

~~The Bureau is proposing model and sample forms⁵⁴ for both § 1026.20(e) and (d). The Bureau worked with Macro to design and test the forms for § 1026.20(d), but did not specifically test § 1026.20(e) notices. See Part II.B above. Because of the similarity in the model forms for both proposed rules, the results of the testing of § 1026.20(d) forms is relevant for proposed § 1026.20(e) as well. Thus, throughout the section-by-section analysis for § 1026.20(e), the Bureau refers to the testing results for § 1026.20(d) where the information and concepts tested are identical in the model forms for both proposed § 1026.20(e) and (d).~~

~~*B. Proposed Rule Regarding Prompt Crediting of Mortgage Payments and Response to Requests for Payoff Amounts*~~

~~DFA section 1464(a) codifies the existing Regulation Z requirements in § 1026.36(e)(1)(i) on prompt crediting of payments. The proposed modifications to § 1026.36(e) would clarify the handling of partial payments. The proposal would limit application of the current prompt crediting provision, existing § 1026.36(e)(1)(i), to full contractual payments (as opposed to all payments), and add a new provision, § 1026.36(e)(1)(ii), to address the handling of partial payments (anything less than a full contractual payment).~~

~~DFA section 1464(b) generally codifies the existing Regulation Z requirement in § 1026.36(e)(3) to provide payoff statements, with modifications relating to the scope and timing of the requirement, and the need for the request to be written. Proposed modifications to § 1026.36(e) reflect these changes.~~

~~As part of implementing these changes, the Bureau is proposing a reorganization of the requirements in § 1026.36(e).~~

~~*C. Proposed Rule Regarding Periodic Statements*~~

DFA section 1420 establishes new TILA section 128(f), requiring periodic statements for residential mortgage loans to be provided each billing cycle. The statute requires that a creditor, assignee, or servicer disclose certain information in the periodic statement, along with “such other information as the Bureau may prescribe in regulations.”⁵⁵ The statute requires the Bureau to develop and prescribe a standard form for this disclosure, taking into account that the required statements may be transmitted in writing or electronically.⁵⁶ The statute also provides an exemption to the periodic statement requirement for fixed-rate loans where the creditor, assignee, or servicer provides the obligor with a coupon book which provides substantially the same information as the periodic statement.⁵⁷

Proposed § 1026.41 contains the periodic statement requirement. Paragraph (a) establishes the general requirement for creditors, assignees, or servicers to provide a periodic statement. Paragraphs (b) – (d) establish requirements for the timing, form, content, and layout of the statement. Paragraph (e) sets forth exemptions from the periodic statement requirement.

⁵⁴ The Bureau proposes four model forms for the ARM adjustment notices: two forms for the § 1026.20(c) ARM payment change notices, one labeled a model form and the other a sample form and two forms for the § 1026.20(d) ARM initial interest rate adjustment notices, one labeled a model form and the other a sample form. See Appendix H-4(D)(1)-(4).

⁵⁵ TILA section 128(f)(1)(H).

⁵⁶ TILA section 128(f)(2).

⁵⁷ TILA section 128(f)(3).

The periodic statement is designed to serve a variety of purposes, including informing consumers of their payment obligations, providing the consumer with information about their mortgage in an easily readable and understandable format, creating a record of the transaction to aid in error detection and resolution, and providing information to certain delinquent borrowers.

The Bureau is proposing sample forms in accordance with TILA section 129(f)(2). The Bureau examined several forms used today by various servicers, considered how these forms met the needs of consumers, and identified changes that would benefit consumers. As discussed above in part II.B, the Bureau worked with Macro to design and test sample forms.

The proposed periodic statement is designed to provide information to consumers in a format they can easily understand and use. As such, the proposed regulation would require certain related pieces of information to be grouped together. The proposed formatting requirements of the periodic statement are discussed in detail in the section-by-section analysis for proposed § 1026.41(d).

The proposed periodic statement is also designed to provide additional information to consumers in several potentially confusing scenarios: partial payments, payment-option loans, and delinquency. First, the handling of partial payments would be clarified on the periodic statement, both on the transaction activity line and in the past payment breakdown. Additionally, if funds are held in a suspense or unapplied funds account, the proposed rule would require a message on what must be done to release the funds. Second, payments for payment-option loans would be clarified by listing the options in the Amount Due section, and providing details about each of the options in the Explanation of Amount Due section. Finally, delinquent consumers would receive information in several places on the periodic statement. The overdue amount would be stated in the Explanation of Amount Due section, and any fees would be listed in the Transaction Activity section. The breakdown of past payments will help the consumer understand how past payments were applied, which can be confusing. Additionally, consumers who are more than 45 days delinquent will have a delinquency information included in the periodic statement providing specific information about their loan. These requirements are discussed in greater detail in the section-by-section analysis on proposed § 1026.41 below.

Finally, the proposal contains several exemptions from the periodic statement requirement. One exemption is for fixed-rate loans using coupon books that meet certain requirements, as set forth in TILA 128(f)(3). Another exemption clarifies that timeshares are not subject to the periodic statement requirement as per the definition of “residential mortgage loan.”⁵⁸ The Bureau is also proposing exemptions for reverse mortgages and certain small servicers.

~~V. Legal Authority~~

~~The Bureau is issuing this proposed rule pursuant to its authority under TILA and the Dodd-Frank Act. Section 1061 of the Dodd-Frank Act transferred to the Bureau the “consumer financial protection functions” previously vested in certain other Federal agencies, including the Board. The term “consumer financial protection function” is defined to include “all authority to prescribe rules or issue orders or guidelines pursuant to any Federal consumer financial law, including performing appropriate functions to promulgate and review such rules, orders, and~~

⁵⁸ TILA section 103(cc)(5).