ESSENT®

QM & ESSENT MI PREMIUMS.

QM Points and Fees Test

If the points and fees for a loan are in excess of 3% of the total loan amount (with higher caps applying to small loans), the loan cannot qualify for safe harbor or have the protection of a rebuttable presumption.

The treatment of MI premiums as a component of the points and fees calculation can be a key determinant of whether a loan can be in safe harbor (or receive a presumption) or is ineligible for such protection.

Essent MI Premium Treatment

ESSENT MI PRODUCT	INCLUDED IN POINTS & FEES CALCULATION?	NOTES
BPMI Deferred or Standard Monthly (Refundable and Non-Refundable)	No	Periodic payments including any portion of an initial periodic payment due at closing are not included in the points and fees calculation.
BPMI Annual (Refundable and Non-Refundable)	No	Same as above.
BPMI Non-Refundable Singles or Split Premiums	Yes	Non-refundable single or upfront premium is included in the points and fees calculation.
BPMI Refundable Singles or Split Premiums	Yes, it is prudent to include the entire upfront MI premium until the law is clarified.	By rule, in order to exclude the premium paid by the borrower at closing, up to the FHA rate (currently 175 bps), it must be refundable on a pro rata basis and the refund must be automatic upon loan payoff. Amounts in excess of the FHA rate are always included. (See disclosure below.)
LPMI Monthly or Singles (Non-Refundable)	No	If the MI premium is reflected in the interest rate, it is not included in the points and fees calculation.

Sellers Points

Payments by a seller toward finance charges — so-called “seller’s points” — are not included as finance charges in the points and fees calculation as long as the consumer is not legally bound to the creditor for the charges.

MI premiums are finance charges, therefore, a seller’s payment of an upfront MI premium would not count toward the points and fees test.

Note: A loan that is not a QM can still be appropriate as long as a reasonable, good-faith determination has been made that the borrower is able to repay. You can continue to use the same underwriting guidelines you have used in the past to make loans that have generally performed well, as long as you document the information you considered. You can learn more about the Ability To Repay (ATR) requirement at consumerfinance.gov/Regulations.

Disclosure: The above table is for general information purposes only. It is not intended as and should not be relied upon as legal advice. There is uncertainty with regard to the upfront portion of BPMI Refundable Singles, as the QM rule does not define pro rata. Consumer Finance Protection Bureau (CFPB) staff have informally indicated that the interpretation of “pro rata” is governed by any applicable definition in state law or contract, and in the absence of such, they offered a perspective that a pro rata refund is one that is proportionate to the remaining policy life. Given this statement by the CFPB and because our refund schedule is based on a 5-year term, we believe our BPMI Refundable Singles premiums should be **included** in the QM Points and Fees Calculation.

Mortgage Insurance provided by Essent Guaranty, Inc.

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