

12 U.S.C. 5512, 5581; 15 U.S.C. 1601 et seq.

Subpart C – Closed-End Credit

2. Section 1026.17 is amended by revising paragraphs (a)(1) and (b) to read as follows:

§ 1026.17 General disclosure requirements.

(a) *Form of disclosures.* (1) The creditor shall make the disclosures required by this subpart clearly and conspicuously in writing, in a form that the consumer may keep. The disclosures required by this subpart may be provided to the consumer in electronic form, subject to compliance with the consumer consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act (E-Sign Act) (15 U.S.C. 7001 *et seq.*). The disclosures required by §§ 1026.17(g), 1026.19(b), and 1026.24 may be provided to the consumer in electronic form without regard to the consumer consent or other provisions of the E-Sign Act in the circumstances set forth in those sections. ► Except for § 1026.20(d), which requires disclosures to be provided separate and distinct from all other correspondence, the ◀ [The] disclosures shall be grouped together, shall be segregated from everything else, and shall not contain any information not directly related to the disclosures required under § 1026.18 ►, § 1026.20(c), ◀ or § 1026.47. The disclosures may include an acknowledgment of receipt, the date of the transaction, and the consumer's name, address, and account number. The following disclosures may be made together with or separately from other required disclosures: the creditor's identity under § 1026.18(a), the variable rate example under § 1026.18(f)(1)(iv), insurance or debt cancellation under § 1026.18(n), and certain security interest charges under § 1026.18(o). The itemization of the amount financed under § 1026.18(c)(1) must be separate from the other disclosures under § 1026.18, except for private education loan disclosures made in compliance with § 1026.47.

(2) * * *

(b) *Time of disclosures.* The creditor shall make disclosures before consummation of the transaction. In certain residential mortgage transactions, special timing requirements are set forth in § 1026.19(a). In certain variable-rate transactions, special timing requirements for variable-rate disclosures are set forth in § 1026.19(b) and § 1026.20(c) ► and (d) ◀. For private education loan disclosures made in compliance with § 1026.47, special timing requirements are set forth in § 1026.46(d). In certain transactions involving mail or telephone orders or a series of sales, the timing of disclosures may be delayed in accordance with paragraphs (g) and (h) of this section.

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3. Section 1026.20 is amended by revising the section heading and paragraphs (c) and (d) to read as follows:

§ 1026.20 [Subsequent d] ► D ◀ disclosure requirements ► regarding post-consummation events ◀.

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(c) [Variable-rate] ► Rate ◀ adjustments. ► The creditor, assignee, or servicer of an adjustable-rate mortgage shall provide disclosures to consumers, as described in § 1026.20(c), in connection with the adjustment of interest rates resulting in a corresponding adjustment to the payment. To the extent that other provisions of subpart C apply to the disclosures required by

this section, those provisions apply to assignees and servicers as well as to creditors. The disclosures required under this section also shall be provided for an interest rate adjustment resulting from the conversion of an adjustable-rate mortgage to a fixed-rate transaction, if that interest rate adjustment results in a corresponding payment change. ◀ [Except as provided in paragraph (d) of this section, an adjustment to the interest rate with or without a corresponding adjustment to the payment in a variable-rate transaction subject to § 1026.19(b) is an event requiring new disclosures to the consumer. At least once each year during which an interest rate adjustment is implemented without an accompanying payment change, and at least 25, but no more than 120, calendar days before a payment at a new level is due, the following disclosures, as applicable, must be delivered or placed in the mail:

- (1) The current and prior interest rates.
- (2) The index values upon which the current and prior interest rates are based.
- (3) The extent to which the creditor has foregone any increase in the interest rate.
- (4) The contractual effects of the adjustment, including the payment due after the adjustment is made, and a statement of the loan balance.
- (5) The payment, if different from that referred to in paragraph (c)(4) of this section, that would be required to fully amortize the loan at the new interest rate over the remainder of the loan term.]

▶ (1) *Coverage of rate adjustment disclosures.* (i) *In General.* For purposes of § 1026.20(c), an adjustable-rate mortgage or “ARM” is a closed-end consumer credit transaction secured by the consumer’s principal dwelling in which the annual percentage rate may increase after consummation.

(ii) *Exceptions.* The requirements of § 1026.20(c) do not apply to:

- (A) Construction loans with terms of one year or less; or
- (B) The first adjustment to an ARM if the first payment at the adjusted level is due within 210 days after consummation and the actual, not estimated, new interest rate was disclosed at consummation pursuant to § 1026.20(d).

(2) *Timing and content of rate adjustment disclosures with a change in payment.* Disclosures required by § 1026.20(c) must be provided to consumers at least 60, but no more than 120, days before a payment at a new level is due. Disclosures must be provided to consumers at least 25, but no more than 120, days before a payment at a new level is due for ARMs originated prior to July 21, 2013 in which the mortgage note requires the adjusted interest rate and payment to be calculated based on the index figure available as of a date that is less than 45 days prior to the adjustment date. Disclosures must be provided to consumers as soon as practicable, but not less than 25 days before a payment at a new level is due for the first adjustment to an ARM if it occurs within 60 days of consummation and the actual, not estimated, new interest rate was not disclosed at consummation. The disclosures must provide the following information:

- (i) A statement providing:

(A) An explanation that under the terms of the consumer's adjustable-rate mortgage, the specific time period in which the current interest rate has been in effect is ending and that the interest rate and mortgage payment will change;

(B) The effective date of the interest rate adjustment, and when additional future interest rate changes are scheduled to occur; and

(C) Any other changes to loan terms, features, or options taking effect on the same date as the interest rate adjustment, such as the expiration of interest-only or payment-option features;

(ii) A table containing the following information:

(A) The current and new interest rates;

(B) The current and new payments and the date the first new payment is due; and

(C) For interest-only or negatively-amortizing payments, the amount of the current and new payment allocated to principal, interest, and taxes and insurance in escrow, as applicable. The current payment allocation disclosed shall be based on the expected payment allocation for the last payment prior to the date of the disclosure. The new payment allocation disclosed shall be based on the expected payment allocation for the first payment for which the new interest rate will apply;

(iii) An explanation of how the interest rate is determined, including:

(A) The specific index or formula used in making adjustments and a source of information about the index or formula; and

(B) Any adjustment to the index, including the amount of any margin and an explanation that the margin is the addition of a certain number of percentage points to the index;

(iv) Any limits on the interest rate or payment increases at each adjustment and over the life of the loan, as applicable, including the extent to which such limits result in the creditor, assignee, or servicer foregoing any increase in the interest rate and the earliest date that such foregone interest may apply to additional future interest rate adjustments, subject to those limits;

(v) An explanation of how the new payment is determined, including:

(A) The index or formula used;

(B) The amount of any adjustment to the index or formula, for example, by the addition of a margin or application of previously foregone interest increase;

(C) The loan balance expected on the date of the interest rate adjustment; and

(D) The length of the remaining loan term expected on the date of the interest rate adjustment. Any change in the term or maturity of the loan caused by the adjustment also shall be disclosed;

(vi) For interest-only or negatively-amortizing loans, a statement that the new payment will not be allocated to pay loan principal. If negative amortization occurs as a result of the adjustment, the statement shall set forth the payment required to fully amortize the loan at the new interest rate over the remainder of the loan term or to fully amortize the loan without extending the loan term; and

(vii) The circumstances under which any prepayment penalty, as defined in subpart E by § 1026.41(d)(7)(iv), may be imposed when consumers fully repay their adjustable-rate mortgages, such as when selling or refinancing their principal residence, the time period during which the penalty may be imposed, and the maximum amount (in dollars) of the penalty possible during that time period.

(3) *Format of disclosures.* (i) The disclosures required by § 1026.20(c) shall be provided in the form of the table and in the same order as, and with headings and format substantially similar to, Forms H-4(D)(1) and (2) in Appendix H to this part; and

(ii) The disclosures required by paragraph (c)(2)(ii) shall be in the form of a table located within the table described in paragraph (c)(3)(i) of this section. These disclosures shall appear in the same order as, and with headings and format substantially similar to, the table inside the larger table in Forms H-4(D)(1) and (2) in Appendix H to this part. ◀

(d) [Information provided in accordance with variable-rate subsequent disclosure regulations of other Federal agencies may be substituted for the disclosure required by paragraph (c) of this section.] ▶ *Initial rate adjustments.* The creditor, assignee, or servicer of an adjustable-rate mortgage shall provide disclosures to consumers, as described in § 1026.20(d), in connection with the initial interest rate adjustment. To the extent that other provisions of subpart C apply to the disclosures required by this section, those provisions apply to assignees and servicers as well as to creditors. The disclosures shall be provided in writing, separate and distinct from all other correspondence. The disclosures shall be provided at least 210, but no more than 240, days before the first payment at the adjusted level is due. If the first payment at the adjusted level is due within the first 210 days after consummation, the disclosures shall be provided at consummation.

(1) *Coverage of initial rate adjustment disclosures.* (i) *In general.* For purposes of § 1026.20(d), an adjustable-rate mortgage or “ARM” is a closed-end consumer credit transaction secured by the consumer’s principal dwelling in which the annual percentage rate may increase after consummation.

(ii) *Exceptions.* The requirements of § 1026.20(d) do not apply to construction loans with terms of one year or less.

(2) *Content of initial rate adjustment disclosures.* If the new interest rate (or the new payment calculated from the new interest rate) is not known as of the date of the disclosure, an estimate shall be disclosed and labeled as such. This estimate shall be based on the index figure reported in the source of information described in paragraph (d)(2)(iv)(A) within fifteen business days prior to the date of the disclosure. The disclosures required by § 1026.20(d) shall provide the following:

(i) The date of the disclosure;

(ii) A statement providing:

(A) An explanation that under the terms of the consumer’s adjustable-rate mortgage, the specific time period in which the current interest rate has been in effect is ending and that any change in the interest rate may result in a change in the mortgage payment;

(B) The effective date of the interest rate adjustment and when additional future interest rate changes are scheduled to occur; and

(C) Any other changes to loan terms, features, or options taking effect on the same date as the interest rate adjustment, such as the expiration of interest-only or payment-option features;

(iii) A table containing the following information:

(A) The current and new interest rates;

(B) The current and new payments and the date the first new payment is due; and

(C) For interest-only or negatively-amortizing payments, the amount of the current and new payment allocated to principal, interest, and taxes and insurance in escrow, as applicable. The current payment allocation disclosed shall be based on the expected payment allocation for the last payment prior to the date of the disclosure. The new payment allocation disclosed shall be based on the expected payment allocation for the first payment for which the new interest rate will apply;

(iv) An explanation of how the interest rate is determined, including:

(A) The specific index or formula used in making adjustments and a source of information about the index or formula; and

(B) Any adjustment to the index, including the amount of any margin and an explanation that the margin is the addition of a certain number of percentage points to the index;

(v) Any limits on the interest rate or payment increases at each adjustment and over the life of the loan, as applicable, including the extent to which such limits result in the creditor, assignee, or servicer foregoing any increase in the interest rate and the earliest date that such foregone interest may apply to additional future interest rate adjustments, subject to those limits;

(vi) An explanation of how the new payment is determined, including:

(A) The index or formula used;

(B) The amount of any adjustment to the index or formula, for example, by the addition of a margin;

(C) The loan balance expected on the date of the interest rate adjustment;

(D) The length of the remaining loan term expected on the date of the interest rate adjustment. Any change in the term or maturity of the loan caused by the adjustment also shall be disclosed; and

(E) If the new interest rate or new payment provided is an estimate, a statement that another disclosure containing the actual new interest rate and new payment will be provided to the consumer 2 to 4 months prior to the date the first new payment is due for interest rate adjustments that result in a corresponding payment change, pursuant to § 1026.20(c);

(vii) For interest-only or negatively-amortizing loans, a statement that the new payment will not be allocated to pay loan principal. If negative amortization occurs as a result of the adjustment, the statement shall set forth the payment required to fully amortize the loan at the new interest rate over the remainder of the loan term or to fully amortize the loan without extending the loan term;

(viii) A list of the following alternatives to paying at the new rate that consumers may pursue and a brief explanation of each alternative:

- (A) Refinancing the loan with the current or other lender;
- (B) Selling the property and using the proceeds to pay off the loan;
- (C) Modifying the terms of the loan with the lender; or
- (D) Arranging payment forbearance with the lender;

(ix) The circumstances under which any prepayment penalty, as defined in subpart E by § 1026.41(d)(7)(iv), may be imposed when consumers fully repay their adjustable-rate mortgages, such as when selling or refinancing their principal residence, the time period during which the penalty may be imposed, and the maximum amount (in dollars) of the penalty possible during that time period;

(x) The telephone number of the creditor, assignee, or servicer for consumers to call if they anticipate not being able to make the new payment; and

(xi) The mailing and internet addresses and telephone number to access the State housing finance authority (as defined in Section 1301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989) for the State in which the consumer resides, and the website and telephone number to access either the Bureau list or the HUD list of homeownership counselors or counseling organizations.

(3) *Format of initial rate adjustment disclosures.* (i) Except for the disclosures provided by paragraph (d)(2)(i), the disclosures required by § 1026.20(d) shall be provided in the form of a table and in the same order as, and with headings and format substantially similar to, Forms H-4(D)(3) and (4) in Appendix H to this part;

(ii) The disclosures required by paragraph (d)(2)(i) shall appear outside of and above the table required in paragraph (d)(3)(i); and

(iii) The disclosures required by paragraph (d)(2)(iii) shall be in the form of a table located within the table described in paragraph (d)(3)(i) of this section. These disclosures shall appear in the same order as, and with headings and format substantially similar to, the table inside the larger table in Forms H-4(D)(3) and (4) in Appendix H to this part. ◀

~~**Subpart E – Special Rules for Certain Home Mortgage Transactions**~~

~~4. Section 1026.36 is amended by revising paragraph (c) to read as follows:~~

~~**§ 1026.36 Prohibited acts or practices in connection with a credit secured by a dwelling.**~~

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~~(c) *Servicing practices.* ► For purposes of this paragraph (c), the terms “servicer” and “servicing” have the same meanings as provided in 12 CFR 1024.2(b).~~

~~(1) *Payment Processing.* In connection with a consumer credit transaction secured by a consumer’s principal dwelling:~~

~~(i) *Full contractual payments.* No servicer shall fail to credit a full contractual payment to the consumer’s loan account as of the date of receipt, except when a delay in crediting does not result in any charge to the consumer or in the reporting of negative information to a consumer reporting agency, or except as provided in paragraph (c)(1)(iii) of this section. A full contractual payment is an amount sufficient to cover principal, interest, and escrow (if~~