

# QM Points & Fees: Included and Excluded

INCLUDED IN QM'S POINTS AND FEES	NOTES
<p><b>Most items in the finance charge</b></p>	<p>Most charges in the finance charge are included in the points and fees, with some exceptions. Exceptions are listed in the Charges Excluded From QM's Points and Fees Calculation chart immediately following this one.</p>
<p><b>Amount of upfront private mortgage insurance that exceeds FHA premium</b></p>	<p>This includes the portion of any such premium or other charge that is payable at or before consummation that exceeds the amount payable under FHA policies in effect at the time of origination. Entire upfront premium is included regardless of the amount if the premium or charge <i>is not refundable on a pro rata basis or if the refund is not automatically issued upon notification of the satisfaction of the underlying mortgage loan.</i></p>
<p><b>Compensation paid to:</b></p> <ul style="list-style-type: none"> <li>• A mortgage broker firm or a creditor acting as a mortgage broker</li> <li>• The creditor or brokerage company from the consumer (but not compensation paid by the consumer to a broker if the compensation is already included in points and fees as a finance charge)</li> </ul>	
<p><b>Real estate related fees or charges if the creditor receives direct or indirect compensation in connection with the fee or charge, the fee or charge is paid to a creditor affiliate, or the fee or charge is not reasonable:</b></p> <p>Real estate related fees or charges are included only if:</p> <ul style="list-style-type: none"> <li>• The fee or charge is paid to an affiliate of the creditor</li> <li>• The creditor receives direct or indirect compensation, or</li> <li>• The charge is not reasonable</li> </ul>	<p>These fees or charges are included only if they are paid to a creditor affiliate, the creditor receives direct or indirect compensation in connection with the fee or charge, or the fee or charge is not reasonable:</p> <ul style="list-style-type: none"> <li>• Fees for title examination, abstract of title, title insurance, property survey, and similar purposes</li> <li>• Fees for preparing loan-related documents, such as deeds, mortgages, and reconveyance or settlement documents</li> <li>• Notary and credit report fees</li> <li>• Property appraisal fees or fees for inspections to assess the value or condition of the property if the service is performed prior to closing, including fees related to pest-infestation or flood-hazard determinations</li> <li>• Amounts required to be paid into escrow or trustee accounts if the amounts would not otherwise be included in the finance charge</li> </ul>

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<p><b>Prepayment penalties</b></p> <p>The <i>maximum prepayment penalty</i> that may be charged or collected under the terms of the loan.</p>	<p>For closed-end loans, interest charged consistent with the monthly interest accrual amortization method is not a prepayment penalty for extensions of credit insured by the Federal Housing Administration that are consummated before January 21, 2015.</p> <p>For open-end loans, the following are NOT included as prepayment fees: (i) fees imposed when an open-end plan is terminated, if imposed irrespective of when terminated; (ii) loan guarantee fees; and (iii) certain termination fees permitted under Section 1026.40(f).</p>
<p>The <i>total prepayment penalty</i> incurred by a consumer if the loan is refinanced with the current holder or a servicer acting on the current holder's behalf or affiliate of either.</p>	
<p><b>Other forms of credit insurance or insurance where creditor is the beneficiary</b></p>	<p>Premiums payable at or before consummation including charges for any credit life, disability, unemployment, property insurance or most other insurance where the creditor is beneficiary; payments for any debt cancellation or suspension agreement or contract.</p> <p><b>Note:</b> Property was not previously included in the HOEPA calculation.</p>

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<p><b>Interest or time price differential</b></p>	
<p><b>Any bona fide third party charge not retained by creditor, loan originator or affiliate of either</b></p>	
<p><b>Mortgage insurance</b> Government mortgage insurance premium.</p>	<p>Any premium payable at or before consummation payable in connection with a state or Federal agency program.</p>
<p><b>Some Private Mortgage Insurance</b> – generally the amount equal to or less than government mortgage insurance premiums payable at or before consummation as well as post consummation payments.</p>	<p>The premium is excluded if:</p> <ul style="list-style-type: none"> <li>• Premium or other charge is payable at or before consummation, the portion of any such premium or other charge that is not in excess of the amount payable under FHA policies in effect at the time of origination provided that the premium or charge is required to be refundable on a pro rata basis and the refund is automatically issued upon notification of the satisfaction of the underlying mortgage loan;</li> <li>• Premium or other charge is payable after consummation, the entire amount of such premium or other charge.</li> </ul>
<p><b>Discount points</b> Up to two bona fide discount points if the interest rate before the discount does not exceed APOR by 1%. If no discount points have been excluded, up to one bona fide discount point if loan's interest rate before the discount does not exceed APOR by 2%.</p>	<p>Specifically, two discount points are excluded if the loan's interest rate, without any discount, does not exceed:</p> <ul style="list-style-type: none"> <li>• The average prime offer rate by more than one percentage point; or</li> <li>• For high cost mortgages that are secured by personal property, the average rate for a loan insured under Title I of the National Housing Act by more than one percentage point</li> </ul> <p>Specifically, one point may be excluded if:</p> <ul style="list-style-type: none"> <li>• The loan's interest rate, without any discount, does not exceed the average prime offer rate by more than two percentage points; or</li> <li>• For high cost mortgages that are secured by personal property, the average rate for a loan insured under Title I of the National Housing Act by more than two percentage points.</li> </ul>



**NOTE CONFLICT:** These are included in the finance charge (APR) *but are excluded from the QM's Points and Fees Calculation*

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<p><b>Individual compensation</b></p> <p>Compensation paid by a creditor or mortgage broker to an individual who is an employee of the creditor or mortgage broker.</p>	
<p><b>Real estate related fees</b></p> <p>Most real estate related fees or charges are excluded provided:</p> <ul style="list-style-type: none"> <li>• The fee or charge is not paid to an affiliate of the creditor</li> <li>• The fee or charge is reasonable</li> <li>• The creditor receives no direct or indirect compensation in connection with the fee or charge</li> </ul>	<p>Third party charges <i>that are not paid to an affiliate of the creditor, are reasonable and are not direct or indirect compensation to the creditor</i> are <b>excluded</b>, such as:</p> <ul style="list-style-type: none"> <li>• Fees for title examination, abstract of title, title insurance, property survey, and similar purposes</li> <li>• Fees for preparing loan-related documents, such as deeds, mortgages, and reconveyance or settlement documents</li> <li>• Notary and credit report fees</li> <li>• Property appraisal fees or fees for inspections to assess the value or condition of the property if the service is performed prior to closing, including fees related to pest-infestation or flood-hazard determinations</li> <li>• Amounts required to be paid into escrow or trustee accounts if the amounts would not otherwise be included in the finance charge</li> </ul>
<p><b>Seller's Points</b></p>	<p>In addition to the exclusion for seller's points, certain charges paid by a seller may be excluded if they <i>are not among</i> the charges listed above in the chart on Charges Included in QM Points and Fees Calculation. MBA submitted a comment letter on a proposed CFPB rule dealing with this issue on July 22nd and will update this chart as appropriate.</p>