

## VA Circular 26-19-22, Clarification & Updates to Policy Guidance for VA IRRRLs

**EFFECTIVE DATE: 08-28-2019**

This communication is to advise that FGMC will explicitly follow the guidance in [VA Circular 26-19-22](#), which includes [Exhibit A](#), [Exhibit B](#), and [Exhibit C](#). This information is effective immediately for all applicable VA loans in process.

Below is a summary of the Circular and Exhibits, please reference the links in the preceding paragraph for full guidance. All Interest Rate Reduction Refinance Loans (IRRRLs) that do not meet the following requirements may be subject to indemnification or removal of the guarantee. Delegated files that do not comply with the Circular and the attached Exhibits will be ineligible for purchase.

### **Recoupment**

Recoupment describes the length of time it takes for a Veteran to pay for certain fees, closing costs, and expenses that were necessitated by the refinance loan. VA requires recoupment to be calculated in two different ways:

- **Disclosure Recoupment:** All IRRRLs require a Loan Comparison Statement (reference [Exhibit C, Sample Comparison Statement](#)) that includes the time to recoup all closing costs and related fees of the new refinance loan. There is no maximum duration for the number of months all fees are recouped.
  - The Loan Comparison Statement must be completed and provided within three (3) business days of taking application and with the closing package.
  - FGMC will require evidence that the Veteran/borrower has acknowledged receipt of each statement (at application and closing).
- **Fee Recoupment Test:** The Fee Recoupment Test describes the length of time it takes for a Veteran to pay for certain fees, closing costs and expenses that were necessitated by the refinance loan. This includes, but is not limited to, IRRRLs in which the principal balance is increasing, the term of the loan is decreasing, or where the loan being refinanced is an adjustable-rate mortgage (ARM).
  - For an IRRRL that results in a **lower monthly principal and interest (PI) payment**, the recoupment test period cannot exceed 36 months from the date of the loan closing.
  - For an IRRRL that results in the **same or higher monthly principal and interest (PI) payment**, the Veteran may not incur fees, closing costs, or expenses (other

than taxes, amounts held in escrow, and the VA Funding Fee). This is applicable to all IRRRL transaction types, including ARM to Fixed.

## **Recoupment Calculation**

There are two different calculations; the specifics are as follows:

### ***Disclosure Recoupment***

The disclosure recoupment calculation is computed by dividing all fees, expenses, and closing costs, whether included in the loan or paid outside of closing (i.e., an appraisal fee), by the reduction of the monthly PI payment. The VA funding fee, escrow, and prepaid expenses, such as, insurance, taxes, special assessments, and homeowners' association (HOA) fees, are *included* in the recoupment calculation.

### ***Fee Recoupment Test***

When the Veteran will have a lower monthly principal and interest (PI) payment, then the fee recoupment test calculation is computed by dividing all fees, expenses, and closing costs, whether included in the loan or paid outside of closing (i.e., an appraisal fee), by the reduction of the monthly PI payment. The VA funding fee, escrow, and prepaid expenses, such as, insurance, taxes, special assessments, and homeowners' association (HOA) fees, are *excluded* from the recoupment calculation. The time to recoup costs is limited to 36 months.

Refer to the below table for information about specific fees, expenses, and closing costs (FECC) to be included in or excluded from the fee recoupment test calculation. Please refer to Chapter 8 of VA Lenders Handbook (M26-7) for information about allowable fees, expenses, and closing costs (FECC).

Included FECC	Excluded FECC
<ul style="list-style-type: none"> <li>• Allowable fees and charges               <ul style="list-style-type: none"> <li>○ Included in the loan amount</li> <li>○ Paid outside of closing</li> </ul> </li> <li>• Credit Report (if required)</li> <li>• Appraisal Fee (if applicable and the lender requires Veteran to pay)</li> <li>• Reasonable discount points               <ul style="list-style-type: none"> <li>○ Included in the loan amount</li> <li>○ Paid outside of closing</li> </ul> </li> </ul> <p><b>Note:</b> Lender credits may be used to offset allowable fees and charges (including discount points)</p>	<ul style="list-style-type: none"> <li>• VA funding fee</li> <li>• Per diem interest</li> <li>• Escrow</li> <li>• Prepaid Expenses               <ul style="list-style-type: none"> <li>○ Insurance</li> <li>○ Taxes (including delinquent taxes)</li> <li>○ Special assessments</li> <li>○ Homeowners' association (HOA) fees</li> </ul> </li> </ul> <p><b>Note:</b> This is not an all-inclusive list of prepaid expenses.</p>

Reference [Exhibit B, Determining Recoupment Period for IRRRLs](#) for complete details and examples.

### **Required Documentation**

All files require the final Loan Comparison Statement to evidence compliance with the disclosure recoupment calculation.

When applicable, the following is required:

- Documentation to exhibit the fee recoupment test calculation when the Disclosure Recoupment calculation exceeds 36 mos.
- For an IRRRL that results in the same or higher monthly PI payment, the Closing Disclosure (CD) must evidence that the Veteran incurred no fees, closing costs, or expenses other than taxes, amounts held in escrow, and the VA Funding Fee.

### **Net Tangible Benefit**

A loan that provides a net tangible benefit (NTB) means that it is in the financial interest of the Veteran. The following NTB standards are required:

- **Fixed to Fixed:** The new loan must have an interest rate that is at least 0.50% less than the original interest rate.
- **Fixed to ARM:** The new loan must have an interest rate that is at least 2.00% less than the original interest rate.

For a **Fixed to ARM** refinance in which a **lower interest rate** is produced solely from discount points (Fixed to Fixed, ARM to Fixed and ARM to ARM are excluded):

- Discount  $\leq$  one point, the LTV cannot exceed 100%.
- Discount  $>$  one point, the LTV cannot exceed 90%.
- An exterior appraisal (FNMA 2055/FNMA 1075) will be required to determine the LTV:
  - The appraisal order is to be placed with an Appraisal Management Company; it should not be placed through WebLGY or the VA Fee Panel.
  - If the cost of the appraisal is passed to the Veteran, the cost must be included as part of each recoupment calculation.
- When an appraisal is obtained, the LTV is calculated by dividing the total loan amount (including the VA Funding Fee) by the appraised value.

### **Loan Seasoning**

If the loan being refinanced is not seasoned (see guidance directly below) on or before the date that the refinance loan closes, the loan will not be eligible for the VA guarantee.

### ***Calculating the Loan Seasoning***

The due date of the first payment is used to determine loan seasoning. A loan is considered seasoned if **both** of the following conditions are met as of the date of loan closing:

- The due date of the first monthly payment of the loan being refinanced is 210 days or more prior to the closing date of the refinance loan; **and**
- Six consecutive monthly payments have been made on the loan being refinanced.

### **Energy Efficient Mortgage (EEM)**

If a Veteran is refinancing with an Energy Efficient Mortgage (EEM), the EEM amount, while generally held in escrow, is not considered a fee, closing cost, or expense. As such, it is not included as an amount to be recouped. VA acknowledges that in most cases the additional monies added to the Total Loan Amount for the energy efficient improvement will make it difficult, if not impossible, to meet the 36-month recoupment calculation. Because the intent of the EEM is to “pay for itself,” VA will allow lenders to subtract the EEM amount from the Total Loan Amount when determining Monthly PI for purposes of calculating statutory recoupment. Lenders must still include the EEM amount when providing the Loan Comparison Statement to the Veteran.