response**

- > New List of HUD Approved Counselors (RESPA) from HUD or CFPB
- > Track New Pre-Loan Counseling Certification (If High Cost/Neg Am)

- **Potential Business Impact**

- > Additional process checks for disclosure and appraisal certification

- Florida shares its official state bird with four other states: Arkansas, Mississippi, Tennessee, and Texas.
  
- What is the official state bird of Florida?
  - > Mockingbird
  - > Brown thrasher
  - > Common loon
  - > Scissor-tailed flycatcher

## **HPML (Appraisal Requirements)**

**Effective Compliance Date: January 10, 2014**

## **ECOA (Reg B) Appraisal Requirements**

**Effective Compliance Date: January 18, 2014**

## ■ **Synopsis**

Enhanced appraisal requirements for HPMLs (*excludes: Qualified Mortgage, New Manufactured, Mobile, Boat, Trailer, Initial Construction, Bridge Loan, Reverse-Mortgage, and HELOC*)

## ■ **Ellie Mae Response**

- > New ECS Higher-Priced Mortgage Loan Threshold Tests
- > New Encompass Higher-Priced Mortgage Loan Written Appraisal Confirmation
  - Meet Safe Harbor Requirements
  - Appraiser Certifications

## ■ **Potential Business Impact**

- > Additional process checks for disclosure and appraisal certification
- > Costs for Enhanced Appraisals

- **Synopsis**

Notify consumer of right to receive appraisal copy within 3 days of application and provide appraisal copy no later than 3 days before closing or within 30 days if loan does not close (consumer may waive)

- **Ellie Mae Response**

Update Disclosure for Notifying Borrower of Right to Receive a Copy of an Appraisal (Model C-9)

- **Potential Business Impact**

- > Additional process checks for disclosure and appraisal delivery timing
- > Additional Costs

- Which two college football teams play in Jacksonville each October in a game nicknamed "The World's Largest Outdoor Cocktail Party"?
  - > University of Georgia
  - > Georgia Tech
  - > University of Florida
  - > Florida State



# **RESPA/TILA Integrated Mortgage Disclosures**

## **Effective Compliance Date TBD: 2014-2015**

# Integrated Mortgage Disclosure RESPA/TILA

<b>FICUS BANK</b> 4321 Random Boulevard • Somersy, ST 12340 Save this Loan Estimate to compare with your Closing		<b>Closing Disclosure</b> This form is a statement of final loan terms and closing costs. Compare this document with your Loan Estimate.	
<b>Loan Estimate</b> DATE ISSUED: 7/23/2012 APPLICANTS: John A. and Mary B. 123 Anywhere Street Anytown, ST 12345 PROPERTY: 456 Somewhere Avenue Anytown, ST 12345 SALE PRICE: \$180,000		LOAN TERM: 30 years PURPOSE: Purchase PRODUCT: Fixed Rate LOAN TYPE: <input checked="" type="checkbox"/> Conventional <input type="checkbox"/> FHA <input type="checkbox"/> VA <input type="checkbox"/> LOAN ID #: 123456789 RATE LOCK: <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES, until 9/21/12 at 5:00 p.m. Before closing, your interest rate, points, and change unless you lock the interest rate. All closing costs expire on 8/6/12 at 5:00 p.m.	
<b>Loan Terms</b> Loan Amount: \$162,000 Interest Rate: 3.875% Monthly Principal & Interest: \$761.78 Prepayment Penalty: NO Balloon Payment: NO		<b>Loan Terms</b> Loan Amount: \$162,000 Interest Rate: 3.875% Monthly Principal & Interest: \$761.78 Prepayment Penalty: NO Balloon Payment: NO	
<b>Projected Payments</b> Payment Calculation Principal & Interest: \$761.78 Mortgage Insurance: + 82 Estimated Escrow: + 206 Estimated Total Monthly Payment: \$1,050		<b>Projected Payments</b> Payment Calculation Principal & Interest: \$761.78 Mortgage Insurance: + 82.35 Estimated Escrow: + 206.13 Estimated Total Monthly Payment: \$1,050.26	
Estimated Taxes, Insurance & Assessments: \$206 a month This estimate includes: <input checked="" type="checkbox"/> Property Taxes <input checked="" type="checkbox"/> Homeowner's Insurance <input type="checkbox"/> Other. In escrow? YES YES See Section G on page 2 for escrowed property costs. You must pay for other property costs separately.		Estimated Taxes, Insurance & Assessments: \$356.13 a month This estimate includes: <input checked="" type="checkbox"/> Property Taxes <input checked="" type="checkbox"/> Homeowner's Insurance <input checked="" type="checkbox"/> Other: Homeowner's Association In escrow? YES YES NO See page 4 for escrowed property costs. You must pay for other property costs separately.	
<b>Cash to Close</b> Estimated Cash to Close: \$16,054 Includes: \$8,054 in Closing Costs (\$5,672 in Loan Costs Other Costs - \$0 in Lender Credits). See details on page 2.		<b>Cash to Close</b> Cash to Close: \$14,272.35 Includes: \$9,729.54 in Closing Costs (\$4,694.05 in Loan Costs + \$5,035.49 in Other Costs - \$0 in Lender Credits). See details on page 2.	
Visit <a href="http://www.consumerfinance.gov/learnmore">www.consumerfinance.gov/learnmore</a> for general information and tools.		CLOSING DISCLOSURE	
LOAN ESTIMATE PAGE 1 OF 3 - LOAN		PAGE 1 OF 5 - LOAN ID # 123456789	

# Ellie Mae Response to Integrated Mortgage Disclosure Requirements

- **Encompass360 Changes**
  - > New APR Calculation
  - > New Itemization, Loan Estimate, and Closing Disclosure handling
  - > New Disclosure Tracking handling
- **New Disclosures**
  - > Pre-Application Loan Estimate
  - > Loan Estimate
  - > Closing Disclosure
  - > Closing Disclosure Reconciliation
  - > No-Point, No-Fee Comparison Disclosures
  - > New Worksheets
- **Encompass Compliance Service Changes**
  - > New APR Calculation and New Tolerance Tests
- **Potential Business Impact**
  - > Workflow, training, process, pricing

- The CFPB’s “Integrated Mortgage Disclosures Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth In Lending Act (Regulation Z)” *Proposed Rule* published in the Federal Register on August 23, 2012 contained how many pages?
  - > 10
  - > 100
  - > 343
  - > 1043

# **HMDA and HMDA-LAR**

## **Effective Compliance Date TBD: 2014-2015**

- **Synopsis**
  - Creates new HMDA-LAR fields to report
  
- **Ellie Mae Response**
  - > Create new Encompass HMDA Input Fields
  - > Review and Revise Data Mapping, Export, and Reporting
  - > Revise ECS HMDA Quality, Validity, and Syntactical Edit Tests
  
- **Potential Business Impact**
  - > Review and Revise HMDA-LAR Data Fields and Integration

- Reviewing/Analyzing/Implementing Dodd-Frank Final Rules
- Product Legal and Compliance Team coordinating with Product Management and outside counsel to determine necessary changes to Encompass360 and Encompass Compliance Service
- Compliance Benefits of an Integrated System
  - > Consistency
  - > Accuracy
  - > Tracking
  - > Recordkeeping

- Which classic American rock band hails from Jacksonville?
  - > Eagles
  - > Chicago
  - > Styx
  - > Lynyrd Skynyrd



- Encompass360 Compliance Center  
<https://www.elliemae.com/resourcecenter/compliance.aspx>
- Encompass Newsflash Articles
- Encompass Compliance Service Alerts
- Cedric Kalvesmaki: [cedric.kalvesmaki@elliemae.com](mailto:cedric.kalvesmaki@elliemae.com)
- Christine Acree: [christine.acree@elliemae.com](mailto:christine.acree@elliemae.com)

- Ellie Mae's Compliance Resources include?
  - > Encompass360 Compliance Center
  - > Encompass Newsflash Articles
  - > Encompass Compliance Service Alerts
  - > All of the above