

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Parts 1024 and 1026

[Docket No. CFPB-2015-0029]

RIN 3170-AA48

2013 Integrated Mortgage Disclosures Rule Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z) and Amendments; Delay of Effective Date

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Proposed rule with request for public comment.

SUMMARY: The Consumer Financial Protection Bureau (Bureau) is proposing to delay the August 1, 2015, effective date of the Integrated Mortgage Disclosures Rule Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z) (TILA-RESPA Final Rule) and the related Amendments to the 2013 Integrated Mortgage Disclosures Rule Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth In Lending Act (Regulation Z) and the 2013 Loan Originator Rule Under the Truth in Lending Act (Regulation Z) (TILA-RESPA Amendments) to October 3, 2015. In light of certain procedural requirements under the Congressional Review Act (CRA), the TILA-RESPA Final Rule and the TILA-RESPA Amendments cannot take effect on August 1, 2015. Under the CRA, and unless the Bureau takes the action proposed in this notice, the rule will take effect 60 days after the date on which Congress received the rule. The Bureau requests comment on a proposal to extend the effective date of both the TILA-RESPA Final Rule and the TILA-RESPA Amendments to October 3, 2015.

DATES: Comments must be received on or before July 7, 2015.

ADDRESSES: You may submit comments, identified by Docket No. CFPB-2015-0029 or RIN 3170-AA48, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Email:* FederalRegisterComments@cfpb.gov. Include Docket No. CFPB-2015-0029 and/or RIN 3170-AA48 in the subject line of the email.
- *Mail:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552.
- *Hand Delivery/Courier:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1275 First Street NE., Washington, DC 20002.
- *Instructions:* All submissions should include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to <http://www.regulations.gov>. In addition, comments will be available for public inspection and copying at 1275 First Street NE., Washington, DC 20002, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning (202) 435-7275. All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or social security numbers, should not be included. Comments generally will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Lea Mosena, Counsel, Legal Division, at (202) 435-7700.

SUPPLEMENTARY INFORMATION:

I. Summary of the Proposed Rule

In November 2013, pursuant to sections 1098 and 1100A of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), the Bureau issued the Integrated Mortgage Disclosures Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z) (TILA-RESPA Final Rule), combining certain disclosures that consumers receive in connection with applying for and closing on a mortgage loan.¹ On October 10, 2014, the Bureau proposed the Amendments to the 2013 Integrated Mortgage Disclosures Rule Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth In Lending Act (Regulation Z) and the 2013 Loan Originator Rule Under the Truth in Lending Act (Regulation Z) (TILA-RESPA Amendments),² which was finalized on January 18, 2015.³ The TILA-RESPA Final Rule and the TILA-RESPA Amendments had effective dates of August 1, 2015. Because of an administrative error on the Bureau's part in complying with the CRA with respect to the TILA-RESPA Final Rule, the TILA-RESPA Final Rule cannot take effect until at the earliest August 15, 2015 (CRA Effective Date). This proposed rule seeks comment on whether the Bureau should delay the effective date of both the TILA-RESPA Final Rule and the TILA-RESPA Amendments to October 3, 2015. The Bureau also proposes certain technical amendments to the Official Interpretations to Regulation Z to reflect the proposed new effective date.

¹ 78 FR 79730 (Dec. 31, 2013). The TILA-RESPA Final Rule finalized a proposal the Bureau had issued on July 9, 2012 77 FR 51116 (Aug. 23, 2012) (2012 TILA-RESPA Proposal).

² 79 FR 64336 (Oct. 29, 2014).

³ 80 FR 8767 (Feb. 19, 2015)

II. Background

A. The TILA-RESPA Integrated Disclosures Rulemaking

Dodd-Frank Act sections 1032(f), 1098, and 1100A mandated that the Bureau establish a single disclosure scheme for use by lenders or creditors in complying with the disclosure requirements of both the Real Estate Settlement Procedures Act (RESPA) and the Truth in Lending Act (TILA). Section 1098(2) of the Dodd-Frank Act amended RESPA section 4(a) to require that the Bureau publish a single, integrated disclosure for mortgage loan transactions, including “the disclosure requirements of this section and section 5, in conjunction with the disclosure requirements of [TILA]”⁴ Similarly, section 1100A(5) of the Dodd-Frank Act amended TILA section 105(b) to require that the Bureau publish a single, integrated disclosure for mortgage loan transactions, including “the disclosure requirements of this title in conjunction with the disclosure requirements of [RESPA]”⁵ The Bureau issued proposed integrated disclosure forms and rules for public comment on July 9, 2012, in the 2012 TILA-RESPA Proposal, and issued the TILA-RESPA Final Rule on November 20, 2013.⁶

⁴ 12 U.S.C. 2603(a).

⁵ 15 U.S.C. 1604(b). The amendments to RESPA and TILA mandating a “single, integrated disclosure” are among numerous conforming amendments to existing Federal laws found in subtitle H of the Consumer Financial Protection Act of 2010 (the Consumer Financial Protection Act of 2010 is title X of the Dodd-Frank Act). Subtitle C of the Consumer Financial Protection Act, “Specific Bureau Authorities,” codified at 12 U.S.C. chapter 53, subchapter V, part C, contains a similar provision. Specifically, section 1032(f) of the Dodd-Frank Act provides that, by July 21, 2012, the Bureau “shall propose for public comment rules and model disclosures that combine the disclosures required under [TILA] and sections 4 and 5 of [RESPA] into a single, integrated disclosure for mortgage loan transactions covered by those laws, unless the Bureau determines that any proposal issued by the [Federal Reserve Board] and [U.S. Department of HUD] carries out the same purpose.” 12 U.S.C. 5532(f). The Bureau issued the 2012 TILA-RESPA Proposal pursuant to that mandate and the parallel mandates established by the conforming amendments to RESPA and TILA, discussed above.

⁶ See Press Release, Consumer Financial Protection Bureau, CFPB proposes “Know Before You Owe” Mortgage Forms (July 9, 2012), available at <http://www.consumerfinance.gov/pressreleases/consumer-financial-protection-bureau-proposes-know-before-you-owe-mortgage-forms/>; CFPB Mortgage Disclosure Team, CFPB Blog, Know Before You Owe: Introducing our proposed mortgage disclosure forms (July 9, 2012), available at <http://www.consumerfinance.gov/blog/know-before-you-owe-introducing-our-proposed-mortgage-disclosure-forms/>.

Upon issuing the TILA-RESPA Final Rule, the Bureau initiated robust efforts to support industry implementation.⁷ Information regarding the Bureau's TILA-RESPA implementation initiative and available resources can be found on the Bureau's regulatory implementation Web site at www.consumerfinance.gov/regulatory-implementation/tila-respa.

B. Proposed Effective Date

As published, the TILA-RESPA Final Rule and the TILA-RESPA Amendments both had effective dates of August 1, 2015. Section 801 of the CRA precludes a rule from taking effect until the agency promulgating the rule submits a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the Government Accountability Office (GAO). 5 U.S.C. 801(a)(1)(A). “Major rules,” as defined under the CRA (which includes the TILA-RESPA Final Rule), have several additional procedural requirements, including that they cannot take effect until 60 days after (1) publication in the *Federal Register* or (2) receipt by Congress, whichever is later. Although the TILA-RESPA Final Rule was published on December 31, 2013, and received widespread public and Congressional attention, the Bureau recently discovered that it inadvertently had not submitted the rule report to Congress as required. Immediately upon discovering its error, the Bureau submitted the rule report to both Houses of Congress and the GAO on June 16, 2015. Under the CRA, the TILA-RESPA Final Rule cannot take effect until, at the earliest, August 15, 2015, two weeks after the currently-scheduled effective date.

⁷ These on-going efforts include: (1) the publication of a plain-language compliance guide and a guide to forms to help industry understand the new rules, including updates to the guides, as needed; (2) the publication of a readiness guide for institutions to evaluate their readiness and facilitate compliance with the new rules; (3) the publication of a disclosure timeline that illustrates the process and timing requirements of the new disclosure rules; (4) an ongoing series of webinars to address common interpretive questions; (5) roundtable meetings with industry, including creditors, settlement service providers, and technology vendors, to discuss and support their implementation efforts; (6) participation in conferences and forums; and (7) close collaboration with State and Federal regulators on implementation of the TILA-RESPA Final Rule, including coordination on consistent examination procedures.

The Bureau continues to believe that implementation of the TILA-RESPA Final Rule will provide significant benefits to consumers and that, therefore, its earliest practically feasible implementation remains essential to aid consumer understanding of mortgage loan transactions. The Bureau recognizes, as it always has, that the TILA-RESPA Final Rule poses perhaps unique implementation challenges for industry, requiring major operational changes and close coordination among many different parties. At the same time, the Bureau further continues to believe that the nearly 21-month implementation period, coupled with the Bureau's significant regulatory implementation support efforts, afforded all participants a reasonable opportunity to come into compliance by the August 1 date. The Bureau understands that industry has dedicated significant resources to implementation readiness and appreciates that many organizations are well prepared to meet the original August 1 effective date.

Nonetheless, as explained above, the TILA-RESPA Final Rule cannot take effect until the CRA Effective Date. Given that some delay in the effective date is now required, the Bureau believes that a brief additional delay may benefit both consumers and industry more than would allowing the new rules to take effect on the CRA Effective Date. The Bureau recognizes that a mid-month effective date may create additional challenges and also recognizes that adjusting operational systems from a target readiness date of August 1 to a target readiness date of August 15 is likely to pose implementation challenges for many organizations. Moreover, in recent weeks, the Bureau has learned that delays in the delivery of system updates have left creditors and others with limited time to fully test all of their systems and system components to ensure that each system works with the others in an effective manner. These delays pose risks to the smooth implementation of the new forms mandated under the TILA-RESPA Final Rule, the

Loan Estimate and Closing Disclosure, particularly given the potential challenges for institutions of stopping and restarting their progress toward implementation readiness.

Accordingly, for the reasons stated, the Bureau is proposing a brief delay to the CRA Effective Date and the effective date for the TILA-RESPA Amendments to October 3, 2015. The Bureau believes that scheduling the effective date on a Saturday may allow for smoother implementation by affording industry time over the weekend to launch new systems configurations and to test systems. A Saturday launch is also consistent with existing industry plans tied to the Saturday August 1 effective date. The Bureau believes that a longer delay in implementation would impose unnecessary costs on both those segments of industry that have worked hardest to implement on time and on consumers and would be inconsistent with the underlying intent to aid consumer understanding of mortgage loan transactions.

The Bureau solicits comment on all aspects of this proposal. In particular, the Bureau asks commenters to provide specific detail and any available data regarding current and planned practices, as well as relevant knowledge and specific facts about any benefits, costs, or other impacts on both industry and consumers of this proposal. Specifically, the Bureau solicits comment regarding the proposed extension of the effective date to October 3, 2015, as well as alternative dates for extension, including the prospect of allowing the new rules to take effect on the CRA Effective Date.

III. Legal Authority

The Bureau is proposing to exercise its rulemaking authority pursuant to its TILA section 105(a), RESPA section 19(a), and Dodd-Frank Act section 1022(b)(1) to delay the effective date of the TILA-RESPA Final Rule and the TILA-RESPA Amendments.

The legal authority for the TILA-RESPA Final Rule and the TILA-RESPA Amendments are described in detail in the Legal Authority parts of the TILA-RESPA Final-Rule and Amendments, respectively. As amended by the Dodd-Frank Act, TILA section 105(a), 15 U.S.C. 1604(a), directs the Bureau to prescribe regulations to carry out the purposes of TILA and provides that such regulations may contain additional requirements, classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for all or any class of transactions, that the Bureau judges are necessary or proper to effectuate the purposes of TILA, to prevent circumvention or evasion thereof, or to facilitate compliance. Section 19(a) of RESPA, 12 U.S.C. 2617(a), authorizes the Bureau to prescribe such rules and regulations and to make such interpretations and grant such reasonable exemptions for classes of transactions as may be necessary to achieve the purposes of RESPA. Additionally, under Dodd-Frank Act section 1022(b)(1), the Bureau has general authority to prescribe rules “as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of the Federal consumer financial laws, and to prevent evasions thereof.” 15 U.S.C. 5512(b)(1). TILA and RESPA are Federal consumer financial laws. Accordingly, in proposing this rule, the Bureau is exercising its authority under Dodd-Frank Act section 1022(b) to prescribe rules under TILA, RESPA, and title X of the Dodd-Frank Act that carry out the purposes and objectives and prevent evasion of those laws. Section 1022(b)(2) of the Dodd-Frank Act prescribes certain standards for rulemaking that the Bureau must follow in exercising its authority under section 1022(b)(1). 12 U.S.C. 5512(b)(2).

IV. Section-by-Section Analysis

Section 1026.1 Authority, Purpose, Coverage, Organization, Enforcement, and Liability

1(d) Organization

1(d)(5)

Comment 1(d)(5)-1 provides clarity regarding the application of the effective date to transactions covered by the TILA-RESPA Final Rule and the TILA-RESPA Amendments. The Bureau is proposing conforming amendments to comment 1(d)(5)-1 to reflect the proposed change in effective date to October 3, 2015.

Section 1026.19 Certain Mortgage and Variable-Rate Transactions

19(g) Special Information Booklet at Time of Application

19(g)(2) Permissible changes.

Comment 19(g)(2)-3 refers to the general restriction on changing the settlement cost booklet's title under § 1026.19(g)(2)(iv) and comment 19(g)(1)-1 and explains that, until the Bureau issues a version of the special information booklet relating to the Loan Estimate and Closing Disclosure under §§ 1026.37 and 1026.38, for applications that are received on or after August 1, 2015, a creditor may change the title appearing on the cover of the version of the special information booklet in use before August 1, 2015, provided the words "settlement costs" are used in the title. The Bureau is proposing conforming amendments to comment 19(g)(2)-3 to reflect the proposed change in effective date to October 3, 2015.

Section 1026.43 Minimum Standards for Transactions Secured by a Dwelling

In addition to the amendments to the Official Interpretations discussed above, the Bureau is proposing one amendment to an amendatory instruction that relates to FR Doc. 2014-25503, published on November 3, 2014. Specifically, the Bureau proposes to amend the instruction, which is drafted so the interpretation would take effect on August 1, 2015, to coordinate with the original effective date of the TILA-RESPA Final Rule. The subject of the amendatory instruction, Paragraph 43(e)(3)(iv)-2, *Relationship to RESPA tolerance cure*, will replace an

existing clarification of the relationship between tolerance cures and Regulation Z points and fees cures. The proposed amendment would preserve this coordination by having the interpretation take effect on October 3, 2015, instead of August 1, 2015.

V. Effective Date

The Bureau is proposing to move the effective date of the TILA-RESPA Final Rule and the TILA-RESPA Amendments to October 3, 2015. Additionally, the Bureau is proposing to make a conforming amendment to an amendatory instruction that relates to FR Doc. 2014-25503. After considering comments received on the proposal, the Bureau will publish a final rule finalizing an effective date for the TILA-RESPA Final Rule and TILA-RESPA Amendments on an expedited schedule. The Bureau proposes that any final rule delaying the effective date and amending the amendatory instruction take effect immediately upon publication in the *Federal Register*. Section 553(d) of the APA generally requires that the effective date of a final rule be at least 30 days after publication of a final rule, except for (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules or statements of policy; or (3) as otherwise provided by the agency for good cause found and published with the rule. 5 U.S.C. 553(d). The Bureau proposes that good cause exists for the final rule for the delay of the effective date to become effective immediately upon publication in the *Federal Register* to reduce industry and consumer confusion and market disruption.

The Bureau also is proposing to make conforming amendments to two provisions of the Regulation Z Official Interpretations (commentary) that were adopted by the TILA-RESPA Final Rule, as discussed in the Section-by-Section Analysis above. The Bureau proposes that any final rule amending the affected commentary provisions take effect on the same effective date as the TILA-RESPA Final Rule and TILA-RESPA Amendments.

VI. Section 1022(b)(2) of the Dodd-Frank Act

A. Overview

In developing the proposed rule, the Bureau has considered potential benefits, costs, and impacts.⁸ The Bureau requests comment on the preliminary analysis presented below as well as submissions of additional data that could inform the Bureau's analysis of the benefits, costs, and impacts of the proposed rule. The Bureau has consulted, or offered to consult with, the prudential regulators; the Securities and Exchange Commission; the U.S. Department of Housing and Urban Development; the U.S. Department of Housing and Urban Development, Office of the Inspector General; the Federal Housing Finance Agency; the Federal Trade Commission; the U.S. Department of Veterans Affairs; the U.S. Department of Agriculture; and the Department of the Treasury, including regarding consistency with any prudential, market, or systemic objectives administered by such agencies.

Because of the Bureau's error, the TILA-RESPA Final Rule cannot go into effect until the CRA Effective Date. As a result, affected covered persons will incur costs associated with delaying the implementation date.⁹ These costs include communication with and training of the staff, software programming, vendor and outside supplier coordination, advertising and product development costs, and broker and settlement agent coordination. The Bureau believes that these costs are likely higher for larger creditors and creditors that rely primarily on proprietary systems rather than on third-party software vendors.¹⁰ While many of these costs are largely

⁸ Specifically, section 1022(b)(2)(A) of the Dodd-Frank Act calls for the Bureau to consider the potential benefits and costs of a regulation to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services; the impact on depository institutions and credit unions with \$10 billion or less in total assets as described in section 1026 of the Dodd-Frank Act; and the impact on consumers in rural areas.

⁹ As in the 1022(b) analysis of the TILA-RESPA Final Rule, some service providers, such as software vendors, will incur costs, as well, but these are not covered persons for the purposes of this analysis.

¹⁰ As in the 1022(b) analysis of the TILA-RESPA Final Rule, the Bureau believes that approximately 5 percent of creditors do not rely on third-party vendors.

incurred with the initial delay to the CRA Effective Date, affected entities may incur additional costs for subsequent delay beyond August 15, including ongoing training, testing, and opportunity costs. Similarly, consumers will incur costs associated with delaying the effective date. These costs will consist mostly of delayed benefits described in the 1022(b) analysis of the TILA-RESPA Final Rule, primarily improved consumer understanding of mortgage loan transactions and an increased ability to shop for a mortgage loan. The longer the delay in the implementation of the TILA-RESPA Final Rule is, the greater the cost to consumers.

Because the TILA-RESPA Final Rule cannot become effective before the CRA Effective Date, the Bureau has evaluated the benefits, costs, and impacts of the proposed rule, assuming that the TILA-RESPA Final Rule would become effective on August 15 absent this proposal. The Bureau has relied on a variety of data sources to consider the potential benefits, costs, and impacts of the proposed rule. In some instances, the requisite data are not available or are quite limited. Data with which to quantify the benefits of the rule are particularly limited. As a result, portions of this analysis rely in part on general economic principles to provide a qualitative discussion of the benefits, costs, and impacts of the proposed rule.

This proposed rule proposes to amend the effective date of the TILA-RESPA Final Rule and the TILA-RESPA Amendments. In the 1022(b)(2) analyses of the TILA-RESPA Final Rule and TILA-RESPA Amendments, the Bureau previously considered the costs, benefits, and impact of the rules.

B. Potential Benefits and Costs to Consumers and Covered Persons

The only consumers who would be affected by the proposed rule are consumers that would engage in mortgage shopping between the CRA Effective Date and the proposed effective date of October 3. Those consumers will be harmed by not receiving the benefits of the TILA-

RESPA Final Rule. Consumers shopping for a mortgage during the proposed period of delay in the effective date would not receive the benefits of the TILA-RESPA Final Rule, even if they closed on their loan after the proposed delayed effective date. The benefits of the TILA-RESPA Final Rule include easier-to-understand disclosures and the requirement that the creditor deliver the closing disclosure containing the settlement information as well as the Truth in Lending disclosures at least three days before closing.¹¹ Some consumers may benefit if the proposed delay results in the industry using the time for more system testing or other preparation leading to a smoother transition to the new disclosure regime. As in the TILA-RESPA Final Rule, the Bureau cannot quantify either the benefit or the cost of the proposed rule to consumers.

Due to industry's implementation difficulties, the Bureau believes that the proposed delay of the CRA Effective Date could benefit many creditors, mortgage brokers, and settlement agents, by allowing them more time to transition to the new disclosure regime required by the TILA-RESPA Final Rule and diminishing the magnitude of any potential disruptions associated with the transition. The proposed delay in the effective date could also benefit them to the extent that it allows them to delay incurring any of the costs described in the TILA-RESPA Final Rule 1022(b) analysis. Creditors and other affected persons might also incur costs due to the proposed delay of the effective date of the TILA-RESPA Final Rule. The Bureau believes that three categories would benefit or incur adjustment costs: creditors that engage in mortgage lending, mortgage brokers, and settlement agents. The Bureau estimates that there were about 11,150 creditors engaged in mortgage lending in 2014 and that there were about 7,000 mortgage brokers and about 7,700 settlement agent firms.¹²

¹¹ These and other benefits are described in detail in the 1022(b) analysis of the TILA-RESPA Final Rule.

¹² The primary source of data used in this analysis is 2013 data collected under the Home Mortgage Disclosure Act (HMDA). The empirical analysis also uses data from the 4th quarter 2013 bank and thrift Call Reports, and the 4th quarter 2013 credit union Call Reports from the NCUA, to identify financial institutions and their characteristics.

The Bureau estimated in its 1022(b) analysis of the TILA-RESPA Final Rule that 95 percent of creditors (about 10,600) rely on third-party vendors for their software, and the Bureau estimates that these creditors would not incur significant software programming costs. However, for the 5 percent of the creditors (approximately 560) that do not rely on third-party vendors, the proposed change of the effective date would require some programming expense. While a portion of this cost is already imposed by the delay in the effective date to the CRA Effective Date and therefore would not be costs imposed by this proposed rule, the Bureau believes that some of this cost might be higher if the effective date is delayed further to October 3. The Bureau is uncertain as to the extent of programming expense and requests comment on such expense.

Moreover, the proposed change might also require rearranging an already established operational schedule and business processes. This potential disruption might be costly and require additional effort from the employees and additional expenses due to, for example, overtime pay. This potential disruption might especially affect creditors not relying primarily on third-party vendors.

The Bureau believes that mortgage brokers and settlement agents would incur similar coordination and implementation costs. The Bureau is uncertain of the extent of such costs and requests comment on such costs.

Finally, affected persons would incur costs in internal communications, training, and software re-programming, among other costs. The Bureau believes that the proposed change in

Unless otherwise specified, the numbers provided include appropriate projections made to account for any missing information, for example, any institutions that do not report under HMDA. The Bureau also utilizes data from the Bureau of Labor Statistics.

The Bureau analyzes data from all creditors, both the ones that report under HMDA and the ones that do not, with the exception of non-depository institutions that do not report under HMDA. For HMDA reporters, the Bureau uses the data reported. For HMDA non-reporters, the Bureau uses projections based on the match of the Call Report data with HMDA.

the effective date might require communicating with any external suppliers of forms and booklets and potentially ordering additional forms in the current format. Any pre-ordered Loan Estimates or Closing Disclosures mandated by the TILA-RESPA Final Rule would still be usable after October 3, and the Bureau does not believe that the current forms are significantly more expensive than the ones that are required by the TILA-RESPA Final Rule; thus, there should be no net increase in expense of procuring forms and booklets. While many of these costs are already imposed as a result of the delay in the effective date to the CRA Effective Date (and therefore would not be costs imposed by this proposed rule), the Bureau believes that some of the costs might be higher if the Bureau adopts the rule as proposed and further delays the effective date until October 3. The Bureau is uncertain at this time as to the extent of such costs and requests comment on any such costs.

C. Impact on Depository Institutions With No More Than \$10 Billion in Assets

The vast majority of the creditors described above have no more than \$10 billion in assets. The Bureau believes that depository institutions with no more than \$10 billion in assets would not be differentially affected by the proposed extension of the effective date.

D. Impact on Access to Credit

The Bureau does not believe that there would be an adverse impact on credit availability resulting from the proposed extension of the effective date.

E. Impact on Rural Areas

The Bureau does not believe that the proposed rule would have a unique impact on consumers in rural areas.

VII. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires each agency to consider the potential impact of its regulations on small entities, including small businesses, small governmental units, and small nonprofit organizations. The RFA defines a “small business” as a business that meets the size standard developed by the Small Business Administration pursuant to the Small Business Act.

The RFA generally requires an agency to conduct an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) of any rule subject to notice-and-comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The Bureau also is subject to certain additional procedures under the RFA involving the convening of a panel to consult with small business representatives prior to proposing a rule for which an IRFA is required.

The Bureau concludes that an IRFA is not required for this proposed rule because the proposed rule, if adopted, would not have a significant impact on a substantial number of small entities. As discussed above, the proposal would extend the CRA Effective Date of the TILA-RESPA Final Rule and the August 1, 2015 effective date of the TILA-RESPA Amendments to October 3, 2015.

Number and Classes of Affected Entities

The following table provides the Bureau’s estimate of the number and types of entities to which the proposed rule would apply. The table summarizes the number of entities that would be affected if this proposal were finalized.¹³

¹³ The details of cost quantification are described in the 1022(b) analysis above. The average cost per mortgage creditor includes the weighted programming cost for the 5 percent of creditors that do not utilize third-party software vendors. The Bureau assumes that all mortgage creditor non-depository institutions are below the Small Business Administration’s threshold for small entities (revenue of \$38.5 million).

Category	NAICS Codes	Affected Entities	Small Affected Entities
Mortgage Creditors	522110, 522120, 522130, 522292	11,150	10,403
Mortgage Brokers	522310	7,007	6,895
Settlement Agents	541191	7,719	7,580

The Bureau believes that, as in the 1022(b) analysis of the TILA-RESPA Final Rule, 5 percent of creditors do not utilize software vendors. Some of these creditors could incur significant costs; however, the fraction of small creditors incurring these costs (5 percent) is not substantial.

Certification

Accordingly, the undersigned hereby certifies that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

VIII. Paperwork Reduction Act Analysis

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), Federal agencies are generally required to seek the Office of Management and Budget (OMB) approval for information collection requirements prior to implementation. The collections of information related to the TILA-RESPA Final Rule has been previously reviewed and approved by OMB in accordance with the PRA and assigned OMB Control Number 3170-0015 (Regulation Z) and 3170-0016 (Regulation X). Under the PRA, the Bureau may not conduct or sponsor and, notwithstanding any other provision of law, a person is not required to respond to an information collection unless the information collection displays a valid control number assigned by OMB.

The Bureau has determined that this proposed rule would not have any new or revised information collection requirements (recordkeeping, reporting, or disclosure requirements) on covered entities or members of the public that would constitute collections of information requiring OMB approval under the PRA. The Bureau welcomes comments on this determination or any other aspects of this proposal for purposes of the PRA. Comments should be submitted to the Bureau as instructed in the **ADDRESSES** part of this notice and to the attention of the Paperwork Reduction Act Officer. All comments will become a matter of public record.

List of Subjects

12 CFR Part 1026

Advertising, Consumer protection, Credit, Credit unions, Mortgages, National banks, Recordkeeping and recordkeeping requirements, Reporting, Savings associations, Truth in lending.

Authority and Issuance

For the reasons set forth in the preamble, the Bureau proposes to amend Regulation Z, 12 CFR part 1026, as set forth below:

PART 1026 – TRUTH IN LENDING (REGULATION Z)

1. The authority citation for part 1026 continues to read as follows:

Authority: 12 U.S.C. 2601, 2603–2605, 2607, 2609, 2617, 5511, 5512, 5532, 5581; 15 U.S.C. 1601 *et seq.*

2. In amendatory instruction 5. appearing on page 65300 in the *Federal Register* on November 3, 2014, change “Effective August 1, 2015” to read “Effective October 3, 2015.”
3. In Supplement I to Part 1026—Official Interpretations, as amended by 78 FR 79730 (Dec. 31, 2013):

A. Under *Section 1026.1—Authority, Purpose, Coverage, Organization, Enforcement and Liability*, under subheading *1(d) Organization, Paragraph 1(d)(5)*, paragraph 1 is revised.

B. Under *Section 1026.19—Certain Mortgage and Variable-Rate Transactions*, under subheading *19(g) Special information booklet at time of application, 19(g)(2) Permissible changes*, paragraph 1 is revised.

The revisions and additions read as follows:

Supplement I to Part 1026 – Official Interpretations

* * * *

Subpart A—General

Section 1026.1—Authority, Purpose, Coverage, Organization, Enforcement and Liability

* * * *

I(d) Organization.

Paragraph 1(d)(5).

1. *Effective date.* The Bureau’s revisions to Regulation X and Regulation Z published on December 31, 2013 (the TILA-RESPA Final Rule), apply to covered loans (closed-end credit transactions secured by real property) for which the creditor or mortgage broker receives an application on or after October 3, 2015 (the “effective date”), except that new § 1026.19(e)(2), the amendments to § 1026.28(a)(1), and the amendments to the commentary to § 1026.29, become effective on October 3, 2015, without respect to whether an application has been received. The provisions of § 1026.19(e)(2) apply prior to a consumer’s receipt of the disclosures required by § 1026.19(e)(1)(i), and therefore, restrict activity that may occur prior to receipt of an application by a creditor or mortgage broker under § 1026.19(e). These provisions include § 1026.19(e)(2)(i), which restricts the fees that may be imposed on a consumer,

§ 1026.19(e)(2)(ii), which requires a statement to be included on written estimates of terms or costs specific to a consumer, and § 1026.19(e)(2)(iii), which prohibits creditors from requiring the submission of documents verifying information related to the consumer's application.

Accordingly, the provisions under § 1026.19(e)(2) are effective on October 3, 2015, without respect to whether an application has been received on that date. In addition, the amendments to § 1026.28 and the commentary to § 1026.29 govern the preemption of State laws and thus, the amendments to those provisions and associated commentary made by the TILA-RESPA Final Rule are effective on October 3, 2015, without respect to whether an application has been received on that date. The following examples illustrate the application of the effective date for the TILA-RESPA Final Rule.

- i. *General.* Assume a creditor receives an application, as defined under § 1026.2(a)(3) of the TILA-RESPA Final Rule, for a transaction subject to § 1026.19(e) and (f) on October 3, 2015, and that consummation of the transaction occurs on October 31, 2015. The amendments of the TILA-RESPA Final Rule, including the requirements to provide the Loan Estimate and Closing Disclosure under § 1026.19(e) and (f), apply to the transaction. The creditor would also be required to provide the special information booklet under § 1026.19(g) of the TILA-RESPA Final Rule, as applicable. Assume a creditor receives an application, as defined under § 1026.2(a)(3) of the TILA-RESPA Final Rule, for a transaction subject to § 1026.19(e) and (f) on September 30, 2015, and that consummation of the transaction occurs on October 30, 2015. The amendments of the TILA-RESPA Final Rule, including the requirements to provide the Loan Estimate and Closing Disclosure under § 1026.19(e) and (f), do not apply to the transaction, except that the provisions of § 1026.19(e)(2), specifically § 1026.19(e)(2)(i), (e)(2)(ii), and (e)(2)(iii), do apply to the transaction beginning on October 3, 2015 because they

become effective on October 3, 2015, without respect to whether an application, as defined under § 1026.2(a)(3) of the TILA-RESPA Final Rule, has been received by the creditor or mortgage broker on that date. The creditor does not provide the Closing Disclosure so that it is received by the consumer at least three business days before consummation; instead, the creditor and the settlement agent provide the disclosures under § 1026.19(a)(2)(ii) and § 1024.8, as applicable, under the Truth in Lending Act and the Real Estate Settlement Procedures Act, respectively. The requirement to provide the special information booklet under § 1026.19(g) of the TILA-RESPA Final Rule would also not apply to the transaction. But the creditor would provide the special information booklet under § 1024.6, as applicable.

ii. *Predisclosure written estimates.* Assume a creditor receives a request from a consumer for a written estimate of terms or costs specific to the consumer on October 3, 2015, before the consumer submits an application to the creditor, and thus before the consumer has received the disclosures required under § 1026.19(e)(1)(i). The creditor, if it provides such written estimate to the consumer, must comply with the requirements of § 1026.19(e)(2)(ii) and provide the required statement on the written estimate, even though the creditor has not received an application for a transaction subject to § 1026.19(e) and (f) on that date.

iii. *Request for preemption determination.* Assume a creditor submits a request to the Bureau under § 1026.28(a)(1) for a determination of whether a State law is inconsistent with the disclosure requirements of the TILA-RESPA Final Rule on October 3, 2015. Because the amendments to § 1026.28(a)(1) are effective on that date and do not depend on whether the creditor has received an application as defined under § 1026.2(a)(3) of the TILA-RESPA Final Rule, § 1026.28(a)(1), as amended by the TILA-RESPA Final Rule, is applicable to the request

on that date and the Bureau would make a determination based on the amendments of the TILA-RESPA Final Rule, including, for example, the requirements of § 1026.37.

Subpart C—Closed End Credit

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Section 1026.19—Certain Mortgage and Variable-Rate Transactions

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19(g)(2) Permissible changes.

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3. Permissible changes to title of booklets in use before October 3, 2015. Section 1026.19(g)(2)(iv) provides that the title appearing on the cover of the booklet shall not be changed. Comment 19(g)(1)-1 states that the Bureau may, from time to time, issue revised or alternative versions of the special information booklet that address transactions subject to § 1026.19(g) by publishing a notice in the *Federal Register*. Until the Bureau issues a version of the special information booklet relating to the Loan Estimate and Closing Disclosure under §§ 1026.37 and 1026.38, for applications that are received on or after October 3, 2015, a creditor may change the title appearing on the cover of the version of the special information booklet in use before October 3, 2015, provided the words “settlement costs” are used in the title. See comment 1(d)(5)-1 for guidance regarding compliance with § 1026.19(g) for applications received on or after October 3, 2015.

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[THIS SIGNATURE PAGE PERTAINS TO THE PROPOSED RULE TITLED "2013
INTEGRATED MORTGAGE DISCLOSURES RULE UNDER THE REAL ESTATE
SETTLEMENT PROCEDURES ACT (REGULATION X) AND THE TRUTH IN
LENDING ACT (REGULATION Z); DELAY OF EFFECTIVE DATE"]

Dated: June 23, 2015.



Richard Cordray,

Director, Bureau of Consumer Financial Protection.