

- ~~(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.

* * * * *

(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

applicable) for a given billing cycle. A payment qualifies as a full contractual payment even if it does not include amounts required to cover late fees or other fees that have been assessed.

(ii) *Partial payments.* Any servicer that retains a partial payment, meaning any payment less than a full contractual payment, in a suspense or unapplied funds account shall:

(A) Disclose to the consumer the total amount of funds held in such suspense or unapplied funds account on the periodic statement required by § 1026.41, if a periodic statement is required.

(B) Promptly apply funds held in the suspense or unapplied funds account to the oldest outstanding payment when sufficient funds accumulate in such account to cover a full contractual payment.

(iii) *Non-conforming payments.* If a servicer specifies in writing requirements for the consumer to follow in making payments, but accepts a payment that does not conform to the requirements, the servicer shall credit the payment as of 5 days after receipt.

(2) *No pyramiding of late fees.* In connection with a consumer credit transaction secured by a consumer's principal dwelling, a servicer shall not impose any late fee or delinquency charge for a payment if:

(i) Such a fee or charge is attributable solely to failure of the consumer to pay a late fee or delinquency charge on an earlier payment; and

(ii) The payment is otherwise a full contractual payment received on the due date, or within any applicable grace period.

(3) *Payoff Statements.* In connection with a consumer credit transaction secured by a consumer's dwelling, a creditor, assignee or servicer, as applicable, must provide an accurate statement of the total outstanding balance that would be required to pay the consumer's obligation in full as of a specified date. The statement shall be provided within a reasonable time, but in no case more than 7 business days, after receiving a written request from the consumer or any person acting on behalf of the consumer. ◀

[(1) In connection with a consumer credit transaction secured by a consumer's principal dwelling, no servicer shall:

(i) Fail to credit a 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)(2) of this section;

(ii) Impose on the consumer any late fee or delinquency charge in connection with a payment, when the only delinquency is attributable to late fees or delinquency charges assessed on an earlier payment, and the payment is otherwise a full payment for the applicable period and is paid on its due date or within any applicable grace period; or

(iii) Fail to provide, within a reasonable time after receiving a request from the consumer or any person acting on behalf of the consumer, an accurate statement of the total outstanding balance that would be required to satisfy the consumer's obligation in full as of a specified date.

(2) If a servicer specifies in writing requirements for the consumer to follow in making payments, but accepts a payment that does not conform to the requirements, the servicer shall credit the payment as of 5 days after receipt.

(3) For purposes of this paragraph (c), the terms “servicer” and “servicing” have the same meanings as provided in 12 CFR 1024.2(b), as amended.]

* * * * *

~~5. Section 1026.41 is amended by adding a section heading and new paragraphs (a) through (e) to read as follows:~~

~~► § 1026.41 Periodic statements for residential mortgage loans~~

~~(a) *In general.* A servicer of a closed-end consumer credit transaction secured by a dwelling, must transmit to the consumer for each billing cycle a periodic statement meeting the requirements of paragraphs (b), (c), and (d) of this section, unless an exemption in paragraph (e) of this section applies. If a loan has a billing cycle shorter than a period of 31 days (for example, a bi-weekly billing cycle), a periodic statement covering an entire month may be used. For the purposes of this section, *servicer* is defined to mean creditor, assignee, or servicer, as applicable.~~

~~(b) *Timing of the periodic statement.* The periodic statement must be delivered or placed in the mail within a reasonably prompt time after the payment due date or the end of any grace period provided for the previous billing cycle. The first periodic statement must be sent no later than 10 days before the first payment is due.~~

~~(c) *Form of the periodic statement.* The creditor, assignee, or servicer must make the disclosures required by this section clearly and conspicuously in writing, or electronically if the consumer agrees, and in a form that the consumer may keep. Sample forms for periodic statements are provided in Appendix H-28. Proper use of these forms will be deemed in compliance with this section.~~

~~(d) *Content and layout of the periodic statement.* The periodic statement shall contain the information in this paragraph (d), in the manner described below.~~

~~(1) *Amount due.* The following disclosures must be grouped together in close proximity to each other, and be located at the top of the first page of the statement:~~

~~(i) The payment due date;~~

~~(ii) The amount of any late payment fee, and the date on which that fee will be imposed if payment has not been received; and~~

~~(iii) The amount due. The amount due must be more prominent than other disclosures on the page. If a loan has multiple payment options, the amount due under each of the payment options must be listed.~~

~~(2) *Explanation of amount due.* The following items must be grouped together in close proximity to each other and located on the first page of the statement:~~

~~(i) The monthly payment amount, including a breakdown showing how much, if any, will be applied to principal, interest, and escrow. If a loan has multiple payment options, a breakdown of each of the payment options must be listed along with a statement whether the principal balance will increase, decrease or stay the same for each option listed;~~