

Clarification and Updates to Policy Guidance for VA Interest Rate Reduction Refinance Loans (IRRRLs)

1. Purpose. The purpose of this Circular is to clarify guidance on the calculation of statutory fee recoupment as required by Public Law 115-174, the Economic Growth, Regulatory Relief, and Consumer Protection Act (the Act), for Interest Rate Reduction Refinance Loans (IRRRLs).

2. Background. A statutory fee recoupment calculation established in Circular 26-19-22 has been successfully implemented by an overwhelming majority of lenders who correctly applied the policy and met the requirements of the Act. However, in a few instances some lenders relied on specific Exhibit B examples in isolation without regard to the guidance provided in the main body of the circular.

3. Therefore, Circular 26-19-22 is changed as follows:

Page 2, Paragraph 3(a)(3), remove the following “*Calculating Recoupment*. Recoupment is calculated 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 fee recoupment calculations. See Exhibit B for more specific instructions and examples including IRRRLs with Energy Efficient Mortgage (EEM) improvements.”

And replace with;

“*Calculating Statutory Recoupment*. Fee recoupment is calculated by dividing all fees, expenses, and closing costs, whether included in the loan or paid outside of closing (i.e., appraisal fee, pest inspections, credit report, etc., as applicable), 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 statutory fee recoupment calculations. Lender credits may be used to offset allowable fees and charges.

(a) Energy Efficient Mortgage (EEM): If a Veteran is refinancing with an EEM, the portion of the funds dedicated towards EEM, shall be excluded from the statutory fee recoupment calculation. Lenders must still include the EEM amount when providing the loan comparison statement to the Veteran.

(b) Adjustable Rate Mortgages (ARMs): If the original monthly PI payment changed due to a loan modification or ARM, the monthly PI payment reduction should be computed based on the current PI payment. Note that if the monthly PI payment is not reduced as a result of the IRRRL, the lender must close the loan at no cost to the Veteran.”

Effective immediately, Exhibit B of Circular 26-19-22 is removed in its entirety.

On page 5, the paragraph labeled “4. Questions:” will now be relabeled as “6. Questions:”. The paragraph labeled “5. Rescission” will now be relabeled “8. Rescission”.

The following text will be inserted as the new paragraph 4.

4. Compliance and reporting of previously closed loans. Loans that were closed prior to the date of this circular, using fee recoupment calculations based on Exhibit B examples, shall be considered compliant and will not be subject to reporting requirements outlined in Circular 26-20-16, *Guidance for Noncompliant Interest Rate Reduction Refinance Loans (IRRRLs)*.

The following text will be inserted as the new paragraph 5.

5. Evidence of guaranty. Lenders who may have difficulty obtaining evidence of guaranty on these loans should email a list of Loan Identifications Numbers (LINs) to the Regional Loan Center (RLC) of jurisdiction for the lender’s corporate office. Email addresses for each of the RLCs are available at: https://www.benefits.va.gov/HOMELOANS/contact_rlc_info.asp. Lenders should also upload a copy of the Closing Disclosure (CD), and the fee recoupment calculation used into WebLGY “Correspondence” as Document Association “IRRRL xx/xx/20xx” Document Type “IRRRL Disclosure Compliance”. These documents should NOT be submitted to VA as a prior approval request. VA will review and assist with issuance of the Loan Guaranty Certificate (LGC) as applicable, via a future system release.

The following text will be inserted as the new paragraph 7.

7. Executive Order 13891 Disclosure: The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

8. Rescission: This Circular is rescinded July 1, 2021.

By Direction of the Under Secretary for Benefits

Jeffrey F. London
Executive Director
Loan Guaranty Service