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BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1026

[Docket No. CFPB-2017-0018]

RIN 3170-AA71

Federal Mortgage Disclosure Requirements under the Truth in Lending Act (Regulation Z)

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule; official interpretation.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is amending Federal mortgage disclosure requirements under the Real Estate Settlement Procedures Act (RESPA) and the Truth in Lending Act (TILA) that are implemented in Regulation Z. The amendments relate to when a creditor may compare charges paid by or imposed on the consumer to amounts disclosed on a Closing Disclosure, instead of a Loan Estimate, to determine if an estimated closing cost was disclosed in good faith.

DATES: The final rule is effective [**INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER***].

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SUPPLEMENTARY INFORMATION:

I. Summary of the Final Rule

The TILA-RESPA Rule[1] requires creditors to provide consumers with good faith estimates of the loan terms and closing costs required to be disclosed on a Loan Estimate. Under the rule, an estimated closing cost is disclosed in good faith if the charge paid by or imposed on the consumer does not exceed the amount originally disclosed, subject to certain exceptions.[2] In some circumstances, creditors may use revised estimates, instead of the estimate originally disclosed to the consumer, to compare to the charges actually paid by or imposed on the consumer for purposes of determining whether an estimated closing cost was disclosed in good faith. If the conditions for using such revised estimates are met, the creditor generally may provide revised estimates on a revised Loan Estimate or, in certain circumstances, on a Closing Disclosure. However, under the current rule, circumstances may arise in which a cost increases but the creditor is unable to use an otherwise permissible revised estimate on either a Loan Estimate or a Closing Disclosure for purposes of determining whether an estimated closing cost was disclosed in good faith. This situation, which may arise when the creditor has already provided a Closing Disclosure to the consumer when it learns about the cost increase, occurs because of the intersection of timing rules regarding the provision of revised estimates. This has been referred to in industry as a "gap" or "black hole" in the TILA-RESPA Rule.

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[1] 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) (2013 TILA-RESPA Final Rule), combining certain disclosures that consumers receive in connection with applying for and closing on a mortgage loan into two new forms: the Loan Estimate and Closing Disclosure. 78 FR 79730 (Dec. 31, 2013). The Bureau has since finalized amendments to the 2013 TILA-RESPA Final Rule, including in January and July of 2015 and in July of 2017. *See* 80 FR 8767 (Feb. 19, 2015) (January 2015 Amendments); 80 FR 43911 (July 24, 2015) (July 2015 Amendments); 82 FR 37656 (Aug. 11, 2017) (July 2017 Amendments). The 2013 TILA-RESPA Final Rule and subsequent amendments to that rule are referred to collectively herein as the TILA-RESPA Rule.

[2] 12 CFR 1026.19(e)(3)(i). Those exceptions are listed in § 1026.19(e)(3)(ii) through (iv).

The Bureau understands that these circumstances have led to uncertainty in the market and created implementation challenges that may have consequences for both consumers and creditors. If creditors cannot pass increased costs to consumers in the specific transactions where the costs arise, creditors may spread the costs across all consumers by pricing their loan products with added margins. The Bureau also understands that some creditors may be denying applications, even after providing the Closing Disclosure, in some circumstances where the creditor cannot pass otherwise permissible cost increases directly to affected consumers, which can have negative effects for those consumers. For these reasons, in July 2017, the Bureau proposed to address the issue by specifically providing that creditors may use Closing Disclosures to reflect changes in costs for purposes of determining if an estimated closing cost was disclosed in good faith, regardless of when the Closing Disclosure is provided relative to consummation (2017 Proposal or "the proposal").[3] The Bureau is finalizing those amendments as proposed, with minor clarifying changes.

II. Background

In Dodd-Frank Act sections 1032(f), 1098, and 1100A, Congress directed the Bureau to integrate certain mortgage loan disclosures under TILA and RESPA.[4] The Bureau issued proposed integrated disclosure forms and rules for comment on July 9, 2012 (2012 TILA-RESPA Proposal)[5] and issued the 2013 TILA-RESPA Final Rule on November 20, 2013. The rule included model forms, samples illustrating the use of those forms for different types of

[3] 82 FR 37794 (Aug. 11, 2017).
[4] Public Law 111-203, 124 Stat. 1376, 2007, 2103-04, 2107-09 (2010).
[5] 77 FR 51116 (Aug. 23, 2012).

loans, and Official Interpretations, which provided authoritative guidance explaining the new disclosures. The 2013 TILA-RESPA Final Rule took effect on October 3, 2015.[6]

The Bureau has provided resources to support implementation of the TILA-RESPA Rule.[7] The Bureau has also stated its commitment to be sensitive to the good faith efforts made by institutions to come into compliance. In addition, since the promulgation of the 2013 TILA-RESPA Final Rule, the Bureau has made various amendments to facilitate compliance. Most recently, the Bureau finalized the July 2017 Amendments, which memorialized the Bureau's informal guidance on various issues, made clarifying and technical amendments, and also made a limited number of substantive changes where the Bureau identified discrete solutions to specific implementation challenges. Concurrently with the July 2017 Amendments, the Bureau issued the 2017 Proposal to address an additional implementation issue regarding when a creditor may compare charges paid by or imposed on the consumer to amounts disclosed on a Closing Disclosure to determine if an estimated closing cost was disclosed in good faith.

III. Comments

The Bureau issued the 2017 Proposal on July 6, 2017, and it was published in the *Federal Register* on August 11, 2017. In response to the 2017 Proposal, the Bureau received 43 unique comments from industry commenters (including trade associations, creditors, and industry representatives), a consumer advocate group, and others. As discussed below, the Bureau has considered the comments in adopting this final rule.

[6] The rule had an initial effective date of August 1, 2015. 78 FR 79730, 80071 (Dec. 31, 2013). However, the Bureau ultimately extended that effective date another two months, to October 3, 2015, in a subsequent rulemaking. 80 FR 43911 (July 24, 2015).

[7] The Bureau's implementation resources can be found on the Bureau's website at *www.consumerfinance.gov/regulatory-implementation/tila-respa.*

IV. Legal Authority

The Bureau is issuing this final rule pursuant to its authority under TILA, RESPA, and the Dodd-Frank Act, including the authorities discussed below. In general, the provisions of Regulation Z that this final rule amends were previously adopted by the Bureau in the TILA-RESPA Rule. In doing so, the Bureau relied on one or more of the authorities discussed below, as well as other authority. The Bureau is issuing this final rule in reliance on the same authority and for the same reasons relied on in adopting the relevant provisions of the TILA-RESPA Rule, which are described in detail in the Legal Authority and Section-by-Section Analysis parts of the 2013 TILA-RESPA Final Rule and January 2015 Amendments, respectively.[8]

A. The Integrated Disclosure Mandate

Section 1032(f) of the Dodd-Frank Act required the Bureau to propose, for public comment, rules and model disclosures combining 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 determined that any proposal issued by the Board of Governors of the Federal Reserve System (Board) and the Department of Housing and Urban Development (HUD) carried out the same purpose.[9] In addition, the Dodd-Frank Act amended section 105(b) of TILA and section 4(a) of RESPA to require the integration of the TILA disclosures and the disclosures required by sections 4 and 5 of RESPA.[10] The purpose of the integrated disclosure is to facilitate compliance with the disclosure requirements of TILA and RESPA and to improve borrower understanding of the transaction. The Bureau provided

[8] 78 FR 79730, 79753-56, 79834-37 (Dec. 31, 2013); 80 FR 8767, 8768-70 (Feb. 19, 2015).
[9] Public Law 111-203, 124 Stat. 1376, 2007 (2010) (codified at 12 U.S.C. 5532(f)).
[10] Public Law 111-203, 124 Stat. 1376, 2108 (2010) (codified at 15 U.S.C. 1604(b)); Public Law 111-203, 124 Stat. 1376, 2103 (2010) (codified at 12 U.S.C. 2603(a)).

additional discussion of this integrated disclosure mandate in the 2013 TILA-RESPA Final Rule.[11]

B. Truth in Lending Act

TILA section 105(a). As amended by the Dodd-Frank Act, TILA section 105(a)[12] 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 further 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 therewith. A purpose of TILA is to assure a meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various available credit terms and avoid the uninformed use of credit.[13] In enacting TILA, Congress found that economic stabilization would be enhanced and the competition among the various financial institutions and other firms engaged in the extension of consumer credit would be strengthened by the informed use of credit.[14] Strengthened competition among financial institutions is a goal of TILA, achieved through the meaningful disclosure of credit terms.[15] For the reasons discussed below and in the TILA-RESPA Rule, the Bureau finalizes these amendments pursuant to its authority under TILA section 105(a). The Bureau believes the finalized amendments effectuate the purpose of TILA under TILA section

[11] 78 FR 79730, 79753-54 (Dec. 31, 2013).
[12] 15 U.S.C. 1604(a).
[13] 15 U.S.C. 1601(a).
[14] *Id.*
[15] The Bureau provided additional discussion of the history of TILA section 105(a) and its interaction with the provisions of TILA section 129 that apply to high-cost mortgages in the 2013 TILA-RESPA Final Rule. As the Bureau explained, the Bureau's authority under TILA section 105(a) to make adjustments and exceptions applies to all transactions subject to TILA, including high-cost mortgages, except with respect to the provisions of TILA section 129 that apply uniquely to such high-cost mortgages. 78 FR 79730, 79754 (Dec. 31, 2013).

102(a) of meaningful disclosure of credit terms to consumers and facilitate compliance with the statute by clarifying when particular disclosures may be provided. The Bureau also believes that the final rule furthers TILA's goals by ensuring more reliable estimates, which foster competition among financial institutions. In addition, the Bureau believes the final rule will prevent circumvention or evasion of TILA.

TILA section 129B(e). Dodd-Frank Act section 1405(a) amended TILA to add new section 129B(e).[16] That section authorizes the Bureau to prohibit or condition terms, acts, or practices relating to residential mortgage loans that the Bureau finds to be abusive, unfair, deceptive, predatory, necessary, or proper to ensure that responsible, affordable mortgage credit remains available to consumers in a manner consistent with the purposes of sections 129B and 129C of TILA, to prevent circumvention or evasion thereof, or to facilitate compliance with such sections, or are not in the interest of the borrower. In developing rules under TILA section 129B(e), the Bureau has considered whether the rules are in the interest of the borrower, as required by the statute. For the reasons discussed below and in the TILA-RESPA Rule, the Bureau finalizes these amendments pursuant to its authority under TILA section 129B(e). The Bureau believes this final rule is consistent with TILA section 129B(e).

C. Real Estate Settlement Procedures Act Section 19(a)

Section 19(a) of RESPA 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.[17] One purpose of RESPA

[16] Public Law 111-203, 124 Stat. 1376, 2141 (2010) (codified at 15 U.S.C. 1639B(e)).
[17] 12 U.S.C. 2617(a).

is to effect certain changes in the settlement process for residential real estate that will result in more effective advance disclosure to home buyers and sellers of settlement costs.[18] In addition, in enacting RESPA, Congress found that consumers are entitled to greater and more timely information on the nature and costs of the settlement process and to be protected from unnecessarily high settlement charges caused by certain abusive practices in some areas of the country.[19] In developing rules under RESPA section 19(a), the Bureau has considered the purposes of RESPA, including to effect certain changes in the settlement process that will result in more effective advance disclosure of settlement costs. The Bureau finalizes these amendments pursuant to its authority under RESPA section 19(a). For the reasons discussed below and in the TILA-RESPA Rule, the Bureau believes the final rule is consistent with the purposes of RESPA by fostering more effective advance disclosure to home buyers and sellers of settlement costs.

D. Dodd-Frank Act

Dodd-Frank Act section 1032. Section 1032(a) of the Dodd-Frank Act provides that the Bureau may prescribe rules to ensure that the features of any consumer financial product or service, both initially and over the term of the product or service, are fully, accurately, and effectively disclosed to consumers in a manner that permits consumers to understand the costs, benefits, and risks associated with the product or service, in light of the facts and circumstances.[20] The authority granted to the Bureau in section 1032(a) is broad and empowers the Bureau to prescribe rules regarding the disclosure of the features of consumer financial

[18] 12 U.S.C. 2601(b).
[19] *Id.* at 2601(a). In the past, RESPA section 19(a) has served as a broad source of authority to prescribe disclosures and substantive requirements to carry out the purposes of RESPA.
[20] Public Law 111-203, 124 Stat. 1376, 2006-07 (2010) (codified at 12 U.S.C. 5532(a)).

products and services generally. Accordingly, the Bureau may prescribe rules containing disclosure requirements even if other Federal consumer financial laws do not specifically require disclosure of such features. Dodd-Frank Act section 1032(c) provides that, in prescribing rules pursuant to section 1032, the Bureau shall consider available evidence about consumer awareness, understanding of, and responses to disclosures or communications about the risks, costs, and benefits of consumer financial products or services.[21] Accordingly, in developing the TILA-RESPA Rule under Dodd-Frank Act section 1032(a), the Bureau considered available studies, reports, and other evidence about consumer awareness, understanding of, and responses to disclosures or communications about the risks, costs, and benefits of consumer financial products or services. Moreover, the Bureau considered the evidence developed through its consumer testing of the integrated disclosures as well as prior testing done by the Board and HUD regarding TILA and RESPA disclosures. See part III of the 2013 TILA-RESPA Final Rule for a discussion of the Bureau's consumer testing.[22]

The Bureau finalizes these amendments pursuant to its authority under Dodd-Frank Act section 1032(a). For the reasons discussed below and in the TILA-RESPA Rule, the Bureau believes that the final rule is consistent with Dodd-Frank Act section 1032(a) because it promotes full, accurate, and effective disclosure of the features of consumer credit transactions secured by real property in a manner that permits consumers to understand the costs, benefits, and risks associated with the product or service, in light of the facts and circumstances.

[21] Public Law 111-203, 124 Stat. 1376, 2007 (2010) (codified at 12 U.S.C. 5532(c)).
[22] 78 FR 79730, 79743-50 (Dec. 31, 2013).

Dodd-Frank Act section 1405(b). Section 1405(b) of the Dodd-Frank Act provides that, notwithstanding any other provision of title XIV of the Dodd-Frank Act, in order to improve consumer awareness and understanding of transactions involving residential mortgage loans through the use of disclosures, the Bureau may exempt from or modify disclosure requirements, in whole or in part, for any class of residential mortgage loans if the Bureau determines that such exemption or modification is in the interest of consumers and in the public interest.[23] Section 1401 of the Dodd-Frank Act, which amends TILA section 103(cc)(5), generally defines a residential mortgage loan as any consumer credit transaction that is secured by a mortgage on a dwelling or on residential real property that includes a dwelling, other than an open-end credit plan or an extension of credit secured by a consumer's interest in a timeshare plan.[24] Notably, the authority granted by section 1405(b) applies to disclosure requirements generally and is not limited to a specific statute or statutes. Accordingly, Dodd-Frank Act section 1405(b) is a broad source of authority to exempt from or modify the disclosure requirements of TILA and RESPA. In developing rules for residential mortgage loans under Dodd-Frank Act section 1405(b), the Bureau has considered the purposes of improving consumer awareness and understanding of transactions involving residential mortgage loans through the use of disclosures and the interests of consumers and the public. The Bureau finalizes these amendments pursuant to its authority under Dodd-Frank Act section 1405(b). For the reasons discussed below and in the TILA-RESPA Rule, the Bureau believes the final rule is in the interest of consumers and in the public interest, consistent with Dodd-Frank Act section 1405(b).

[23] Public Law 111-203, 124 Stat. 1376, 2142 (2010) (codified at 15 U.S.C. 1601 note).
[24] Public Law 111-203, 124 Stat. 1376, 2138 (2010) (codified at 15 U.S.C. 1602(cc)(5)).

V. Section-by-Section Analysis

Section 1026.19 Certain Mortgage and Variable-Rate Transactions

19(e) Mortgage Loans – Early Disclosures

19(e)(4) Provision and Receipt of Revised Disclosures

The 2013 TILA-RESPA Final Rule combined certain disclosures that consumers receive in connection with applying for and closing on a mortgage loan into two new, integrated forms. The first new form, the Loan Estimate, replaced the RESPA Good Faith Estimate and the early Truth in Lending disclosure. The rule requires creditors to deliver or place in the mail the Loan Estimate no later than three business days after the consumer submits a loan application.[25] The second form, the Closing Disclosure, replaced the HUD-1 Settlement Statement and the final Truth in Lending disclosure. The rule requires creditors to ensure that consumers receive the Closing Disclosure at least three business days before consummation.[26]

Section 1026.19(e)(1)(i) of the 2013 TILA-RESPA Final Rule requires creditors to provide consumers with good faith estimates of the disclosures required in § 1026.37, which describes the loan terms and closing costs required to be disclosed on the Loan Estimate. Under § 1026.19(e)(3)(i), an estimated closing cost is disclosed in good faith if the charge paid by or imposed on the consumer does not exceed the amount originally disclosed, except as otherwise provided in § 1026.19(e)(3)(ii) through (iv). Section 1026.19(e)(3)(ii) provides that estimates for certain third-party services and recording fees are in good faith if the sum of all such charges paid by or imposed on the consumer does not exceed the sum of all such charges disclosed on the

[25] 12 CFR 1026.19(e)(1)(iii).
[26] *Id.* at § 1026.19(f)(1)(ii).

Loan Estimate by more than 10 percent.[27] Section 1026.19(e)(3)(iii) further provides that certain other estimates are disclosed in good faith so long as they are consistent with the best information reasonably available to the creditor at the time they are disclosed, regardless of whether and by how much the amount paid by the consumer exceeds the disclosed estimate.[28] The allowed variances between estimated closing costs and the actual amounts paid by or imposed on the consumer are referred to as tolerances.

Section 1026.19(e)(3)(iv) permits creditors, in certain limited circumstances, to use revised estimates of charges, instead of the estimate of charges originally disclosed to the consumer, to compare to the charges actually paid by or imposed on the consumer for purposes of determining whether an estimated closing cost was disclosed in good faith pursuant to § 1026.19(e)(3)(i) and (ii) (*i.e.*, determining whether the actual charge exceeds the allowed tolerance).[29] The provision of such revised estimates is referred to herein as resetting tolerances. The circumstances under which creditors may reset tolerances are: (1) a defined set of changed circumstances that cause estimated charges to increase or, in the case of certain estimated charges, cause the aggregate amount of such charges to increase by more than 10 percent;[30] (2)

[27] This section also requires that, for the 10 percent tolerance to apply, the charge for the third-party service must not be paid to the creditor or an affiliate of the creditor and the creditor must permit the consumer to shop for the third-party service, consistent with § 1026.19(e)(1)(vi). *See* 12 CFR 1026.19(e)(3)(ii)(B)-(C).
[28] Section 1026.19(e)(3)(iii) provides that an estimate of the following charges is in good faith if it is consistent with the best information reasonably available to the creditor at the time it is disclosed, regardless of whether the amount paid by the consumer exceeds the amount originally disclosed: (1) prepaid interest; (2) property insurance premiums; (3) amounts placed into an escrow, impound, reserve, or similar account; (4) charges paid to third-party service providers selected by the consumer consistent with § 1026.19(e)(1)(vi)(A) that are not on the list provided pursuant to § 1026.19(e)(1)(vi)(C); and (5) property taxes and other charges paid for third-party services not required by the creditor.
[29] The creditor is required to retain evidence that it performed the required actions as well as made the required disclosures under Regulation Z, which includes evidence that the creditor properly documented the reasons for the use of revised estimates of charges. *See* § 1026.25(c)(1) and comment 25(c)(1)-1.
[30] Changed circumstance means: (1) an extraordinary event beyond the control of any interested party or other unexpected event specific to the consumer or transaction; (2) information specific to the consumer or transaction

the consumer is ineligible for an estimated charge previously disclosed because of a changed circumstance that affects the consumer's creditworthiness or the value of the property securing the transaction; (3) the consumer requests revisions to the credit terms or the settlement that cause an estimated charge to increase; (4) points or lender credits change because the interest rate was not locked when the Loan Estimate was provided; (5) the consumer indicates an intent to proceed with the transaction more than 10 business days, or more than any additional number of days specified by the creditor before the offer expires, after the Loan Estimate was provided to the consumer; and (6) the loan is a construction loan that is not expected to close until more than 60 days after the Loan Estimate has been provided to the consumer and the creditor clearly and conspicuously states that a revised disclosure may be issued.

Section 1026.19(e)(4) contains rules for the provision and receipt of revised estimates used to reset tolerances. Section 1026.19(e)(4)(i) provides the general rule that, subject to the requirements of § 1026.19(e)(4)(ii), if a creditor uses a revised estimate to determine good faith (*i.e.*, to reset tolerances), the creditor shall provide a Loan Estimate reflecting the revised estimate within three business days of receiving information sufficient to establish that a permissible reason for revision applies. Section 1026.19(e)(4)(ii) imposes timing restrictions on the provision of revised Loan Estimates. Specifically, § 1026.19(e)(4)(ii) states that the creditor shall not provide a revised Loan Estimate on or after the date on which the creditor provides the Closing Disclosure. Section 1026.19(e)(4)(ii) also provides that the consumer must receive any revised Loan Estimate not later than four business days prior to consummation.

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that the creditor relied upon when providing the Loan Estimate and that was inaccurate or changed after the disclosures were provided; or (3) new information specific to the consumer or transaction that the creditor did not rely on when providing the original Loan Estimate. 12 CFR 1026.19(e)(3)(iv)(A).

Regulation Z therefore limits creditors' ability to provide revised Loan Estimates relative to the provision of the Closing Disclosure and to consummation. In issuing the 2013 TILA-RESPA Final Rule, the Bureau explained that it was aware of cases where creditors provided revised RESPA Good Faith Estimates at the real estate closing, along with the HUD-1 settlement statement.[31] The Bureau was concerned that the practice of providing both good faith estimates of closing costs and an actual statement of closing costs at the same time could be confusing for consumers and could diminish their awareness and understanding of the transaction. The Bureau was also concerned about consumers receiving seemingly duplicative disclosures that could contribute to information overload. For this reason, the Bureau adopted the provision of § 1026.19(e)(4)(ii) that prohibits creditors from providing revised Loan Estimates on or after the date the creditor provides the Closing Disclosure. The Bureau adopted the provision of § 1026.19(e)(4)(ii) that requires that consumers receive the revised Loan Estimate not later than four business days prior to consummation to ensure that consumers do not receive a revised Loan Estimate on the same date as the Closing Disclosure in cases where the revised Loan Estimate is not provided to the consumer in person.

Comment 19(e)(4)(ii)-1 clarifies when creditors may reset tolerances with a Closing Disclosure instead of with a revised Loan Estimate. Specifically, the comment explains that if there are fewer than four business days between the time the revised version of the disclosures is required to be provided pursuant to § 1026.19(e)(4)(i) (*i.e.*, within three business days of receiving information sufficient to establish a reason for revision) and consummation, creditors

[31] 78 FR 79730, 79836 (Dec. 31, 2013).

can reflect revised disclosures to reset tolerances on the Closing Disclosure. This is referred to herein as the "four-business day limit."

Although the Bureau originally proposed commentary in 2012 that would have stated that creditors may reflect the revised disclosures on the Closing Disclosure, without regard to the timing of consummation, the 2013 TILA-RESPA Final Rule contained the four-business day limit.[32] As stated in the 2017 Proposal, the Bureau now understands that there is significant confusion in the market and that the four-business day limit has caused situations where creditors cannot provide either a revised Loan Estimate or Closing Disclosure to reset tolerances even if a reason for revision under § 1026.19(e)(3)(iv) would otherwise permit the creditor to reset tolerances. In particular, the Bureau understands that this situation may occur if the creditor has already provided the Closing Disclosure and an event occurs or a consumer requests a change that causes an increase in closing costs that would be a reason for revision under § 1026.19(e)(3)(iv), but there are four or more days between the time the revised disclosures would be required to be provided pursuant to § 1026.19(e)(4)(i) and consummation. This situation may occur if there was also a delay in the scheduled consummation date after the initial Closing Disclosure is provided to the consumer.

This situation can arise because of the intersection of various timing rules regarding the provision of revised estimates to reset tolerances. As noted, § 1026.19(e)(4)(ii) prohibits creditors from providing Loan Estimates on or after the date on which the creditor provides the Closing Disclosure. In many cases, this limitation would not create issues for creditors because

[32] *See* proposed comment 19(e)(4)-2 at 77 FR 51116, 51426 (Aug. 23, 2012) ("Creditors comply with the requirements of § 1026.19(e)(4) if the revised disclosures are reflected in the disclosures required by § 1026.19(f)(1)(i).").

current comment 19(e)(4)(ii)-1 explains that creditors may reflect revised estimates on a Closing Disclosure to reset tolerances if there are less than four business days between the time the revised version of the disclosures is required to be provided pursuant to § 1026.19(e)(4)(i) and consummation. But there is no similar provision that explicitly provides that creditors may use a Closing Disclosure to reflect the revised estimates if there are four or more business days between the time the revised version of the disclosures is required to be provided pursuant to § 1026.19(e)(4)(i) and consummation.

The 2016 Proposal

On July 28, 2016, the Bureau proposed clarifications and technical amendments to the TILA-RESPA Rule, along with several proposed substantive changes (2016 Proposal).[33] In the 2016 Proposal, the Bureau proposed comment 19(e)(4)(ii)-2 to clarify that creditors may use corrected Closing Disclosures provided under § 1026.19(f)(2)(i) or (ii) (in addition to the initial Closing Disclosure) to reflect changes in costs that will be used to reset tolerances.[34] As discussed above, existing comment 19(e)(4)(ii)-1 clarifies that creditors may reflect revised estimates on the Closing Disclosure to reset tolerances if there are less than four business days between the time the revised version of the disclosures is required to be provided pursuant to § 1026.19(e)(4)(i) and consummation. Although comment 19(e)(4)(ii)-1 expressly references only the Closing Disclosure required by § 1026.19(f)(1)(i), the Bureau had stated in informal guidance that the provision also applies to corrected Closing Disclosures provided pursuant to

[33] 81 FR 54317 (Aug. 15, 2016).
[34] *Id.* at 54334.

§ 1026.19(f)(2)(i) or (ii). The Bureau proposed comment 19(e)(4)(ii)-2 in the 2016 Proposal to clarify this point.

However, some commenters to the 2016 Proposal interpreted proposed comment 19(e)(4)(ii)-2 as allowing creditors to use corrected Closing Disclosures to reset tolerances regardless of when consummation is expected to occur, as long as the creditor provides the corrected Closing Disclosure within three business days of receiving information sufficient to establish a reason for revision applies pursuant to § 1029.19(e)(4)(i). Under this interpretation, the four-business day limit would still apply to resetting tolerances with the initial Closing Disclosure, but would not apply to resetting tolerances with a corrected Closing Disclosure. Commenters were not uniform in their interpretation of proposed comment 19(e)(4)(ii)-2. Commenters who interpreted proposed comment 19(e)(4)(ii)-2 as removing the four-business day limit as it applies to corrected Closing Disclosures were generally supportive, citing uncertainty about the proper interpretation of current rules and stating that the timing rules regarding resetting tolerances with a Closing Disclosure are unworkable. Many commenters perceived that proposed comment 19(e)(4)(ii)-2 would resolve these issues because they interpreted it as allowing creditors to use corrected Closing Disclosures to reset tolerances even if there are four or more business days between the time the revised version of the disclosures is required to be provided pursuant to § 1026.19(e)(4)(i) and consummation. Some commenters who interpreted the proposed comment in this way supported it, but also cautioned about unintended consequences. For example, some commenters stated that eliminating the four-business day limit for corrected Closing Disclosures might remove a disincentive that currently exists under the rule from providing the initial Closing Disclosure extremely early in the mortgage origination process, which these commenters stated would not be consistent with the Bureau's intent that the Closing Disclosure be a statement of actual costs.

The 2017 Proposal

The Bureau did not finalize proposed comment 19(e)(4)(ii)-2 as part of the July 2017 Amendments. Instead, the Bureau issued the 2017 Proposal to amend § 1026.19(e)(4) and associated commentary to expressly remove the four-business day limit for providing Closing Disclosures for purposes of resetting tolerances and determining if an estimated closing cost was disclosed in good faith. The Bureau issued the 2017 Proposal in light of comments received in response to the 2016 Proposal and prior outreach indicating that timing rules regarding resetting tolerances with Closing Disclosures have led to uncertainty in the market and created implementation challenges that could have unintended consequences for both consumers and creditors, as explained above.

Consistent with current comment 19(e)(4)(ii)-1, the proposal would have allowed creditors to reset tolerances by providing a Closing Disclosure (including any corrected disclosures provided under § 1026.19(f)(2)(i) or (ii)) within three business days of receiving information sufficient to establish that a reason for revision applies. Unlike current comment 19(e)(4)(ii)-1, however, the proposal would not have restricted the creditor's ability to reset tolerances with a Closing Disclosure to the period of less than four business days between the time the revised version of the disclosures is required to be provided pursuant to § 1026.19(e)(4)(i) and consummation.

In the proposal, the Bureau explained that it believes that, in most cases in which a creditor learns about cost increases that are a permissible reason to reset tolerances, the creditor will not yet have provided a Closing Disclosure to the consumer. The proposal explained that, to the extent there is a cost increase of a type that would allow tolerances to be reset, the Bureau expects that creditors will typically provide a revised Loan Estimate (and not a Closing Disclosure) for the purpose of resetting tolerances and that these revised Loan Estimates will be used in determining good faith under § 1026.19(e)(3)(i) and (ii). However, there are circumstances in which creditors will instead reset tolerances with a Closing Disclosure. For example, the proposal noted that events that can affect closing costs may occur close to the time of consummation, even after the initial Closing Disclosure has been provided to the consumer. The proposal also noted that events may result in consummation being delayed past the time that was expected when the creditor provided the Closing Disclosure to the consumer. Some events can both affect closing costs and lead to a delay in consummation. These events may be outside the control of the creditor and, in some cases, requested by the consumer. The proposal cited as examples weather-related events that delay closing and lead to additional appraisal or inspection costs or illness by a buyer or seller that could delay closing and lead to the imposition of additional costs, such as a rate lock extension fee. In these circumstances, creditors may wish to reset tolerances with a Closing Disclosure even outside the time permitted by the four-business day limit. If creditors cannot pass these increased costs to consumers in the specific transactions where they arise, creditors may spread the costs across all consumers by pricing their loan products with added margins. The proposal also noted that some creditors may be seeking other ways to avoid absorbing these unexpected costs, such as denying applications from consumers, even after providing the consumer a Closing Disclosure.

For these reasons, the Bureau proposed to allow creditors to reset tolerances using a Closing Disclosure without regard to the four-business day limit. Under the proposal, as under the current rule, to reset tolerances with a Closing Disclosure, creditors would have been required to provide the Closing Disclosure to the consumer within three business days of receiving information sufficient to establish that a reason for revision applies. Further, as under the current rule, creditors would have been allowed to reset tolerances only under the limited circumstances described in § 1026.19(e)(3)(iv).

The proposal would have removed the four-business day limit for resetting tolerances with both initial and corrected Closing Disclosures. The proposal cited two reasons for this approach. First, the proposal noted a concern that applying the four-business day limit to initial Closing Disclosures but not corrected Closing Disclosures could incentivize creditors to provide consumers with initial Closing Disclosures very early in the lending process, which in some circumstances might be inconsistent with the description of the Closing Disclosure as a "statement of the final loan terms and closing costs,"[35] and the requirement under § 1026.19(f)(1)(i) that the disclosures on the Closing Disclosure are to be a statement of "the actual terms of the transaction." Second, the proposal noted that applying the four-business day limit to initial Closing Disclosures but not corrected Closing Disclosures could create operational challenges and burden for creditors.

Accordingly, the Bureau proposed to amend § 1026.19(e)(4)(i) to provide that, subject to the requirements of § 1026.19(e)(4)(ii), if a creditor uses a revised estimate pursuant to § 1026.19(e)(3)(iv) for the purpose of determining good faith under § 1026.19(e)(3)(i) and (ii), the creditor shall provide a revised version of the disclosures required under § 1026.19(e)(1)(i) or the disclosures required under § 1026.19(f)(1)(i) (including any corrected disclosures provided

[35] 12 CFR 1026.38(a)(2).

under § 1026.19(f)(2)(i) or (ii)) reflecting the revised estimate within three business days of receiving information sufficient to establish that one of the reasons for revision applies.

The Bureau also proposed to amend comment 19(e)(4)(ii)-1 to remove the reference to the four-business day limit, for consistency with the proposed amendments to § 1026.19(e)(4)(i). In addition, the proposal would have amended the comment to provide two additional examples that further clarify how creditors may provide revised estimates on Closing Disclosures in lieu of Loan Estimates for purposes of determining good faith. The Bureau also proposed conforming amendments to the heading of § 1026.19(e)(4)(ii) and to comments 19(e)(1)(ii)-1 and 19(e)(4)(i)-1 in light of these proposed amendments.

Finally, the proposal would have made several changes to § 1026.19(e)(4) and its commentary to reflect amendments to the rule made by the January 2015 Amendments regarding interest rate dependent charges. Section 1026.19(e)(3)(iv)(D), as adopted by the 2013 TILA-RESPA Final Rule, previously required creditors to provide the consumer with a revised disclosure with the revised interest rate, the points disclosed pursuant to § 1026.37(f)(1), lender credits, and any other interest rate dependent charges and terms on the date the interest rate is locked. The January 2015 Amendments changed § 1026.19(e)(3)(iv)(D) to provide creditors with more time (three business days) to provide the revised disclosures. This amendment harmonized the timing requirement in § 1026.19(e)(3)(iv)(D) with other timing requirements for providing a revised Loan Estimate adopted in the 2013 TILA-RESPA Final Rule and addressed operational challenges associated with the prior requirement that gave creditors less time to provide revised disclosures regarding interest rate dependent charges. To implement this change, the Bureau revised § 1026.19(e)(3)(iv)(D) to state that, no later than three business days after the date the interest rate is locked, the creditor shall provide a revised version of the disclosures required under § 1026.19(e)(1)(i) to the consumer with the revised interest rate, the points disclosed pursuant to § 1026.37(f)(1), lender credits, and any other interest rate dependent charges and terms. In the January 2015 Amendments, the Bureau also adopted modified versions of proposed comments 19(e)(3)(iv)(D)-1 and 19(e)(4)(i)-2 to reflect that change. To further reflect the changes made by the January 2015 Amendments to § 1026.19(e)(3)(iv)(D), the Bureau proposed to amend § 1026.19(e)(4)(i) and comment 19(e)(4)(i)-1. The Bureau also proposed to remove existing comment 19(e)(4)(i)-2, regarding the relationship to § 1026.19(e)(3)(iv)(D), which the proposal stated may no longer be necessary.

The Bureau solicited comment on several specific issues related to the proposal, including on the extent to which the four-business day limit has caused situations where creditors cannot provide either a revised Loan Estimate or Closing Disclosure to reset tolerances even if a reason for revision under § 1026.19(e)(3)(iv) would otherwise permit the creditor to reset tolerances. The Bureau requested information on the frequency and the cause of such occurrences and on the average costs and the nature of such costs associated with such occurrences.

The Bureau also requested information that would assist in evaluating potential consequences of the proposal. In particular, some commenters in response to the 2016 Proposal expressed concern that removal of the four-business day limit could result in some creditors providing Closing Disclosures very early in the lending process and that doing so could have negative effects on some consumers. The proposal noted the Bureau's understanding that some creditors currently provide the Closing Disclosure to consumers so early in the process that the terms and costs are nearly certain to be revised. Commenters stated in response to the 2016 Proposal that eliminating the four-business day limit for resetting tolerances with a Closing

Disclosure could remove a disincentive to providing Closing Disclosures before final terms and costs are reliably available (*i.e.*, under the current rule, waiting to provide the Closing Disclosure until close to the time of consummation decreases, to some extent, the likelihood of a timing issue arising with respect to resetting tolerances with corrected Closing Disclosures). Accordingly, the Bureau requested comment on the extent to which creditors are providing Closing Disclosures to consumers so that they are received substantially before the required three business days prior to consummation with terms and costs that are nearly certain to be revised. The Bureau requested comment on the number of business days before consummation consumers are receiving the Closing Disclosure and whether creditors are issuing corrected Closing Disclosures pursuant to § 1026.19(f)(2). In addition, the Bureau requested comment on the extent to which creditors might change their practices regarding provision of the Closing Disclosure if the proposal to remove the four-business day limit is adopted. The Bureau also requested comment on potential harms to consumers where creditors provide Closing Disclosures to consumers so that they are received more than the required three business days prior to consummation with terms and costs that are nearly certain to be revised. The Bureau additionally requested comment on whether it should consider adopting measures to prevent such harms in a future rulemaking.

The Bureau also requested comment on other potential consequences that might result from removing the four-business day limit that applies to resetting tolerances with a Closing Disclosure. For example, compared to current rules, the proposed changes could allow creditors to pass more costs on to consumers. The Bureau solicited comment on whether the circumstances for resetting tolerances in § 1026.19(e)(3)(iv) provide sufficient protection against potential consumer harm or whether additional limitations are appropriate for resetting tolerances after the issuance of a Closing Disclosure. For example, the Bureau requested comment on whether it would be appropriate to allow creditors to reset tolerances with a corrected Closing Disclosure in circumstances that are more limited than those described in § 1026.19(e)(3)(iv) (for example, only when the increased costs result from a consumer request or unforeseeable event, such as a natural disaster). The Bureau also requested comment on whether the rule should be more restrictive with respect to resetting tolerances with a corrected Closing Disclosure for certain third-party costs (such as appraisal fees) and creditor fees (such as interest rate lock extension fees) and the types of costs and fees that might be subject to any more restrictive rules. The Bureau also requested comment on whether removing the four-business day limit might result in confusion or information overload to the consumer as a result of receiving more corrected Closing Disclosures. The Bureau requested comment on additional consumer protections that might be appropriate to promote the purposes of the disclosures or prevent circumvention or evasion and additional potential consumer harms the Bureau had not identified.

Comments

The Bureau received 43 unique comments from industry commenters (including trade associations, creditors, and industry representatives), a consumer advocate group, and others. Most industry commenters supported the proposal to remove the four-business day limit. These commenters generally stated that the four-business day limit arbitrarily leads to situations where creditors must absorb costs that could otherwise be passed to consumers through resetting tolerances, and that those costs are passed to all consumers in the form of an increased cost of credit. Industry commenters also noted legal and compliance risks associated with the uncertainty around current rules, and stated that this uncertainty has had an adverse impact on the cost of credit. These commenters supported the proposal because it would address these issues by expressly permitting creditors to use either initial or corrected Closing Disclosures to reflect changes in costs for purposes of determining if an estimated closing cost was disclosed in good faith, regardless of when the Closing Disclosure is provided relative to consummation. Other industry commenters, while generally supportive of the proposal, expressed concerns about unintended consequences and some suggested additional parameters or guidance around the timing or accuracy rules that apply to Closing Disclosures. These comments are discussed more fully below.

Only one consumer advocate group commented on the proposal. That commenter urged the Bureau not to adopt the proposal, primarily citing concerns about consumer confusion and information overload. That commenter suggested that the proposal would lead to consumers receiving an increased number of disclosures, which the commenter believes would undermine the purpose of the Closing Disclosure and overwhelm consumers. The consumer advocate group commenter also stated that the proposal would remove the disincentive from providing Closing Disclosures to consumers very early, which the commenter believes would undermine the distinction between the Loan Estimate and the Closing Disclosure. Instead of finalizing the proposal, that commenter urged the Bureau to amend the rule to provide that a Closing Disclosure can only be given three business days before consummation, with redisclosure permitted thereafter only under the circumstances in § 1026.19(f)(2)(i) and (ii).

One individual commenter expressed opposition to the proposal and urged the Bureau to increase the four-business day limit to a seven-business day limit, rather than eliminating it altogether, so as to retain a deterrent against early Closing Disclosures. An industry commenter opposed such an approach, stating that simply extending the four-business day limit to a larger number of days would not fully address current issues.

Numerous commenters responded to the Bureau's specific requests for comment on issues related to the four-business day limit and the potential effects of the proposal. These comments are discussed below.

The Effect of the Four-Business Day Limit

As noted above, the proposal requested information on the extent to which the four-business day limit has created situations where creditors cannot provide either a revised Loan Estimate or a corrected Closing Disclosure to reset tolerances. The proposal requested information on the frequency and the cause of such occurrences and on the average costs and the nature of such costs associated with such occurrences.

Industry commenters generally stated that the four-business day limit has created compliance problems and imposed costs on creditors. One industry trade association commenter noted that a large creditor had reported tolerance cures of $60,000 in one month attributable to issues with the four-business day limit. That same commenter noted that a mid-sized creditor had reported that between 13 and 37 percent of its tolerance cures each month during a five-month period were attributable to the four-business day limit. The commenter also noted that absorbing such costs is more difficult for small creditors. Another commenter estimated costs incurred by creditors for some common events associated with the four-business day limit: $825 per affected loan for lock extension fees and a minimum of $150 per affected loan for property inspections due to weather events.

Other commenters provided specific examples of problems created by the four-business day limit. For example, one industry commenter described a delay in the final construction of a home and a corresponding rate lock extension fee being incurred after the initial Closing Disclosure had been sent to the consumer six days before the originally scheduled consummation date. That commenter noted another example of additional survey costs incurred due to a newly filed property lien during the six days before consummation. In both instances, the creditor absorbed the increased costs because of the four-business day limit. Another industry commenter provided other examples, including another instance of fees that were incurred due to issues discovered during a title search close to the consummation date.

An industry trade association commenter noted that its member banks did not report the frequent need to reset tolerances in close proximity to consummation, but said that its members reported isolated situations of absorbing costs from valid changed circumstances, denying requests for changes to loan terms, or starting the loan process over rather than accommodating the change. Another industry commenter stated that it typically works with the same title companies and other service providers and does not price its loans to absorb costs associated with the four-business day limit. That commenter has not denied applications because of the inability to reset tolerances, but stated that it has heard reports of such occurrences at other creditors from potential customers, including that some consumers have lost home purchase contracts where applications are denied late in the process. Another industry commenter stated that it believes most lenders absorb the additional costs associated with the four-business day limit, rather than denying applications, due to concerns about customer service and the risk of delay.

While not citing specific instances of problems with the four-business day limit, numerous other industry commenters stated that costs will frequently change after a Closing Disclosure has been provided to the consumer for reasons outside of the creditor’s control, or due to consumer requests, even if the initial Closing Disclosure is provided close to the anticipated time of consummation. Rate lock extension fees were the fee type most frequently cited as being associated with such cost changes. Several industry commenters also noted that consumers may request changes to interest rates and lender credits or points after the initial Closing Disclosure has been provided to the consumer. Another commenter noted that the four-business day limit is especially problematic in new construction transactions when consumers submit change order requests to their builder that increase the loan amount. Commenters also noted that delays in anticipated closing dates frequently occur. These commenters cited numerous reasons that closings might be delayed, even close to the time of the initially scheduled closing, including home inspection issues that require correction, storm damage, title issues, late appraisals, and consumer requests for closing delays. The consumer advocate group that commented on the proposal did not comment on this aspect of it.

Closing Disclosure Timing Practices

The proposal also requested comment on the extent to which creditors are providing Closing Disclosures to consumers so that they are received substantially before the required three business days prior to consummation with terms and costs that are nearly certain to be revised (and, if so, the number of days before consummation). In addition, the proposal requested comment on the extent to which creditors might change their practices regarding provision of the Closing Disclosure if the proposal is finalized.

Numerous industry commenters responded to the Bureau's requests for comment related to Closing Disclosure timing. Several commenters noted that there are inconsistent approaches to Closing Disclosure timing across the industry, with some issuing the Closing Disclosure at an early point in the process and others waiting until closer to the time of consummation when final amounts are more likely to be known. Some commenters who noted this difference in approach also noted that providing Closing Disclosures very early does not seem consistent with the

Bureau's intent that the Closing Disclosure act as a statement of final loan terms and closing costs. One industry commenter stated that it would be possible for a creditor to set up a process that would allow it to issue a Closing Disclosure earlier, while still containing accurate loan terms. That commenter suggested holding creditors responsible for having adequate policies and procedures to ensure that the disclosure is representative of the loan terms and actual costs known at the time of delivery.

Some commenters, including both industry commenters and the consumer advocate group commenter, expressed concern that the proposal could incentivize creditors to provide Closing Disclosures earlier in the process. One industry commenter stated that creditors who do provide Closing Disclosures very early may be at a competitive advantage to those that do not. Another industry commenter stated a concern that some creditors might issue Closing Disclosures very early to appear more efficient than their competitors. Another industry commenter indicated that some creditors issue Closing Disclosures very early to provide more flexibility with scheduling closing, and noted that the four-business day limit provides a disincentive against the practice. As discussed below, some commenters who stated that the proposal could incentivize creditors to provide Closing Disclosures earlier also expressed concern that such a practice could have a detrimental effect on consumer understanding of the transaction.

One industry commenter stated that it currently provides the Closing Disclosure three business days before consummation, but noted that it would likely provide the first Closing Disclosure a week earlier if the proposal is finalized. This commenter asserted that such a practice would give consumers additional time to review the Closing Disclosure and ask questions. Some commenters noted that they provide Closing Disclosures close to the time of consummation and did not express that their practices would change. Other industry commenters generally stated that concerns that removing the four-business day limit would incentivize creditors to provide Closing Disclosures early are unfounded because early provision of the Closing Disclosure would be difficult to accomplish while meeting the requirements to act in good faith and exercise due diligence, and would create additional work for creditors and cause confusion for consumers. One industry trade association commenter noted that some of its member banks had expressed that providing Closing Disclosures early does not provide any advantage, because there is a high likelihood that the disclosure will undergo revisions.

Closing Disclosure Timing and Consumer Understanding

The Bureau requested comment on potential harms to consumers when creditors provide Closing Disclosures so that they are received more than the required three business days prior to consummation with terms and costs that are nearly certain to be revised, including potential confusion or information overload to the consumer as a result of receiving more corrected Closing Disclosures. The Bureau also requested comment on whether it should consider adopting measures to prevent such harms in a future rulemaking.

Some commenters stated that the proposal could result in consumer confusion because it would remove the current disincentive to providing Closing Disclosures well before the required three business days prior to consummation, which they assert would result in earlier, and therefore more frequent, Closing Disclosures. For example, the consumer advocate group commenter expressed concern that the proposal would encourage creditors to provide Closing Disclosures very early in the lending process, which would result in more Closing Disclosures and be confusing for consumers. That commenter explained that creditors are permitted to issue multiple Loan Estimates, including Loan Estimates that do not reset tolerances. The commenter expressed concern that the proposal could increase consumer confusion by encouraging multiple Closing Disclosures, and that consumers will not know which versions of the disclosures to compare. The consumer advocate group commenter also stated that consumers may become desensitized to the need to read disclosures carefully if they receive frequent Closing Disclosures. The commenter stated that increases in costs may eventually exceed what the consumer is willing to pay, which would cause them to shop with other lenders. However, if consumers are desensitized to changes, the commenter argued that consumers will be less likely to withdraw from the transaction. The consumer advocate group commenter further stated that the proposal would encourage creditors to provide Closing Disclosures that are not intended to reset tolerances, which the commenter asserted will be confusing for consumers.

Several industry commenters also stated that the proposal could potentially increase consumer confusion by incentivizing earlier, and therefore more frequent, Closing Disclosures. Several commenters, including an industry trade association commenter, similarly stated that too many disclosure updates could work against consumer understanding, because consumers might ignore the disclosures and would not know which ones to use for comparison purposes.

An industry commenter stated that consumers would be confused when receiving a Closing Disclosure very early and that consumers could be confused by a Closing Disclosure that purports to be a statement of final loan terms and closing costs, but is only an estimate of costs. That commenter noted that not all changes to the loan will require creditors to reset tolerances and that consumers who receive Closing Disclosures very early may not receive corrected Closing Disclosures until consummation if there are no changes that occur that would cause the creditor to reset tolerances (or one of the triggering events in § 1026.19(f)(2)(ii) occurs, which would require a new disclosure and three-day waiting period). The commenter stated that this would be contrary to the purpose of the requirement to receive the Closing Disclosure three business days before consummation.

Other commenters stated that the proposal would not create consumer confusion. Some industry commenters stated that the proposal would not diminish consumer understanding because creditors would remain able to reset tolerances only as permitted under § 1026.19(e)(3)(iv) and that there would not be a large increase in the number of Closing Disclosures. One industry commenter stated that consumers should not experience confusion or information overload, as it would be no different from consumers receiving revised Loan Estimates. That commenter also stated that it expects lenders to communicate with consumers to address any confusion. Another industry commenter similarly suggested that consumers might benefit from earlier Closing Disclosures and the creditor's flexibility to issue corrected Closing Disclosures because it would facilitate a more transparent process. Some industry commenters asserted that consumers could benefit from receiving Closing Disclosures earlier in the process because they would have additional time to review the information that does not appear on the Loan Estimate.

With respect to additional protections to avoid potential consumer harms associated with removing the four-business day limit, several commenters who supported the proposal also suggested that the Bureau address Closing Disclosure timing or accuracy rules, because of concerns about potential effects of the proposed rule or to address uncertainty about current rules. With respect to timing, an industry commenter requested clarification as to whether creditors can reset tolerances using a Closing Disclosure after issuing an initial Loan Estimate but without ever issuing any revised Loan Estimate. To maintain the disincentive against providing Closing Disclosures very early, an individual commenter suggested that the Bureau expand the window of time prior to consummation during which a creditor can reset tolerances with a Closing Disclosure from four business days to seven business days. Another commenter noted that merely expanding that time window by a limited number of days would only partially address the problems discussed in the proposal, and did not favor that approach. The consumer advocate group commenter suggested that the rule should provide that the Closing Disclosure can only be given no more than three business days before consummation. An anonymous commenter advised that, in addition to removing the four-business day limit for resetting tolerances with a Closing Disclosure, the Bureau should also adopt a new prohibition on providing Closing Disclosures unless the creditor reasonably anticipates that the transaction will close within ten business days. An industry commenter stated that the Bureau's supervision process could emphasize scrutiny of potentially unnecessary iterations of corrected Closing Disclosures. The commenter suggested that, as an alternative, the Bureau create a new timing requirement for resetting tolerances with a corrected Closing Disclosure, whereby any and all changes to the Closing Disclosure for resetting tolerances would be made at only one specific point in time during a transaction. Meanwhile, several commenters supported removing the timing restriction on resetting tolerances with a Closing Disclosure and stated that the Bureau should not place new timing limitations on providing Closing Disclosures. One commenter noted that the rule's current accuracy standard is already a deterrent against providing very early Closing Disclosures because it requires that the creditor, acting in good faith, exercise due diligence in obtaining the information.

With respect to Closing Disclosure accuracy, one industry commenter stated that, in addition to removing the time limit for resetting tolerances with a Closing Disclosure, the Bureau should either apply a stricter accuracy standard to the Closing Disclosure or clarify the current accuracy standard to avoid very early Closing Disclosures. That commenter expressed concern that some creditors are providing initial Closing Disclosures to consumers using price quotes automatically generated by software vendors rather than requesting more accurate information from the settlement agent involved in the transaction. Another industry commenter similarly expressed concern about the adequacy of current accuracy standards and advised that the Bureau provide some specific expectation regarding Closing Disclosure timing in order to discern whether a creditor has provided disclosures on the Closing Disclosure in good faith. Another industry commenter recommended that the Bureau provide a complete summary of good faith under all of the operative provisions of the rule. Another industry commenter suggested that concerns about early Closing Disclosure issuance can be addressed through a warning that the practice violates the spirit of the disclosure rule.

Permissible Reasons to Reset Tolerances

The Bureau requested comment on whether the rule should allow creditors to reset tolerances with a Closing Disclosure in circumstances that are more limited than those that apply under the current rule (§ 1026.19(e)(3)(iv)) or whether the rule should be more restrictive with respect to resetting tolerances with a corrected Closing Disclosure for certain third-party costs and creditor fees. Most commenters who addressed this aspect of the proposal did not support applying a more restrictive set of circumstances or fees resetting tolerances with a Closing Disclosure. Specifically, one individual commenter and several industry commenters requested that the rule not restrict resetting tolerances with a Closing Disclosure in circumstances more limited than for a revised Loan Estimate. However, one individual commenter stated that interest rate lock fees should not be allowed for resetting tolerances with either revised Loan Estimates or Closing Disclosures unless the fee is clearly attributable to a consumer delay or exceptional event, such as a weather event. One industry commenter stated that two provisions under the current rule are inapplicable to resetting tolerances with a Closing Disclosure. Specifically, that commenter stated that the provisions that allow creditors to reset tolerances where a Loan Estimate expires (§ 1026.19(e)(3)(iv)(E)) and in a transaction involving a construction loan where closings are delayed (§ 1026.19(e)(3)(iv)(F)) are inapplicable to resetting tolerances with a Closing Disclosure.

The Final Rule

For the reasons discussed below, the Bureau is finalizing the amendments to § 1026.19(e)(4)(i) and (ii) as proposed. The Bureau is also finalizing the proposed changes to comment 19(e)(1)(ii)-1, including a minor technical revision for clarity, and to comments 19(e)(4)(i)-1 and -2. The Bureau is republishing comment 19(e)(1)(ii)-2 with no changes. In addition, the Bureau is finalizing the changes to comment 19(e)(4)(ii)-1 substantially as proposed, including minor technical and conforming revisions, and providing an additional example in response to commenter requests for further clarification.

The final rule removes the four-business day limit and permits creditors to reset tolerances with either an initial or corrected Closing Disclosure regardless of when the Closing Disclosure is provided relative to consummation. The Bureau finds that this change will benefit both consumers and creditors and facilitate compliance with the TILA-RESPA Rule and that it is appropriate under the legal authorities described in part IV above.

As noted above, once the creditor provides the initial Closing Disclosure to the consumer, the TILA-RESPA Rule distinguishes between cost increases that can be passed on to consumers and those that cannot be passed on based on when the creditor learns about the cost increase relative to consummation. As noted by numerous commenters, this aspect of the TILA-RESPA

Rule imposes on the creditor the cost of unanticipated changes to the loan that could otherwise be passed to the specific consumer incurring the increased fee through resetting tolerances. However, the four-business day limit can also have negative effects on consumers. Costs that cannot be passed to the specific consumers who incur them are generally passed on to all consumers over time through an overall increase in the cost of credit. Further, some creditors may choose to deny applications to avoid absorbing the increased costs, which can have negative effects for the consumer even if the consumer immediately reapplies for credit (*e.g.*, could result in additional fees to extend a rate lock, further delay closing, or result in the loss of a home sales contract). The Bureau also agrees with some commenters who stated that confusion over the current rules has the potential to create legal and compliance risks for creditors, which could have a negative impact on the cost and availability of credit.

As finalized, § 1026.19(e)(4)(i) provides that, subject to the requirements of § 1026.19(e)(4)(ii), if a creditor uses a revised estimate pursuant to § 1026.19(e)(3)(iv) for the purpose of determining good faith under § 1026.19(e)(3)(i) and (ii), the creditor shall provide a revised version of the disclosures required under § 1026.19(e)(1)(i) or the disclosures required under § 1026.19(f)(1)(i) (including any corrected disclosures provided under § 1026.19(f)(2)(i) or (ii)) reflecting the revised estimate within three business days of receiving information sufficient to establish that one of the reasons for revision applies.[36]

[36] The final rule does not change the current Regulation Z requirement that, if the Closing Disclosure becomes inaccurate before consummation, the creditor must provide a corrected Closing Disclosure reflecting any changed terms to the consumer so that the consumer receives the corrected Closing Disclosure at or before consummation, § 1026.19(f)(2)(i), or, in some circumstances, must ensure that the consumer receives the corrected Closing Disclosure no later than three business days before consummation, § 1026.19(f)(2)(ii).

The Bureau considered concerns discussed in the proposal and expressed by some commenters about the potential effects of the proposal on the Closing Disclosure timing. As noted above, the timing restriction on resetting tolerances creates a disincentive to providing consumers with Closing Disclosures very early in the lending process. Once a creditor has provided a Closing Disclosure, it can reset tolerances only if there are less than four business days between the time the revised version of the disclosures is required to be provided pursuant to § 1026.19(e)(4)(i) (*i.e.*, within three business days of the time the creditor received information sufficient to establish the reason for revision) and consummation. The Bureau agrees with commenters who stated that the practice of providing very early Closing Disclosures with terms that are nearly certain to be revised would be contrary to the underlying purpose of the Closing Disclosure. While the Bureau acknowledges that eliminating the timing restriction on resetting tolerances with a Closing Disclosure could potentially affect the Closing Disclosure timing for some creditors, the Bureau does not believe that retaining the four-business day limit is an effective way to address potential issues associated with early Closing Disclosures.

In particular, the four-business day limit is problematic where a scheduled closing date is delayed and additional costs are incurred after an initial Closing Disclosure has been provided to the consumer. As noted by numerous commenters, this situation can arise even when the initial Closing Disclosure is provided to the consumer very close to the time of the initially-scheduled consummation date, as closing dates can move at the last minute for a variety of reasons. The Bureau believes that the TILA-RESPA Rule should accommodate changes that occur as a result of delayed closings. Retaining the restriction on resetting tolerances with a Closing Disclosure would not accomplish that goal. In addition, while the Bureau agrees that the very early provision of Closing Disclosures is contrary to the underlying purpose of those disclosures, the

Bureau does not believe that finalizing the proposal will have an overall negative effect on consumer understanding. The Bureau does not expect that removal of the four-business day limit will result in a significant increase in the number of disclosures provided to consumers because the final rule does not expand the circumstances in which creditors are allowed to reset tolerances. And, as further discussed below, the Bureau believes that current rules should prevent creditors from sending Closing Disclosures very early in the process before engaging in due diligence to ensure that any costs that are not finalized are estimated in good faith.

The Bureau also considered comments that suggested additional protections might be necessary to avoid consumer harm from removing the restriction on resetting tolerances with a Closing Disclosure. However, the Bureau is not adopting any additional substantive changes to the TILA-RESPA Rule's existing Closing Disclosure timing or accuracy provisions at this time. The Bureau concludes that the rule's existing provisions should prevent creditors from sending Closing Disclosures very early in the process before engaging in due diligence.

With respect to the accuracy standard that applies to the Closing Disclosure, the Bureau concludes that substantive changes to the TILA-RESPA Rule's existing provisions are not necessary to prevent creditors from sending Closing Disclosures very early in the process before engaging in due diligence. The Bureau believes the existing Closing Disclosure accuracy standard already accomplishes that objective. Existing § 1026.19(f)(1)(i) and comment 19(f)(1)(i)-1 require creditors to disclose on the Closing Disclosure the actual terms of the credit transaction. Existing comment 19(f)(1)(i)-2 also permits creditors to estimate disclosures on the Closing Disclosure using the best information reasonably available when the actual term is not reasonably available to the creditor at the time the disclosures are made. Comment 19(f)(1)(i)-2 provides that the "reasonably available" standard requires that the creditor, acting in good faith, exercise due diligence in obtaining the information. Further, comment 19(f)(1)(i)-2.i.A provides an example illustrating the "reasonably available" standard for purposes of § 1026.19(f)(1)(i). Specifically, comment 19(f)(1)(i)-2.i.A assumes that a creditor provides the Closing Disclosure for a transaction in which the title insurance company that is providing the title insurance policy is acting as the settlement agent in connection with the transaction, but the creditor does not request the actual cost of the lender's title insurance policy that the consumer is purchasing from the title insurance company and instead discloses an estimate based on information from a different transaction. Comment 19(f)(1)(i)-2.i.A provides that the creditor in the example has not exercised due diligence in obtaining the information about the cost of the lender's title insurance policy required under the "reasonably available" standard in connection with the estimate disclosed for the lender's title insurance policy. Regarding a commenter's request for clarification as to whether creditors can reset tolerances using a Closing Disclosure after issuing an initial Loan Estimate but without ever issuing any revised Loan Estimate, the rule does not prohibit creditors from doing so but creditors must otherwise comply with the rule, including its Closing Disclosure accuracy standard. The Bureau will continue to monitor the market for practices that do not comply with the rule's Closing Disclosure accuracy standard.

With respect to the timing of the Closing Disclosure, the Bureau is not adopting any substantive changes to the TILA-RESPA Rule's existing Closing Disclosure timing provisions, other than removing the four-business day limit as discussed above. For example, the Bureau considered a commenter's suggestion that the Bureau expand the window of time prior to consummation during which a creditor can reset tolerances with a Closing Disclosure (from four business days to seven business days). The commenter's suggested approach would mean that a creditor could reset tolerances with a Closing Disclosure when consummation is reasonably expected to occur no more than ten business days after the creditor learns about the valid justification (*i.e.*, three business days from the time the creditor knows about the valid justification plus seven business days from the time the revised disclosure is required to be provided until consummation). The Bureau declines to adopt such approach. The Bureau agrees with another commenter who noted that merely expanding that time window by a limited number of days would only partially address the issue created by the four-business day limit under the current rule. In the example above, a creditor could not reset tolerances with a Closing Disclosure when consummation is reasonably expected to occur eleven business days or more after the creditor learns about the valid justification. As noted above, the Bureau concludes that the issues created by the four-business day limit have negative effects on both creditors and consumers and that the four-business day limit should be eliminated, not merely expanded by a limited number of days.

Similarly, the Bureau declines to set a new, specific timing requirement for Closing Disclosures. For example, the Bureau declines to place new limitations on providing Closing Disclosures such that an initial Closing Disclosure could only be given no more than three business days before consummation, as a consumer advocate group commenter advised. Such a new limitation would exacerbate rather than alleviate problems associated with the current rule. The Bureau also declines to follow the suggestion to adopt a new prohibition on providing Closing Disclosures unless the creditor reasonably anticipates that the transaction will close within 10 business days. The Bureau does not believe that there is an appropriate basis at this time for creating such a prohibition, including setting any such cutoff at 10 business days or any other particular number of days.

The Bureau also considered the commenter suggestion that the Bureau create a new timing requirement for resetting tolerances with a corrected Closing Disclosure, whereby any and all changes to the Closing Disclosure for resetting tolerances would be made at only one specific point in time during a transaction. The Bureau declines to adopt such a timing requirement because doing so would be inconsistent with the purpose articulated by the Bureau when it adopted the § 1026.19(e)(4)(i) timing requirements for resetting tolerances. Specifically, current § 1026.19(e)(4)(i) generally provides that, to reset tolerances, the creditor must provide revised disclosures within three business days of receiving information sufficient to establish a valid justification. In the 2013 TILA-RESPA Final Rule, the Bureau stated its view "that intermittent redisclosure of the integrated Loan Estimate is necessary under RESPA because settlement service provider costs typically fluctuate during the mortgage loan origination process" and "intermittent redisclosure is consistent with the purposes of TILA because it promotes the informed use of credit by keeping the consumer apprised of changes in costs."[37] The Bureau similarly holds that view regarding intermittent redisclosure with the Closing Disclosure. For all these reasons, the Bureau is finalizing the proposal to remove the four-business day limit without adopting any further substantive changes to the rule's existing Closing Disclosure timing or accuracy provisions.

The Bureau also declines to adopt changes to the rule that would restrict creditors' ability to reset tolerances with a Closing Disclosure to circumstances that are more limited than those that apply under § 1026.19(e)(3)(iv) or that would be more restrictive with respect to resetting tolerances with a Closing Disclosure for certain third-party costs and creditor fees. As noted

[37] 78 FR 79730, 79834 (Dec. 31, 2013).

above, most commenters who addressed this aspect of the proposal did not support applying a more restrictive set of circumstances or fees when resetting tolerances with a Closing Disclosure. The Bureau believes that the circumstances identified under § 1026.19(e)(3)(iv) are adequate to balance flexibility for creditors to reset tolerances due to unforeseen circumstances while also providing constraints to avoid arbitrary increases in costs to consumers in relation to revised Loan Estimates, and that those circumstances are also adequate with respect to resetting tolerances with a Closing Disclosure.

One individual commenter stated that interest rate lock extension fees should not be allowed for resetting tolerances with either revised Loan Estimates or Closing Disclosures unless the fee is clearly attributable to a consumer delay or exceptional event, such as a weather event. The Bureau does not believe that different treatment of interest rate lock extension fees with respect to resetting tolerances is warranted. Currently, when the consumer enters into a rate lock agreement for a previously floating interest rate, the creditor is required to provide a revised Loan Estimate that updates the interest-rate related charges, credits, and terms pursuant to § 1026.19(e)(3)(iv)(D).[38] This disclosure sets the applicable baseline for the tolerance of those interest-rate related charges, credits, and terms subject to a good-faith tolerance. Subsequent changes to interest rate charges and terms would reset tolerances if the changes are the result of a changed circumstance that causes the applicable charge to exceed the applicable tolerance, or if

[38] Some commenters requested further clarification on the use of Closing Disclosures to reset tolerances when the interest rate is locked pursuant to § 1026.19(e)(3)(iv)(D). Guidance provided in the section-by-section analysis of the July 2017 Amendments explains that § 1026.19(e)(3)(iv)(D) is used in relation to providing revised Loan Estimates, not Closing Disclosures, and once a revised Loan Estimate is provided when a rate has been locked, § 1026.19(e)(3)(iv)(D) is not a basis to provide another revised Loan Estimate. If the interest rate has not been locked until after a Closing Disclosure has been provided, a corrected Closing Disclosure must be provided if the disclosures become inaccurate under § 1026.19(f)(2). 82 FR 37656, 37682 (Aug. 11, 2017).

the consumer requests a change that causes the interest-rate related charges, credits, and terms to increase.[39] The same timing concerns related to the four-business day limit apply when either the initial rate lock occurs or an extension of the rate lock period is sought (*i.e.*, once the Closing Disclosure has been issued, the creditor can reset tolerances only if there are less than four business days between the time the revised version of the disclosures is required to be provided pursuant to § 1026.19(e)(4)(i) and consummation). As noted by commenters, the most common charge that is incurred due to a changed circumstance or consumer request after the Closing Disclosure has been provided is a fee to extend the relevant time period of a rate lock.

The Bureau does not believe it is appropriate to treat rate lock extension fees differently than other fees under the rule with respect to resetting tolerances. The Bureau does not believe that rate lock extension fees are fundamentally different from other creditor costs. Extending rate locks for consumers can create opportunity costs to creditors based on secondary market conditions for the delivery of the loans, or direct costs by requiring the renegotiation or acquisition of interest-rate swaps used to offset interest-rate risk. Further, the Bureau is concerned that treating rate lock extension fees differently in this regard would make it less likely that creditors would offer rate lock extensions, which could have unintended effects that could distort interest rate pricing and the mortgage market generally. The Bureau will monitor industry practices related to interest rate lock extensions to determine if additional rulemaking in this area is warranted in the future.

The Bureau also considered the comment that noted that the provisions that allow creditors to reset tolerances when a Loan Estimate expires and in transactions involving

[39] *See* § 1026.19(e)(3)(iv)(A), (B), and (C).

construction loans where closings are delayed are inapplicable to resetting tolerances with a Closing Disclosure. Although the Bureau agrees that those provisions are generally inapplicable to resetting tolerances with a Closing Disclosure, the Bureau does not believe it is necessary to amend the rule further to address the issue expressly.

The Bureau is also finalizing changes to the commentary to § 1026.19(e)(4). Consistent with the revisions to § 1026.19(e)(4)(i), the Bureau is finalizing the proposed changes to comment 19(e)(4)(ii)-1, which removes the reference to the four-business day limit, including a minor technical revision for clarity. As amended, comment 19(e)(4)(ii)-1 expressly states that, if a creditor uses a revised estimate pursuant to § 1026.19(e)(3)(iv) for the purpose of determining good faith under § 1026.19(e)(3)(i) and (ii), § 1026.19(e)(4)(i) permits the creditor to provide the revised estimate in the disclosures required under § 1026.19(f)(1)(i) (including any corrected disclosures provided under § 1026.19(f)(2)(i) or (ii)). In addition, and as explained below, the Bureau is: making conforming revisions to existing comments 19(e)(4)(ii)-1.i and .ii; adopting proposed comment 19(e)(4)(ii)-1.iii with conforming and clarifying revisions; and adopting proposed comment 19(e)(4)(ii)-1.iv with conforming revisions and renumbering it as comment 19(e)(4)(ii)-1.v. The conforming revisions to final comments 19(e)(4)(ii)-1.i, .ii, .iii, and .v reflect the illustrative June dates used elsewhere in existing comments 19(e)(1)(iii)-2, 19(e)(1)(v)-2, 19(f)(1)(i)-1, and 19(f)(2)(ii)-1. Final comment 19(e)(4)(ii)-1.iii also includes a clarifying reference to existing § 1026.19(f)(2)(i) and its requirement that the creditor provide corrected disclosures reflecting any changed terms to the consumer so that the consumer receives the corrected disclosures at or before consummation. The Bureau is also adding new comment 19(e)(4)(ii)-1.iv to provide an additional illustrative example in response to commenters' requests for additional clarification.

Specifically, some industry commenters requested that the Bureau provide examples that illustrate the use of mail and electronic delivery of disclosures. One industry commenter requested that the Bureau provide an example of a situation where creditors may use a Closing Disclosure to reset tolerances when the consumer requests a rate lock extension. Several industry commenters recommended that the Bureau provide an example in which a Closing Disclosure is provided to the consumer and then a reason for revision under § 1026.19(e)(3)(iv) occurs more than four business days before consummation—and thus highlight the requirement in § 1026.19(e)(4)(i) that the creditor provide revised disclosures within three business days of receiving information sufficient to establish that a reason for revision under § 1026.19(e)(3)(iv) has occurred.

The new example in final comment 19(e)(4)(ii)-1.iv addresses these requests for clarification. Specifically, the new example in final comment 19(e)(4)(ii)-1.iv assumes consummation is originally scheduled for Wednesday, June 10. The example provides that the creditor hand delivers the disclosures required by § 1026.19(f)(1)(i) on Friday, June 5. On Monday, June 8, the consumer reschedules consummation for Wednesday, June 17. Also on Monday, June 8, the consumer requests a rate lock extension that would result in a revised disclosure pursuant to § 1026.19(e)(3)(iv)(C) but would not require a new waiting period pursuant to § 1026.19(f)(2)(ii). The example clarifies that the creditor complies with the requirements of § 1026.19(e)(4) by delivering or placing in the mail the disclosures required by § 1026.19(f)(2)(i) reflecting the consumer-requested changes on Thursday, June 11. The example references existing § 1026.19(f)(2)(i) and its requirement that the creditor provide corrected disclosures reflecting any changed terms to the consumer so that the consumer receives the corrected disclosures at or before consummation. The example clarifies that the creditor complies with § 1026.19(f)(2)(i) by hand delivering the disclosures on Thursday, June 11. The example further clarifies that, alternatively, the creditor complies with § 1026.19(f)(2)(i) by providing the disclosures to the consumer by mail, including by electronic mail, on Thursday, June 11, because the consumer is considered to have received the corrected disclosures on Monday, June 15 (unless the creditor relies on evidence that the consumer received the corrected disclosures earlier). The example refers to § 1026.19(f)(1)(iii) and comments 19(f)(1)(iii)-1 and -2 regarding receipt of disclosures that are not provided to the consumer in person. The example also refers to § 1026.38(t)(3) and comment 19(f)(1)(iii)-2 regarding providing disclosures in electronic form.

An industry commenter requested clarification regarding the § 1026.19(e)(4)(i) timing requirement where a reason for revision under § 1026.19(e)(3)(iv) occurs within three business days of consummation. Another industry commenter requested clarification that providing a Closing Disclosure to reset tolerances under § 1026.19(e)(4) does not necessarily require a new waiting period pursuant to § 1026.19(f)(2)(ii). The example in final comment 19(e)(4)(ii)-1.iii addresses these requests for clarification. Specifically, the example in final comment 19(e)(4)(ii)-1.iii assumes consummation is scheduled for Thursday, June 4. The example provides that the creditor hand delivers the disclosures required by § 1026.19(f)(1)(i) on Monday, June 1, and, on Tuesday, June 2, the consumer requests a change to the loan that would result in a revised disclosure pursuant to § 1026.19(e)(3)(iv)(C) but would not require a new waiting period pursuant to § 1026.19(f)(2)(ii). The example references existing § 1026.19(f)(2)(i) and its requirement that the creditor provide corrected disclosures reflecting any changed terms to the consumer so that the consumer receives the corrected disclosures at or before consummation. The example clarifies that the creditor complies with the requirements of

§ 1026.19(e)(4) by hand delivering the disclosures required by § 1026.19(f)(2)(i) reflecting the consumer-requested changes on Thursday, June 4.

The Bureau is finalizing proposed comment 19(e)(4)(ii)-1.iv with conforming revisions and renumbering it as comment 19(e)(4)(ii)-1.v. As finalized comment 19(e)(4)(ii)-1.v assumes that consummation is originally scheduled for Wednesday, June 10. The comment provides that the creditor hand delivers the disclosures required by § 1026.19(f)(1)(i) on Friday, June 5, and the APR becomes inaccurate on Monday, June 8, such that the creditor is required to delay consummation and provide corrected disclosures, including any other changed terms, so that the consumer receives them at least three business days before consummation under § 1026.19(f)(2)(ii). Consummation is rescheduled for Friday, June 12. The comment clarifies that the creditor complies with the requirements of § 1026.19(e)(4) by hand delivering the disclosures required by § 1026.19(f)(2)(ii) reflecting the revised APR and any other changed terms to the consumer on Tuesday, June 9. The comment references § 1026.19(f)(2)(ii) and associated commentary regarding changes before consummation requiring a new waiting period. The comment also references comment 19(e)(4)(i)-1 for further guidance on when sufficient information has been received to establish an event has occurred.

The Bureau notes that some commenters requested that the final rule incorporate other clarifications and examples. For example, an industry commenter requested clarification as to whether § 1026.19(e)(4)(ii) requires consumers to receive a Closing Disclosure not later than four business days prior to consummation. The commenter also requested that the Bureau permit creditors to reset tolerances after consummation when settlement occurs after consummation. Another industry commenter broadly requested clarification regarding how to reset tolerances with a Closing Disclosure under various scenarios, including when different communication channels are used for providing Loan Estimates and Closing Disclosures, there is a non-borrowing spouse, or there are multiple changed circumstances. The Bureau declines to make specific changes to the rule in response to these comments, because the existing regulation and commentary address these issues as outlined below.

Regarding a commenter's request for clarification as to whether § 1026.19(e)(4)(ii) requires consumers to receive a Closing Disclosure not later than four business days prior to consummation, the Bureau notes that § 1026.19(e)(4)(ii) provides that the consumer must receive any revised version of the disclosures required under § 1026.19(e)(1)(i) (*i.e.*, the Loan Estimate) not later than four business days prior to consummation, but that timing requirement does not reference the Closing Disclosure.

Regarding a commenter's request to allow creditors to reset tolerances after consummation when settlement occurs after consummation, the Bureau declines to adopt this change because existing § 1026.2(a)(13) provides that, once consummation occurs, the consumer is already contractually obligated on the credit transaction. The Bureau also declines to further amend the rule in response to a commenter's broad request for clarification regarding how to reset tolerances with a Closing Disclosure under various scenarios, including when different communication channels are used for providing Loan Estimates and Closing Disclosures, there is a non-borrowing spouse, or there are multiple changed circumstances. The Bureau believes that the TILA-RESPA Rule already provides sufficient guidance on the topics identified by the commenter. Specifically, guidance for resetting tolerances with a Closing Disclosure can be found in § 1026.19(e)(4) and its associated commentary, as amended by this final rule. Guidance as to providing disclosures via different communication channels can be found in § 1026.19(e)(1)(iv) and § 1026.19(f)(1)(iii) and the associated commentary. Guidance as to providing disclosures for a non-borrowing spouse can be found in § 1026.17(d) and associated commentary. Guidance as to providing revised disclosures where there are multiple changed circumstances can be found in § 1026.19(e)(3)(iv) and § 1026.19(e)(4) and the associated commentary.

Finally, the Bureau notes that it is adopting as proposed the changes to § 1026.19(e)(4) and its commentary to reflect amendments to the TILA-RESPA Rule made by the January 2015 Amendments regarding interest rate dependent charges, for the reasons noted above in the discussion of the 2017 Proposal. Specifically, the Bureau is finalizing the amendments to § 1026.19(e)(4)(i) and comment 19(e)(4)(i)-1, and removing existing comment 19(e)(4)(i)-2, regarding the relationship to § 1026.19(e)(3)(iv)(D).

VI. Effective Date

The Bureau proposed an effective date of 30 days after publication in the *Federal Register* of any final rule based on the proposal. The Bureau also requested comment on when the changes proposed should be effective. In the proposal, the Bureau stated that it believed that the proposed changes should enable industry to implement the provisions set forth in the TILA-RESPA Rule more cost-effectively and that industry should be able to implement these changes relatively quickly. At the same time, the Bureau stated that it recognized that some of the proposed changes might require changes to systems or procedures.

The Bureau received several comments addressing the proposed effective date. One industry commenter agreed with the Bureau's proposed effective date of 30 days after publication. That commenter, as well as another industry commenter, noted that the proposed provisions would not impose new burdens on creditors. One commenter noted that a creditor would not be out of compliance if it continued to follow the current rule after the proposed changes take effect. Another industry commenter requested that the final rule become effective no sooner than 90 days after publication in the *Federal Register* to allow adequate time to implement the timing changes. The commenter also requested that the final rule apply to applications received on or after the effective date, or some specific date. Another industry commenter suggested that the Bureau adopt an optional early compliance approach, with an effective date 60 days after publication and a mandatory compliance date one year thereafter. An industry commenter requested that this final rule be effective for any transaction covered by the 2013 TILA-RESPA Final Rule. Another industry commenter encouraged the Bureau to heed recommendations from loan origination system vendors; however, the Bureau did not receive any such recommendations.

The amendments in the final rule will become effective 30 days after publication in the *Federal Register*. The Bureau believes the changes should enable industry to implement the provisions set forth in the TILA-RESPA Rule more cost-effectively and that industry should be able to implement these changes relatively quickly. Regarding some commenters' requests for a later effective date, an optional early compliance period, or an effective date that distinguishes among transactions based on when a loan application was received, the Bureau declines to adopt such approaches because the final rule does not impose any new burdens on creditors. Once the final rule becomes effective, the ability to reset tolerances prior to consummation for a given transaction will not be limited by when the application was received. The Bureau declines to make this final rule retroactive, as retroactive rulemaking is disfavored by the courts and the commenter has not established why it would be appropriate here.

VII. Dodd-Frank Act Section 1022(b)(2) Analysis

A. Overview

In developing this final rule, the Bureau has considered the potential benefits, costs, and impacts.[40] The Bureau has consulted, or offered to consult with, the prudential regulators, the Securities and Exchange Commission, the Department of Housing and Urban Development, the Federal Housing Finance Agency, the Federal Trade Commission, the Department of Veterans Affairs, the Department of Agriculture, and the Department of the Treasury, including regarding consistency with any prudential, market, or systemic objectives administered by such agencies.

This final rule makes a substantive change to the current TILA-RESPA Rule, by allowing creditors to reset tolerances with a Closing Disclosure (both initial and corrected), irrespective of the date of consummation. This new provision is restricted to circumstances where the TILA-RESPA Rule currently allows creditors to reset tolerances, such as changes in costs resulting from changed circumstances; new information regarding eligibility of the borrower; and borrower-requested change (for instance, rate lock extension). The potential benefits and costs of the provisions contained in the final rule are evaluated relative to the baseline where the current provisions of the TILA-RESPA Rule remain in place. Under the TILA-RESPA Rule, there is no specific provision that allows creditors to use a Closing Disclosure to reset tolerances if there are four or more days between the time the revised version of the disclosures is required to be provided pursuant to § 1026.19(e)(4)(i) and consummation. Consequently, a creditor may

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[40] 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.

not be allowed to reset tolerances if it has already provided the Closing Disclosure to the consumer when it learns about the increase in cost. In such cases, some creditors, faced with the prospect of absorbing cost increases, may choose to deny the application.

The proposal solicited data that could inform the analysis of benefits, costs, and impacts of the proposal, but the Bureau did not receive any such data in response. In particular, the Bureau requested information on the extent to which the current rule has caused situations in which creditors cannot reset tolerances despite a valid changed circumstance. While some commenters reported such occurrences, none provided data to quantitatively assess the frequency of such occurrences or the associated costs and benefits. Since operational data at a level of detail to capture the date of the Closing Disclosure and the consummation date, or the application denial date, is not available for purchase or gathered in routine regulatory collections, the Bureau does not have, and is not aware of, data currently available that would allow it to quantify the frequency of instances of creditors being unable to issue Closing Disclosures to reset tolerances. As a result, this discussion of the potential benefits, costs, and impacts on consumers and covered persons, which takes the existing statutory and regulatory framework as the baseline, is largely qualitative.

B. Potential Benefits and Costs to Consumers and Covered Persons

The Bureau believes the final rule will benefit creditors by providing them with an option of resetting tolerances in situations where they currently do not have that option. The Bureau does not believe there would be any increased costs to creditors from this final rule compared to the baseline where the current provisions of the TILA-RESPA Rule remain in place, as the provisions of this final rule are less restrictive for creditors than the current provisions.

The Bureau believes consumers will generally benefit from this final rule. It is helpful to consider benefits and costs to consumers separately in the following scenarios.

First, there may be cases where an initial Closing Disclosure has been provided to the consumer well in advance of consummation where the creditor subsequently learns about a change in cost that would be a cause to reset tolerances. The creditor may be unable to reset tolerances currently due to the four-business day limit and may choose to absorb extra costs rather than deny the application. In these cases, this final rule will create costs for consumers because now any changes in costs due to unexpected events would in these cases likely be passed on to consumers. However, in some situations, such as cost increases due to a borrower-requested change, these extra costs might be avoidable. In addition, to the extent that creditors are currently pricing in the risk of having to absorb unexpected cost increases, this final rule will remove this extra layer of risk adjustment and create a benefit to consumers in the form of lower cost of credit.

Second, there may be cases where an initial Closing Disclosure already has been provided to the consumer well in advance of consummation and the creditor subsequently learns about a change in cost that would be a cause to reset tolerances. The creditor may be unable to reset tolerances currently due to the four-business day limit and may choose to deny the application for this reason. In such cases, this final rule will benefit borrowers by giving them an option of paying extra costs instead of having their applications denied; the Bureau believes that some borrowers may prefer to pay extra costs rather than have their applications denied.

Third, there are hypothetically situations where a creditor would prefer to provide the initial Closing Disclosure earlier, but is deterred from doing so by the risk of not being able to reset tolerances in case an unexpected change occurs. In such cases, the proposed change may result in more situations where the initial Closing Disclosure is provided well in advance of consummation; this may affect the accuracy of the disclosure if unexpected cost changes occur between the issuance and the consummation. The Bureau believes creditors themselves may generally prefer to provide the initial Closing Disclosure closer to the consummation date because it is a good customer service.

C. Impact on Covered Persons with No More Than $10 Billion in Assets

As discussed previously, the Bureau believes this final rule will not create costs for creditors, including those with no more than $10 billion in assets.

D. Impact on Access to Credit

The Bureau does not believe this final rule will have a negative effect on access to credit. On the contrary, the Bureau believes it may have a beneficial effect on access to credit. This may occur to the extent that the current restrictions on resetting tolerances using a Closing Disclosure are reflected in credit pricing, and to the extent that removing such restrictions would result in creditors reducing prices accordingly. Furthermore, this final rule will provide an option to consumers in situations where the creditor is unwilling to absorb the cost increase, and would have denied the application in the absence of this final rule.

E. Impact on Rural Areas

The Bureau does not believe this final rule will have an adverse impact on consumers in rural areas.

VIII. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (the 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 believes this final rule will not create a significant economic impact on a substantial number of small entities. As described above, this final rule would reduce burden in a specific set of circumstances that an individual small entity would not frequently encounter. Therefore, a FRFA is not required.

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

IX. Paperwork Reduction Act

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 Regulations Z and X have 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 final rule does not contain any information collection requirements as defined by the PRA.

X. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq*.), the Bureau will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to the rule's published effective date. The Office of Information and Regulatory Affairs has designated this rule as not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 12 CFR Part 1026

Advertising, Appraisal, Appraiser, Banking, Banks, Consumer protection, Credit, Credit unions, Mortgages, National banks, Reporting and recordkeeping requirements, Savings associations, Truth in lending.

Authority and Issuance

For the reasons set forth above, the Bureau amends 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, 3353, 5511, 5512, 5532, 5581; 15 U.S.C. 1601 *et seq*.

* * * * *

Subpart C—Closed-End Credit

2. Section 1026.19 is amended by revising paragraphs (e)(4)(i) and (ii) to read as follows:

§ 1026.19 Certain mortgage and variable-rate transactions.

*   *   *   *   *

(e) * * *

(4) * * *

(i) *General rule*. Subject to the requirements of paragraph (e)(4)(ii) of this section, if a creditor uses a revised estimate pursuant to paragraph (e)(3)(iv) of this section for the purpose of determining good faith under paragraphs (e)(3)(i) and (ii) of this section, the creditor shall provide a revised version of the disclosures required under paragraph (e)(1)(i) of this section or the disclosures required under paragraph (f)(1)(i) of this section (including any corrected disclosures provided under paragraph (f)(2)(i) or (ii) of this section) reflecting the revised estimate within three business days of receiving information sufficient to establish that one of the reasons for revision provided under paragraphs (e)(3)(iv)(A) through (F) of this section applies.

(ii) *Relationship between revised Loan Estimates and Closing Disclosures*. The creditor shall not provide a revised version of the disclosures required under paragraph (e)(1)(i) of this section on or after the date on which the creditor provides the disclosures required under paragraph (f)(1)(i) of this section. The consumer must receive any revised version of the disclosures required under paragraph (e)(1)(i) of this section not later than four business days prior to consummation. If the revised version of the disclosures required under paragraph (e)(1)(i) of this section is not provided to the consumer in person, the consumer is considered to have received such version three business days after the creditor delivers or places such version in the mail.

*   *   *   *   *

3. In *Supplement I to Part 1026—Official Interpretations*, under *Section 1026.19—Certain Mortgage and Variable-Rate Transactions*, under *19(e) Mortgage loans—Early disclosures*:

A. *19(e)(1)(ii) Mortgage broker* is revised.

B. *19(e)(4)(i) General rule* is revised.

C. *19(e)(4)(ii) Relationship to disclosures required under § 1026.19(f)(1)(i)* is revised.

The revisions and additions read as follows:

Supplement I to Part 1026—Official Interpretations

*   *   *   *   *

Section 1026.19—Certain Mortgage and Variable-Rate Transactions

*   *   *   *   *

19(e) Mortgage loans—Early disclosures.

*   *   *   *   *

19(e)(1) Provision of disclosures.

*   *   *   *   *

19(e)(1)(ii) Mortgage broker.

1. *Mortgage broker responsibilities*. Section 1026.19(e)(1)(ii)(A) provides that if a mortgage broker receives a consumer's application, either the creditor or the mortgage broker must provide the consumer with the disclosures required under § 1026.19(e)(1)(i) in accordance with § 1026.19(e)(1)(iii). Section 1026.19(e)(1)(ii)(A) also provides that if the mortgage broker provides the required disclosures, it must comply with all relevant requirements of § 1026.19(e). This means that "mortgage broker" should be read in the place of "creditor" for all provisions of

§ 1026.19(e), except to the extent that such a reading would create responsibility for mortgage brokers under § 1026.19(f). To illustrate, § 1026.19(e)(4)(i) states that if a creditor uses a revised estimate pursuant to § 1026.19(e)(3)(iv) for the purpose of determining good faith under § 1026.19(e)(3)(i) and (ii), the creditor shall provide a revised version of the disclosures required under § 1026.19(e)(1)(i) or the disclosures required under § 1026.19(f)(1)(i) (including any corrected disclosures provided under § 1026.19(f)(2)(i) or (ii)) reflecting the revised estimate. "Mortgage broker" could not be read in place of "creditor" in reference to the disclosures required under § 1026.19(f)(1)(i), (f)(2)(i), or (f)(2)(ii) because mortgage brokers are not responsible for the disclosures required under § 1026.19(f)(1)(i), (f)(2)(i), or (f)(2)(ii). In addition, § 1026.19(e)(1)(ii)(A) provides that the creditor must ensure that disclosures provided by mortgage brokers comply with all requirements of § 1026.19(e), and that disclosures provided by mortgage brokers that do comply with all such requirements satisfy the creditor's obligation under § 1026.19(e). The term "mortgage broker," as used in § 1026.19(e)(1)(ii), has the same meaning as in § 1026.36(a)(2). See also comment 36(a)-2. Section 1026.19(e)(1)(ii)(B) provides that if a mortgage broker provides any disclosure required under § 1026.19(e), the mortgage broker must also comply with the requirements of § 1026.25(c). For example, if a mortgage broker provides the disclosures required under § 1026.19(e)(1)(i), it must maintain records for three years, in compliance with § 1026.25(c)(1)(i).

2. *Creditor responsibilities.* If a mortgage broker issues any disclosure required under § 1026.19(e) in the creditor's place, the creditor remains responsible under § 1026.19(e) for ensuring that the requirements of § 1026.19(e) have been satisfied. For example, if a mortgage broker receives a consumer's application and provides the consumer with the disclosures required under § 1026.19(e)(1)(i), the creditor does not satisfy the requirements of

§ 1026.19(e)(1)(i) if it provides duplicative disclosures to the consumer. In the same example, even if the broker provides an erroneous disclosure, the creditor is responsible and may not issue a revised disclosure correcting the error. The creditor is expected to maintain communication with the broker to ensure that the broker is acting in place of the creditor.

* * * * *

19(e)(4) Provision and receipt of revised disclosures.

19(e)(4)(i) General rule.

1. *Three-business-day requirement*. Section 1026.19(e)(4)(i) provides that, subject to the requirements of § 1026.19(e)(4)(ii), if a creditor uses a revised estimate pursuant to § 1026.19(e)(3)(iv) for the purpose of determining good faith under § 1026.19(e)(3)(i) and (ii), the creditor shall provide a revised version of the disclosures required under § 1026.19(e)(1)(i) or the disclosures required under § 1026.19(f)(1)(i) (including any corrected disclosures provided under § 1026.19(f)(2)(i) or (ii)) reflecting the revised estimate within three business days of receiving information sufficient to establish that one of the reasons for revision provided under § 1026.19(e)(3)(iv)(A) through (F) has occurred. The following examples illustrate these requirements:

i. Assume a creditor requires a pest inspection. The unaffiliated pest inspection company informs the creditor on Monday that the subject property contains evidence of termite damage, requiring a further inspection, the cost of which will cause an increase in estimated settlement charges subject to § 1026.19(e)(3)(ii) by more than 10 percent. The creditor must provide revised disclosures by Thursday to comply with § 1026.19(e)(4)(i).

ii. Assume a creditor receives information on Monday that, because of a changed circumstance under § 1026.19(e)(3)(iv)(A), the title fees will increase by an amount totaling six percent of the originally estimated settlement charges subject to § 1026.19(e)(3)(ii). The creditor had received information three weeks before that, because of a changed circumstance under § 1026.19(e)(3)(iv)(A), the pest inspection fees increased by an amount totaling five percent of the originally estimated settlement charges subject to § 1026.19(e)(3)(ii). Thus, on Monday, the creditor has received sufficient information to establish a valid reason for revision and must provide revised disclosures reflecting the 11 percent increase by Thursday to comply with § 1026.19(e)(4)(i).

iii. Assume a creditor requires an appraisal. The creditor receives the appraisal report, which indicates that the value of the home is significantly lower than expected. However, the creditor has reason to doubt the validity of the appraisal report. A reason for revision has not been established because the creditor reasonably believes that the appraisal report is incorrect. The creditor then chooses to send a different appraiser for a second opinion, but the second appraiser returns a similar report. At this point, the creditor has received information sufficient to establish that a reason for revision has, in fact, occurred, and must provide corrected disclosures within three business days of receiving the second appraisal report. In this example, in order to comply with §§ 1026.19(e)(3)(iv) and 1026.25, the creditor must maintain records documenting the creditor’s doubts regarding the validity of the appraisal to demonstrate that the reason for revision did not occur upon receipt of the first appraisal report.

19(e)(4)(ii) Relationship between revised Loan Estimates and Closing Disclosures.

1. *Revised Loan Estimate may not be delivered at the same time as the Closing Disclosure*. Section 1026.19(e)(4)(ii) prohibits a creditor from providing a revised version of the disclosures required under § 1026.19(e)(1)(i) on or after the date on which the creditor provides the disclosures required under § 1026.19(f)(1)(i). Section 1026.19(e)(4)(ii) also requires that the

consumer must receive any revised version of the disclosures required under § 1026.19(e)(1)(i) no later than four business days prior to consummation, and provides that if the revised version of the disclosures are not provided to the consumer in person, the consumer is considered to have received the revised version of the disclosures three business days after the creditor delivers or places in the mail the revised version of the disclosures. See also comments 19(e)(1)(iv)-1 and -2. However, if a creditor uses a revised estimate pursuant to § 1026.19(e)(3)(iv) for the purpose of determining good faith under § 1026.19(e)(3)(i) and (ii), § 1026.19(e)(4)(i) permits the creditor to provide the revised estimate in the disclosures required under § 1026.19(f)(1)(i) (including any corrected disclosures provided under § 1026.19(f)(2)(i) or (ii)). See below for illustrative examples:

i. If the creditor is scheduled to meet with the consumer and provide the disclosures required by § 1026.19(f)(1)(i) on Wednesday, June 3, and the APR becomes inaccurate on Tuesday, June 2, the creditor complies with the requirements of § 1026.19(e)(4) by providing the disclosures required under § 1026.19(f)(1)(i) reflecting the revised APR on Wednesday, June 3. However, the creditor does not comply with the requirements of § 1026.19(e)(4) if it provides both a revised version of the disclosures required under § 1026.19(e)(1)(i) reflecting the revised APR on Wednesday, June 3, and also provides the disclosures required under § 1026.19(f)(1)(i) on Wednesday, June 3.

ii. If the creditor is scheduled to email the disclosures required under § 1026.19(f)(1)(i) to the consumer on Wednesday, June 3, and the consumer requests a change to the loan that would result in revised disclosures pursuant to § 1026.19(e)(3)(iv)(C) on Tuesday, June 2, the creditor complies with the requirements of § 1026.19(e)(4) by providing the disclosures required under § 1026.19(f)(1)(i) reflecting the consumer-requested changes on Wednesday, June 3. However, the creditor does not comply with the requirements of § 1026.19(e)(4) if it provides disclosures reflecting the consumer-requested changes using both the revised version of the disclosures required under § 1026.19(e)(1)(i) on Wednesday, June 3, and also the disclosures required under § 1026.19(f)(1)(i) on Wednesday, June 3.

iii. Consummation is scheduled for Thursday, June 4. The creditor hand delivers the disclosures required by § 1026.19(f)(1)(i) on Monday, June 1, and, on Tuesday, June 2, the consumer requests a change to the loan that would result in revised disclosures pursuant to § 1026.19(e)(3)(iv)(C) but would not require a new waiting period pursuant to § 1026.19(f)(2)(ii). Under § 1026.19(f)(2)(i), the creditor is required to provide corrected disclosures reflecting any changed terms to the consumer so that the consumer receives the corrected disclosures at or before consummation. The creditor complies with the requirements of § 1026.19(e)(4) by hand delivering the disclosures required by § 1026.19(f)(2)(i) reflecting the consumer-requested changes on Thursday, June 4.

iv. Consummation is originally scheduled for Wednesday, June 10. The creditor hand delivers the disclosures required by § 1026.19(f)(1)(i) on Friday, June 5. On Monday, June 8, the consumer reschedules consummation for Wednesday, June 17. Also on Monday, June 8, the consumer requests a rate lock extension that would result in revised disclosures pursuant to § 1026.19(e)(3)(iv)(C) but would not require a new waiting period pursuant to § 1026.19(f)(2)(ii). The creditor complies with the requirements of § 1026.19(e)(4) by delivering or placing in the mail the disclosures required by § 1026.19(f)(2)(i) reflecting the consumer-requested changes on Thursday, June 11. Under § 1026.19(f)(2)(i), the creditor is required to provide corrected disclosures reflecting any changed terms to the consumer so that the consumer receives the corrected disclosures at or before consummation. The creditor complies with § 1026.19(f)(2)(i) by hand delivering the disclosures on Thursday, June 11. Alternatively, the creditor complies with § 1026.19(f)(2)(i) by providing the disclosures to the consumer by mail, including by electronic mail, on Thursday, June 11, because the consumer is considered to have received the corrected disclosures on Monday, June 15 (unless the creditor relies on evidence that the consumer received the corrected disclosures earlier). See § 1026.19(f)(1)(iii) and comments 19(f)(1)(iii)-1 and -2. See also § 1026.38(t)(3) and comment 19(f)(1)(iii)-2 regarding providing the disclosures required by § 1026.19(f)(1)(i) (including any corrected disclosures provided under § 1026.19(f)(2)(i) or (ii)) in electronic form.

v. Consummation is originally scheduled for Wednesday, June 10. The creditor hand delivers the disclosures required by § 1026.19(f)(1)(i) on Friday, June 5, and the APR becomes inaccurate on Monday, June 8, such that the creditor is required to delay consummation and provide corrected disclosures, including any other changed terms, so that the consumer receives them at least three business days before consummation under § 1026.19(f)(2)(ii). Consummation is rescheduled for Friday, June 12. The creditor complies with the requirements of § 1026.19(e)(4) by hand delivering the disclosures required by § 1026.19(f)(2)(ii) reflecting the revised APR and any other changed terms to the consumer on Tuesday, June 9. See § 1026.19(f)(2)(ii) and associated commentary regarding changes before consummation requiring a new waiting period. See comment 19(e)(4)(i)-1 for further guidance on when sufficient information has been received to establish an event has occurred.

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[THIS SIGNATURE PAGE PERTAINS TO THE FINAL RULE TITLED "FEDERAL MORTGAGE DISCLOSURE REQUIREMENTS UNDER THE TRUTH IN LENDING ACT (REGULATION Z)"]

Dated: April 26, 2018.

Mick Mulvaney,

Acting Director, Bureau of Consumer Financial Protection.