~~Moreover, the Bureau believes, in light of the factors in TILA section 105(f), that disclosure of the information specified in TILA section 128(f)(1) would not provide a meaningful benefit to consumers of reverse mortgages. Specifically, the Bureau considers that the exemption is proper irrespective of the amount of the loan, the status of the borrower (including related financial arrangements, financial sophistication, and the importance to the borrower of the loan), or whether the loan is secured by the principal residence of the consumer. Further, in the estimation of the Bureau, the proposed exemption would further the consumer protection purposes of the statute by avoiding the consumer confusion that would result by applying the same disclosure requirements to reverse mortgages as other mortgages and leaving reverse mortgages to be addressed in a comprehensive reverse mortgage rulemaking.~~

~~In addition, consistent with DFA section 1405(b), the Bureau believes that the proposed modification of the requirements in TILA section 128(f) to exempt reverse mortgages would improve consumer awareness and understanding and is in the interest of consumers and in the public interest.~~

~~*41(e)(2) Time Shares*~~

~~Proposed § 1026.41(e)(2) would clarify that timeshares as defined by 11 U.S.C. 101 (53(D)) are exempt from the periodic statement requirement. TILA section 128(f) provides that the periodic statement requirement applies to residential mortgage loans. The definition of residential mortgage loans set forth in TILA section 103(cc)(5) specifies that timeshares do not fall under this definition.~~

41(e)(3) Coupon Book Exemption

Proposed § 1026.41(e)(3) would implement the statutory exemption for fixed-rate loans for which the servicer provides a coupon book containing substantially similar information as found in the periodic statement. The Bureau recognizes the value of the coupon book as striking a balance between ensuring consumers receive important information, and providing a low burden method for servicers to comply with the periodic statement requirements. As such, the Bureau seeks to effectuate the coupon book exemption. The nature of a coupon book (both its smaller size and static nature) creates difficulties in including substantially similar information as would be on a periodic statement. The main problem is the static nature of a coupon book. Because a coupon book may cover an entire year or more, it cannot include information that changes on a monthly basis. By contrast, a periodic statement can provide dynamic information that changes on a monthly basis. To address this problem, the Bureau is proposing to modify the coupon book exception permitted by TILA section 128(f)(3) to apply the exception where the coupon book contains certain static information and other dynamic information is made accessible to the consumer.

Proposed comment 41(e)(3)-1 defines “fixed-rate” by reference to § 1026.18(s)(7)(iii), which defines “fixed-rate mortgage” as a transaction secured by a dwelling that is not an adjustable-rate or a step-rate mortgage. Proposed comment 41(e)(3)-2 explains what a coupon book is.

The Bureau proposes to use its authority under TILA section 105(a) to give effect to the coupon book exemption in TILA section 128(f)(3). TILA section 128(f)(3) provides an exemption to the periodic statement for fixed-rate loans when a coupon book that contains substantially similar information to the periodic statement is provided. Using its authority under

TILA section 128(f)(1)(H), the Bureau has added certain dynamic items to the periodic statement that would be infeasible to include in a coupon book. The Bureau is proposing to use its TILA 105(a) authority to permit use of a coupon book even where certain dynamic information is not included in the book so long as such information is made available via the inquiry process. The Bureau believes this proposed exemption is necessary and proper to facilitate compliance.

Information in the coupon book. Proposed paragraph (e)(3)(i) would require the following information to be included on each coupon within the book: the payment due date, the amount due, and the amount and date that any late fee will be incurred. In specifying the amount due on each coupon, servicers would assume that all prior payments have been paid in full.

Proposed paragraph (e)(3)(ii) would require the following information to be included in the coupon book itself, though it need not be on each coupon: the amount of the principal loan balance, the interest rate in effect for the loan, the date on which the interest rate may next change; the amount of any prepayment fee that may be charged, the contact information for the servicer, and housing counselor information. Each of these items is discussed above in the section-by-section analysis of proposed paragraph (d). The coupon book would also be required to disclose information on how the consumer may obtain the dynamic information discussed below. The information described above may, but is not required to be, included on each coupon. Instead, it may be included anywhere in the coupon book, including on the covers, or on filler pages, as explained by proposed comment 41(e)(3)-3.

Because the outstanding principal balance will typically change during the time period covered by the coupon book, proposed comment 41(e)(3)-4 clarifies that a coupon book need only include the outstanding principal balance at the beginning of that time period.

Information made available. As discussed above, due to the static nature of the coupon book, certain dynamic information that is required to be included on periodic statements cannot be included. To use the coupon book provision, the proposed rule would require that the dynamic information be made available upon the consumer's request. The servicer could provide the information orally, or in writing, or electronically, if the consumer consents. Thus, proposed paragraph (e)(3)(iii) would require the following dynamic information be made available to the consumer upon request: the monthly payment amount, including a breakdown showing how much, if any, will be allocated to principal, interest, and any escrow account; the total of fees or charges imposed since the last payment period; any payment amount past due; the total of all payments received since the beginning of the payment period, including a breakdown of how much, if any, of those payments was applied to principal, interest, escrow, fees and charges, and any partial payment suspense accounts; the total of all payments received since the beginning of the calendar year, including a breakdown of how much, if any, of those payments was applied to principal, interest, escrow, fees and charges, and how much is currently in any partial payment or suspense account; and a list of all the transaction activity (as defined in proposed comment 41(d)(4)-1) that occurred since the payment period.

The Bureau seeks comment on whether requiring servicers to make this information available would impose significant burden or costs that exceed consumer benefits. In particular, the Bureau seeks comment on whether providing the past payment breakdown information would impose greater burden then benefits.

Delinquency information. Because of the importance of the delinquency information, proposed paragraph (e)(3)(iv) would require that to qualify for the coupon book exception, the delinquency information required by proposed § 1026.41(d)(8), discussed above,to be sent to the consumer in writing for each billing cycle for which the consumer is more than 45 days delinquent at the beginning of the billing cycle.

~~*41(e)(4) Small Servicer Exemption*~~

~~Proposed paragraph (e)(4) would exempt certain smaller servicers from the duty to provide periodic statements for certain loans. A small servicer would be defined as a servicer (i) who services 1,000 or fewer mortgage loans; and (ii) only services mortgage loans for which the servicer or an affiliate is the owner or assignee, or for which the servicer or an affiliate is the entity to whom the mortgage loan obligation was initially payable.~~

~~The Bureau has decided to propose this exemption after careful consideration of the benefits and burdens of the periodic statement requirement. As proposed, the Bureau believes that the periodic statement will be helpful to consumers because it will provide a well-integrated communication that not only contains information about upcoming payments due, but also information about loan status, fees charged, past payment crediting, and potential resources and other useful information for consumers who have fallen behind in their payments. The Bureau believes that providing a single-integrated document, in place of a number of other communications that contain fragments of this information can be more efficient for consumers and servicers alike. And in light of the historic problems that have been reported in parts of the servicing industry, the periodic statement could be a useful tool for consumers to monitor their servicers' performance and identify any issues or errors as soon as they occur.~~

~~At the same time, the Bureau recognizes that the servicing industry is not monolithic. Producing a periodic statement with the elements proposed in § 1026.41 requires sophisticated programming to place individualized information on each borrower's statement for each billing cycle. The Bureau recognizes that very small servicers would likely have to rely on outside vendors to develop or modify existing systems to produce statements in compliance with the rule. As discussed further below, the Bureau received detailed information from the SBREFA panel process confirming the technological and operational challenges faced by small servicers, as well as postage and other expenses that would be associated with providing periodic statements on an ongoing basis. Because small servicers maintain small portfolios, the SBREFA participants emphasized that they cannot spread fixed costs across a large number of loans the way that larger servicers can.~~

~~Where small servicers *already* have incentives to provide high levels of customer contact and information, the Bureau believes that the circumstances may warrant exempting those servicers from complying with the periodic statement requirement. In particular, small servicers that make loans in their local communities and then either hold their loans in portfolio or retain the servicing rights have incentives to maintain "high-touch" customer service models. Affirmative communications with consumers help such servicers (and their affiliates) to ensure loan performance, protect their reputations in their communities, and market other consumer financial products and services.[115] Because those servicers have a long-term relationship with~~

[115] See *Re-Thinking Loan Serving*, Prime Alliance Loan Servicing, p. 8 (April 2010) available at: http://cuinsight.com/media/doc/WhitePaper_CaseStudy/wpcs_ReThinking_LoanServicing_May2010.pdf