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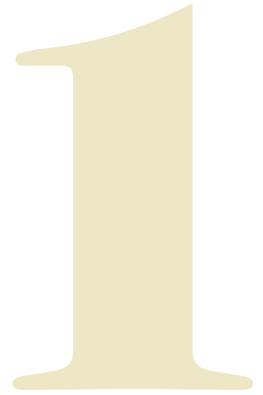
Six *important* questions  
you need to ask about your  
compliance process

## Expert Summary

*In this demanding and ever-changing regulatory environment, it is extremely important to assess your current processes, systems and/or solution providers for comprehensive loan-level compliance reviews. Asking the right questions about your regulatory compliance process can help determine whether you have a complete compliance solution that gives you the freedom to lend with confidence.*

*The following questions can help you assess how effectively your current vendor is meeting your needs, and whether your solution will meet the many –and tougher– 2014 regulations.*

# Is your Qualified Mortgage Rule test good enough?



The Qualified Mortgage (QM) Rule is likely the biggest compliance-related change in mortgage lending in decades and has challenged the capabilities of many compliance vendors. With so much at stake, Interthinx recommends an immediate review of your current automated regulatory compliance vendor to ensure that they have the correct processes, systems and management in place for QM Rule testing.

It is very difficult —especially from a technology perspective— to accurately program a new regulation in a technology solution. Several groups within the organization, all playing different roles, must be well orchestrated to make it happen —which is likely to tax your already strained resources. Resource coordination can present a significant roadblock to a successful execution, yet it is imperative that the solution be flawless.

It is not too late to automate your QM Rule testing to improve results, increase data integrity and help prove to the CFPB that you've followed the rules.

If you believe your current compliance solutions provider was/ is fully ready, then follow up on employee training. Are you fully satisfied with their comfort level and are they leveraging the full capabilities of the system? Finally, make sure your error resolution process is seamless. What do you do when you have a loan at the closing table that turns out to be non QM compliant?

## Does your system have an FHA version of the QM rule?



FHA has proposed its own version of the QM test. There will likely be a VA-specific version as well. That's why accommodating multiple QM test types is emerging as a vital strategy for compliant lending.

If your business model includes the origination of FHA-backed or VA-insured loans, but your compliance engine is not set up to allow for product-specific testing, it could severely impact your competitive edge.

## Does your system automatically know to include fees paid to affiliated entities and seller-paid broker compensation?

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The CFPB has taken an aggressive stance against affiliated fees which typically include title, appraisal and credit services. The CFPB's position is that a lender's decision to route its customers to its wholly- or partially-owned subsidiary is self-serving and not in the best interest of consumers.

For this reason, affiliated fees must be included in the QM and new HOEPA calculations. That is also why a QM compliance system must be flexible enough to recognize whether a fee is being paid to an affiliate.

Same holds true with broker compensation in wholesale transactions. A worthy compliance system must know to include broker comp in the QM rule test, even if it is paid by the seller.

In short, whether you do this internally or rely on a vendor, it is critical that affiliated fees and seller-paid broker compensation be properly distinguished.

## Who makes the final determination as to whether a fee should be included in the points and fees calculation... your automated compliance system or your front-line staff?

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This is a critically important question because it goes to the heart of the highest quality automated compliance systems available today.

The best systems make consistent, unbiased determinations as to which fees must be counted in the fees calculations –an especially critical decision for the QM rule 3% fee limitation. Many commercially available compliance systems require the processor, underwriter, or loan officer to identify the included fees. This puts the onus on front-line staff –regardless of their background– to have expert-level legal and regulatory compliance knowledge. Leaving these decisions to individuals will undoubtedly lead to inconsistent and inaccurate results. The best-in-breed systems perform this function automatically, freeing staff to focus on where their expertise lies resulting in consistent, uniform and highly accurate compliance testing of all loans.

## Can your system provide robust testing for the bona-fide discount point exclusion?



The QM rule allows an originator to exclude up to two “bona-fide” discount points from the 3% points and fees cap. This is a critical exclusion. In an age where the average loan costs \$5,900 to originate, you must be able to exclude as many of the charges as possible under the new rules in order to turn a profit. So, you need to be certain that your compliance system will handle the bona-fide discount point exclusion correctly.

Vendors have adopted widely varying approaches to solve this problem. Many compliance systems rely on the judgment of their loan officers or processors as to whether a discount point is bona-fide. If called into question, this method will likely do little to appease regulators and class-action lawyers.

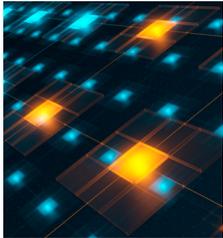
A well-thought out compliance solution –that performs two distinct calculations to ensure that bona-fide discount points are precisely determined– provides a much sounder approach.

The first calculation should compare the loan’s par rate to the note rate and look for a rate drop that corresponds to “standard industry practice” (a QM rule requirement). Since “standard industry practice” is not well defined, this could be 1/4%, 1/8% or another value altogether. A strong compliance system will conservatively baseline at 1/4% for each discount point charged, and be easily customized to fit your requirements if changes are needed now or in the future.

Next, the system should compare the loan’s par rate to the QM-specified standard: if the par rate is less than the Average Prime Offer Rate (APOR) plus 1%, then lenders can exclude up to two discount points as bona-fide; if the par rate is less than APOR plus 2%, then up to one discount point can be excluded.

This two-step process is the **ONLY** way to ensure that your bona-fide discount point exclusion analysis is consistent, uniform and sound. It is also the only way to take the burden of making these decisions from your front line staff.

## Does your system automatically know when to perform the 43% debt-to-income ratio test?



Under the Dodd-Frank Act, the FHA, RHS, USDA, VA, FNMA and FHLMC have been given authority to create temporary versions of the QM rule. It appears that these temporary versions (known as “patch” QMs) waive the back-end debt-to-income ratio test. This means that if a loan is eligible for sale to FNMA or FHLMC, or is eligible for insurance or guarantee by FHA, RHS, USDA or VA, your compliance system should not perform the debt-to-income ratio portion of the QM test and, instead, rely on the automated underwriting engine results.

A well designed compliance system will do just that –automatically.

## Automated Regulatory Compliance Feature Checklist

**Designed to be employed at any point in the origination process, PredProtect® from Interthinx® is integrated with many loan origination systems. A complete solution, PredProtect adds hundreds of compliance checks to your existing process, including the latest from:**

- Qualified Mortgage (QM) Rule
- Qualified Residential Mortgage (QRM) Rule\*
- Home Ownership and Equity Protection Act (HOEPA)(Section 32)
- Higher-Priced Mortgage Loan Limitations (Section 35)
- Truth in Lending Act (TILA) – APR Validation and Rescission Period Test
- Mortgage Disclosure Improvement Act (MDIA)
- Real Estate Settlement Procedures Act (RESPA)
- Appraisal Requirements for Higher-Priced Mortgages
- Secure and Fair Enforcement for Mortgage Licensing Act (SAFE Act) – License/Registration Validation Through the NMLSR
- Office of Foreign Assets Control (OFAC)
- State High Cost Regulations
- State Subprime Loan Limitations
- Investor Tests
- And more

\* when available

## About Interthinx Automated Regulatory Compliance

Maintaining regulatory compliance is a formidable challenge, as nearly every aspect of the mortgage origination process is subject to strict requirements. The PredProtect Regulatory Compliance Suite runs multiple compliance checks on your loans in real-time alerting you to any potential violations so corrections can be made before loans are funded. PredProtect streamlines your process and reduces compliance costs by performing a detailed analysis on every loan. Results are clearly displayed with pass/fail indicators for quick review. An Interthinx exclusive, the 'Points & Fees Drilldown' feature allows users to quickly identify fees that need attention. Clear and concise descriptions of the applicable laws, written in plain English, make the analysis easy to understand. The report provides written proof of compliance that can be placed in the loan file. All of this is backed by legendary customer service.

## About Interthinx

Interthinx®, a subsidiary of First American Financial Corporation (NYSE: FAF), provides essential products and services to mitigate risk in the mortgage lending marketplace.

Interthinx offers solutions in mortgage fraud and verification, property valuation, compliance, quality control, loss mitigation and capital planning that are used by the nation's top financial institutions. Interthinx helps its clients minimize risk, increase operational efficiencies, satisfy regulator demands, manage data verification, and remain compliant.

For more information, visit [www.interthinx.com](http://www.interthinx.com) or call 1-800-333-4510.

# Interthinx End-to-End Risk Mitigation

As the largest aggregator of mortgage application data and the most comprehensive proprietary database, Interthinx provides proven end-to-end risk mitigation tools and a leading team of experts in mortgage fraud, collateral risk, regulatory compliance and audit services.

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- SafeCheck®
- SSN Direct
- 4506-T
- Watchlist Review Module

## **COLLATERAL RISK & VALUATION SOLUTIONS**

- Interthinx Review Appraisal Services
- Clear Value® AVM
- Condition Assessment Report

## **REGULATORY COMPLIANCE**

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## **LOAN REVIEW SOLUTIONS**

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- Servicing QC
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