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BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Parts 1010 and 1012

RIN 3170-AA53

**Amendments to Filing Requirements Under the Interstate Land Sales Full Disclosure Act
(Regulations J and L)**

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is amending Regulations J and L to permit the electronic submission of filings under the Interstate Land Sales Full Disclosure Act. The Bureau is also making non-substantive corrections to regulatory and statutory citations and other technical changes.

DATES: This final rule is effective **[INSERT 30 days after DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Rachel Ross, Project Analyst; or Amanda Quester, Senior Counsel, Office of Regulations, at 202-435-7700.

SUPPLEMENTARY INFORMATION:

I. Summary of the Final Rule

This final rule makes a number of procedural and technical amendments to Regulations J and L, which implement the Interstate Land Sales Full Disclosure Act (ILSA). The final rule allows developers to choose whether to submit ILSA filings—including Statements of Record and related amendments, annual reports, and requests to suspend an effective date—on paper or via electronic means designated on the ILSA program page of the Bureau’s website. Statements

of Record submitted to the Bureau electronically in compliance with the final rule need not comply with the requirements in § 1010.102(a), (g), and (h) relating to paper type, tabs, folding, and ordering.

The final rule removes a number of procedural filing requirements under Regulation J, including that developers submit three copies of the final Property Report and two copies of the current geological survey topographic map or maps; that developers use legal size paper for submitting certain filings; that developers submit originals of topographic maps; and that developers bind paper filings. Under the final rule, developers need only submit one copy of documents to the Bureau, may use letter size paper for paper filings, and may submit photocopies of topographic maps in lieu of originals. The final rule also permits developers to choose whether to enclose warnings in a box in the Statement of Record.

The final rule also removes or corrects certain unnecessary and erroneous statutory and regulatory citations, without changing the substance of Regulations J and L. The final rule also updates contact information for the Bureau's Interstate Land Sales Registration Program office, reflecting changes to the Bureau's internal organization, and makes other technical changes.

II. Background

ILSA protects lot purchasers by requiring certain land developers to register their plans and to provide prescribed disclosures to prospective lot purchasers. Developers of subdivisions with 100 or more nonexempt lots must register their plans with the Bureau. These developers must also provide purchasers with a disclosure statement known as a Property Report before a contract of sale is signed.

Prior to July 21, 2011, ILSA was implemented by the U.S. Department of Housing and Urban Development's (HUD's) Interstate Land Sales Registration Program, 24 CFR parts 1710,

1715, and 1720. The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amended a number of consumer financial protection laws, including ILSA. In addition to various substantive amendments, the Dodd-Frank Act transferred rulemaking authority for ILSA to the Bureau, effective July 21, 2011.¹ The Bureau issued an interim final rule restating the ILSA regulations in December 2011 (Restatement). The Restatement substantially duplicated HUD’s Interstate Land Sales Registration Program regulations, 24 CFR parts 1710, 1715, and 1720, making only non-substantive, technical, formatting, and stylistic changes, as the Bureau’s Regulation J (Land Registration), 12 CFR part 1010; Regulation K (Purchasers’ Revocation Rights, Sales Practices and Standards), 12 CFR part 1011; and Regulation L (Special Rules of Practice), 12 CFR part 1012. In April 2016, the Bureau adopted the Restatement as final without making any changes to the ILSA provisions of the interim final rule.

III. Legal Authority

A. Rulemaking Authority

The Bureau is issuing this final rule pursuant to its authority under the Dodd-Frank Act and ILSA. Section 1061 of the Dodd-Frank Act transferred to the Bureau all of the HUD Secretary’s consumer protection functions relating to ILSA.² ILSA, as amended, authorizes the Bureau’s Director to make, issue, amend, and rescind such rules and regulations as are necessary

¹ Public Law 111–203, sections 1061 and 1098A, 124 Stat. 1376, 2038, 2105 (2010).

² *Id.* at section 1061(b)(7)(A). Effective on the designated transfer date, July 21, 2011, the Bureau was also granted “all powers and duties” that were vested in the HUD Secretary relating to ILSA on the day before the designated transfer date. *Id.* at section 1061(b)(7)(B). The term “consumer financial protection function” is defined to include “all authority to prescribe rules or issue orders or guidelines pursuant to any Federal consumer financial law, including performing appropriate functions to promulgate and review such rules, orders, and guidelines.” 12 U.S.C. 5581(a)(1)(A).

or appropriate to the exercise of the Director’s functions and powers under ILSA.³ Section 1022(b)(1) of the Dodd-Frank Act also authorizes the Director to prescribe rules “as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of the Federal consumer financial laws,” including ILSA.⁴

B. Procedural Requirements

Under the Administrative Procedure Act (APA), notice and opportunity for public comment are not required for a “rule[] of agency organization, procedure, or practice” or if the Bureau finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b). The amendments regarding electronic submission of ILSA filings and other changes to the filing process (such as number of copies required and permitting photocopies of topographic maps) relate solely to agency procedure and practice and, thus, are not subject to the APA’s notice and comment requirements. The other changes made in this rulemaking delete outdated cross-references, correct typographical errors, or are similar technical amendments that merely clarify the operation of the regulation. The Bureau believes that there is minimal, if any basis, for substantive disagreement with the technical amendments. As to all of these changes, the Bureau finds that notice and comment are unnecessary.

For these reasons, the Bureau has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are not required. Therefore, the amendments are adopted in final form. Because no notice of proposed rulemaking is required,

³ 15 U.S.C. 1718; *see also* 15 U.S.C. 1704 (providing that a subdivision may be registered by filing a statement of record, meeting the requirements of ILSA and such rules and regulations as may be prescribed by the Director in furtherance of the provisions of ILSA).

⁴ 12 U.S.C. 5512(b)(1); 12 U.S.C. 5481(14) (defining “Federal consumer financial law” to include the “enumerated consumer laws”); 12 U.S.C. 5481(12) (defining “enumerated consumer laws” to include ILSA).

the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis. 5 U.S.C. 601(2), 603(a), 604(a).

IV. Section-by-Section Analysis

A. Regulation J

1010.1 Definitions

1(a) Statutory Terms

The Bureau is making a technical amendment to § 1010.1(a) to correct a citation to the United States Code.

1010.4 Exemptions - General

4(c)

The Bureau is making a technical amendment to § 1010.4(c) to remove a citation to a regulation that does not exist, § 1011.15(f). Prior to the Restatement, 24 CFR 1710.4(c) cited 24 CFR 1715.15(f), which implemented the requirements of 15 U.S.C. 1703(a)(2)(D). HUD eliminated § 1715.15(f) in 1996 but retained the cross-reference.⁵ As part of the Restatement, the Bureau substituted § 1011.15(f) for § 1715.15(f), even though § 1011.15(f) does not exist. This technical amendment to remove the citation to § 1011.15(f) does not modify any requirements or obligations under Regulation J.

4(e)

The Bureau is making a technical amendment that changes the name of the Bureau office designated in § 1010.4(e), to reflect changes in the internal organization of the Bureau since the Bureau issued the Restatement in 2011.

⁵ 61 FR 13596, 13598 (Mar. 27, 1996).

1010.5 Statutory Exemptions

The Bureau is making a technical amendment to § 1010.5 to correct two citations to the United States Code.

1010.20 Requirements for Registering a Subdivision – Statement of Record – Filing and Form 20(a) Filing

Section 1010.20(a) provides filing requirements for registering a subdivision. The Bureau is amending this section to update the address to which developers should send Statements of Record because the Bureau will no longer be using a third-party contractor to receive incoming Statements of Record.

In addition to amending the U.S. mail address, the final rule permits submission of Statements of Record via electronic means that are designated on the ILSA program page of the Bureau's website, www.consumerfinance.gov. The Bureau's website specifies uploading, file naming, and other requirements for electronic submissions. Electronic filing of Statements of Record will reduce the burden on filers and facilitate the Bureau's processing of submissions, by reducing costs spent on mailing and eliminating the time in transit for physical mailings and the time required for the Bureau to scan paper submissions. Filers may choose different submission options for each filing, only exercising the electronic option when it is beneficial. Further, the Bureau will achieve cost savings by receiving and processing filings in house rather than through a third-party contractor.

20(b) Form

The Bureau is amending § 1010.20(b) to clarify that electronic filings made pursuant to § 1010.20(a) are not subject to the requirements in § 1010.102(a), (g), and (h) relating to paper

type, tabs, folding, and ordering for filings. The Bureau is making this change because it would be difficult or impossible for electronic filings to comply with these paper-specific requirements.

1010.21 Effective Dates

21(b) Suspension of Effective Date by Developer

The Bureau is amending § 1010.21(b) to allow for submission of requests for the suspension of the effective date of a Statement of Record through the electronic means described in § 1010.20(a). The Bureau believes that permitting electronic submission of such requests will reduce the burden on filers and facilitate the Bureau's processing of submissions.

1010.23 Amendment – Filing and Form

23(a) Filing

The Bureau is amending § 1010.23(a) to allow for submission of amendments to Statements of Record through the electronic means described in § 1010.20(a). The Bureau believes that permitting electronic submission of such amendments will reduce the burden on filers and facilitate the Bureau's processing of submissions.

1010.35 Payment of Fees

35(a) Method of Payment

The Bureau is amending § 1010.35(a) to reflect changes in the internal organization of the Bureau and to provide contact information for the relevant Bureau office. The final rule also notes that information regarding the current mailing address or electronic payment procedures can be obtained from the ILSA program page of the Bureau's website at www.consumerfinance.gov.

1010.102 General Instructions for Completing the Statement of Record

102(a) Paper and Type

Section 1010.102(a) currently requires the use of legal size paper for the Additional Information and Documentation portion of the Statement of Record. The Bureau is amending § 1010.102(a) to allow developers that file on paper to use either legal size or letter size paper for the Additional Information and Documentation portion of the Statement of Record. The Bureau believes that allowing this flexibility could reduce costs for both developers and the Bureau.

102(e) Headings, Subheadings, Captions, Introductory Paragraphs, Warnings

The Bureau is making a technical amendment to § 1010.102(e) to correct a reference to the location of the sample page that shows how headings and subheadings should be used in the Property Report. The Bureau is also removing the requirement in § 1010.102(e) that warnings be enclosed in a box and is instead making the use of the box optional for developers, in order to facilitate compliance.

102(h) Ordering

Section 1010.102(h) requires the Statement of Record to be bound with the Property Report on top (including any documents required to be attached when delivered to the purchaser), followed by the Additional Information and Documentation. The Bureau is amending § 1010.102(h) to remove the requirement that the Statement of Record be bound with the Property Report, while still requiring that the filing be presented in the specified order.⁶ The Bureau believes allowing developers to decide whether to bind filings facilitates compliance.

⁶ As noted above in the section-by-section discussion of § 1010.20(a) and (b), electronic filings made pursuant to § 1010.20(a) are not subject to the requirements in § 1010.102(a), (g), and (h) relating to paper type, tabs, folding,

102(m) Final Version of Property Report

Section 1010.102(m) provides general instructions relating to the final version of the Property Report and indicates that the version of the Property Report delivered to prospective lot purchasers must meet many of the same standards as those set forth in the regulations for the Statement of Record. Section 1010.102(m) requires developers to submit to the Bureau three copies of the final Property Report or, if a Property Report in a foreign language is used, three copies of the Property Report together with copies of the translated documents. The Bureau is amending § 1010.102(m) to require submission of only one copy of these documents to the Bureau. The Bureau believes that reducing the number of copies required to be filed could reduce costs for developers and for the Bureau.

The final rule also indicates that if a developer submits a Statement of Record to the Bureau via electronic means pursuant to § 1010.20(a), the version of the Property Report delivered to prospective lot purchasers must meet the same standards that apply to a Statement of Record submitted on paper to the Bureau.

1010.103 Developer Obligated Improvements

(a)

The Bureau is making a technical amendment to § 1010.103(a) to remove one erroneous citation and replace another erroneous citation. Prior to the Restatement, 24 CFR 1710.103(a) cited 24 CFR 1715.15(f), which implemented the requirements of 15 U.S.C. 1703(a)(2)(D). As part of the Restatement, the Bureau replaced § 1715.15(f) with § 1011.15(f) in this paragraph,

and ordering for filings but must comply with instructions for electronic filing designated on the ILSA program page of the Bureau's website.

even though HUD had eliminated § 1715.15(f) in 1996 and § 1011.15(f) does not exist.⁷ These technical amendments do not modify any requirements or obligations under Regulation J.

1010.209 Title and Land Use

(f) Supplemental Title Information

(3)

(iv) The Bureau is making a technical amendment to § 1010.209(f)(3)(iv) to remove an erroneous citation to § 1011.15(f). Prior to the Restatement, 24 CFR 1710.209(f)(3)(iv) cited 24 CFR 1715.15(f), which implemented the requirements of 15 U.S.C. 1703(a)(2)(D). As part of the Restatement, the Bureau replaced § 1715.15(f) with § 1011.15(f) in this paragraph, even though HUD had eliminated § 1711.15(f) in 1996 and § 1011.15(f) does not exist. The technical amendment to remove the citation to § 1011.15(f) does not modify any requirements or obligations under Regulation J.

1010.215 Subdivision Characteristics and Climate

(a)

Section 1010.215(a) requires submission of two copies of a current geological survey topographic map or maps from the U.S. Geological Survey and prohibits use of photocopies made by the developer. The final rule amends this section to require submission of only one copy and to eliminate the prohibition on photocopying. The Bureau believes that reducing the number of copies required to be filed could reduce costs for developers and for the Bureau, and anticipates that these changes will facilitate compliance and electronic filing.

⁷ 61 FR 13596, 13598 (Mar. 27, 1996).

1010.310 Annual Report of Activity

(b)

The Bureau is amending § 1010.310(b) to allow for submission of annual reports through the electronic means described in § 1010.20(a). Permitting electronic submission will reduce the burden on filers and facilitate the Bureau's processing of submissions.

1010.500 General

(a)

The Bureau is making a technical amendment to § 1010.500(a) to remove duplicated words.

1010.503 Notice of Certification

(a)

The Bureau is making a technical amendment to § 1010.503(a), which currently erroneously refers to § 1010.501(a) or (b) as the provisions pursuant to which a State may qualify for certification. Prior to the Restatement, 24 CFR 1710.503(a) referred to 24 CFR 1710.501(a) or (b), which implemented the requirements of 15 U.S.C. 1708(a). As part of the Restatement, the Bureau replaced § 1710.501 with § 1010.501 in this paragraph, even though HUD had removed § 1710.501 from codification in 1996⁸ and § 1010.501 does not exist. Because § 1010.501 does not exist, the final rule substitutes a reference to subpart C of part 1010, which is the subpart pursuant to which a State may qualify for certification. This technical amendment does not alter or change the substance of the requirements of § 1010.503(a).

⁸ 61 FR 13596, 13597 (Mar. 27, 1996).

1010.504 Cooperation Among Certified States and Between Certified States and the Director

(a)

The Bureau is making a technical amendment to § 1010.504(a), which currently erroneously refers to § 1010.502 as the provision pursuant to which an Application for Certification of State Land Sales Program is filed. Because § 1010.502 does not exist, the final rule substitutes a reference to subpart C of part 1010, which is the subpart pursuant to which an Application for Certification of State Land Sales Program is filed. This technical amendment does not alter or change the substance of the requirements of § 1010.504(a).

(c)

The Bureau is making a technical amendment to § 1010.504(c) to remove a duplicated word.

1010.505 Withdrawal of State Certification

The Bureau is making a technical amendment to the title of § 1010.505 to remove a duplicated word.

1010.506 State/Federal Filing Requirements

(a)(1)

The Bureau is making a technical amendment to § 1010.506(a)(1), which currently erroneously refers to § 1010.501 as the provision under which the Director certifies States. Because § 1010.501 does not exist, the final rule substitutes a reference to subpart C of part 1010, which is the subpart under which the Director certifies States. This technical amendment does not alter or change the substance of the requirements of § 1010.506(a)(1).

(a)(2)

The Bureau is making a technical amendment to § 1010.506(a)(2) to remove a duplicated word.

(f)

The Bureau is making a technical amendment to § 1010.506(f) to remove a duplicated word.

1010.507 Effect of Suspension or Withdrawal of Certification Granted under § 1010.501(a): Full Disclosure Requirement

The Bureau is making technical amendments to the title of § 1010.507 and to § 1010.507(a), which currently erroneously refer to § 1010.501(a) as a provision under which the Director certifies States. Prior to the Restatement, 24 CFR 1710.507 cited 24 CFR 1710.501(a), which implemented the requirements of 15 U.S.C. 1708(a)(1). As part of the Restatement, the Bureau replaced § 1710.501(a) with § 1010.501(a) in this paragraph, even though HUD had removed § 1710.501 from codification in 1996 and § 1010.501(a) does not exist. The Bureau is now replacing the erroneous citations to § 1010.501(a) with citations to 15 U.S.C. 1708(a)(1). These technical amendments do not alter or change the substance of the requirements of § 1010.507.

1010.508 Effect of Suspension of Certification Granted Under § 1010.501(b): Sufficient Protection Requirement

The Bureau is making technical amendments to the title of § 1010.508 and to § 1010.508(a), which currently erroneously refer to § 1010.501(b) as a provision under which the Director certifies States. Prior to the Restatement, 24 CFR 1710.508 cited 24 CFR 1710.501(b), which implemented the requirements of 15 U.S.C. 1708(a)(2). As part of the Restatement, the

Bureau replaced § 1710.501(b) with § 1010.501(b) in this section, even though HUD had removed § 1710.501 from codification in 1996 and § 1010.501(b) does not exist. The Bureau is now replacing the erroneous citations to § 1010.501(b) with citations to 15 U.S.C. 1708(a)(2). These technical amendments do not alter or change the substance of the requirements of § 1010.508.

1010.552 Previously Accepted State Filings

(a)

The Bureau is making a technical amendment to § 1010.552 to replace an erroneous citation to § 1011.15(f) with a citation to 15 U.S.C. 1703(a)(2)(D). Prior to the Restatement, 24 CFR 1710.552(a) cited 24 CFR 1715.15(f), which implemented the requirements of 15 U.S.C. 1703(a)(2)(D). As part of the Restatement, the Bureau replaced § 1715.15(f) with § 1011.15(f) in this section, even though HUD had eliminated § 1715.15(f) in 1996 and § 1011.15(f) does not exist. This technical amendment does not modify any requirements or obligations under Regulation J.

Appendix A to Part 1010

This Appendix provides Standard and Model Forms and Clauses. The Bureau is making a technical amendment to section III, Sample Lot Information Statement and Sample Receipt—§ 1010.15(b)(11), to provide contact information for the relevant Bureau office. The Bureau is also making a technical amendment to section VIII, Property Report for Statement of Record—§ 1010.100(b), to harmonize a heading label with the requirements of § 1010.107.

B. Regulation L

1012.35 Prefiling Assistance

The Bureau is making a technical amendment to § 1012.35 to reflect changes in the internal organization of the Bureau and to provide contact information for the relevant Bureau office.

1012.40 Processing of Filings

(a)

The Bureau is making a technical amendment to § 1012.40(a) to reflect changes in the internal organization of the Bureau.

1012.236 Notice of Proceedings to Withdraw a State's Certification

(b)

Section 1012.236(b) refers to a determination by the Director pursuant to § 1010.505 that a State's laws, regulations, and the administration thereof, taken as a whole, no longer meet the requirements of § 1010.501. The Bureau is making a technical amendment to § 1012.236(b) to conform the language of § 1012.236(b) to that of § 1010.505. The final rule substitutes subpart C of part 1010 for § 1010.501, which does not exist. This technical amendment does not alter or change the substance of the requirements of § 1012.236(b).

V. Effective Date

The Administrative Procedure Act generally requires that rules be published not less than 30 days before their effective dates.⁹ This final rule is effective 30 days after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

VI. Dodd-Frank Act Section 1022(b) Analysis

A. Overview

In developing this final rule, the Bureau has considered potential benefits, costs, and impacts and has consulted, or offered to consult with, HUD and HUD's Office of the Inspector General, including regarding consistency with any prudential, market, or systemic objectives administered by such agencies.¹⁰

The Bureau is amending Regulation J to allow ILSA filings by electronic means designated on the Bureau's website or via physical mail. The final rule exempts electronic filings from certain requirements in § 1010.102 relating to paper type, folding, and ordering. The Bureau is also amending Regulation J to require filings submitted by mail to be sent to the Bureau directly, rather than to a third-party service provider. The existing contract with the service provider will not be renewed. The Bureau is also making certain technical changes to Regulations J and L.

⁹ 5 U.S.C. 553(d).

¹⁰ 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. Section 1022(b)(2)(B) of the Dodd-Frank Act directs the Bureau to consult with appropriate prudential regulators or other Federal agencies regarding consistency with prudential, market, or systemic objectives that those agencies administer. The manner and extent to which these provisions apply to a rulemaking of this kind that does not establish standards of conduct is unclear. Nevertheless, to inform this rulemaking more fully, the Bureau performed the described analyses and has consulted, or offered to consult, as indicated.

This analysis focuses on the benefits, costs, and impacts of the key provision of the final rule, the new electronic filing option.¹¹ The Bureau is evaluating the benefits, costs, and impacts of the final rule against the current regulation.

B. Potential Benefits and Costs to Consumers and Covered Persons

The current rule directs filers¹² to submit ILSA filings by physically mailing paper copies to the Bureau in care of a service provider. In addition, the Bureau has in practice permitted submissions by physically-mailed digital media.

If filers wish to continue physically mailing their paper submissions after this rulemaking, they may do so using the address provided in the final rule for the Bureau. Filers that continue to submit paper filings would generally incur no costs as a result of the rule. Based on the expected volume of paper submissions, the Bureau believes that the processing time for paper filings is unlikely to change from the current processing time. Additionally, the Bureau has taken several steps to reduce the burden on paper filers, by, for example, permitting copies of topographic maps to be submitted instead of the original; eliminating the requirement that developers submit multiple copies of the Property Report to the Bureau; and relaxing paper size, binding, and other formatting requirements for Bureau submissions.

¹¹ The final rule also addresses a number of typographic and other non-substantive issues in Regulations J and L by: (1) correcting or removing incorrect regulatory and statutory cross-references, (2) updating contact information for the Bureau, and (3) removing inconsistent language regarding certain formatting requirements. These changes increase the accuracy and consistency of the regulations' language, but are expected to have negligible impacts on consumers or covered persons. As noted below in the discussion of the potential costs and benefits, the final rule also offers developers additional options with respect to the form of certain filings when submitted via paper.

¹² For purposes of this analysis, "filer" refers to a developer or owner within the meaning of ILSA. Developers or owners within the meaning of ILSA are typically not covered persons within the meaning of the Dodd-Frank Act. Accordingly, the Bureau believes that the final rule will have minimal if any impact on covered persons. Nevertheless, to inform this rulemaking more fully, the Bureau has performed the described analysis with respect to the impact on filers.

Two primary categories of filers may take advantage of electronic filing: filers that switch from paper filing to electronic filing and covered persons that currently submit filings by physically-mailed digital media. Filers that switch from paper submissions to the new electronic means of submission may incur benefits and costs, but presumably will only adopt the new means when it is advantageous to them. Filers that currently submit filings by physically-mailed digital media will now file via either the electronic means designated by the Bureau or physically-mailed paper submissions. Filers may choose different submission options for each filing, only exercising the electronic option when it is beneficial.

Electronic filing may reduce preparation time for some filers and offer faster processing of their submissions. Electronic filing will eliminate the time in transit for physical mailings, the time required for the Bureau to scan paper submissions, and the processing time added by necessary security precautions taken for mailed digital media submissions. In addition, the new means may benefit filers by reducing costs spent on printing paper submissions and mailing both paper and physically-mailed digital media submissions, as well as the costs spent on the digital media devices.

For filers who currently physically mail digital media to the Bureau, the costs of switching to direct electronic submission should be negligible because those submissions are already formatted and saved electronically. The Bureau does not possess any data that would enable it to quantify these costs or savings, but informal outreach indicates that many filers would prefer the electronic option over physical mailings.

This procedural rulemaking is expected to have negligible impact on consumers.

C. Impact on Depository Institutions with No More Than \$10 Billion in Assets

This final rule will affect land developers and law firms and others making filings on behalf of land developers. Depository institutions with no more than \$10 billion in assets will not be impacted by this final rule.

D. Impact on Access to Credit

The Bureau does not expect this final rule to affect consumers' access to credit. The scope of the rulemaking is limited to filings related to land development, which are not directly related to credit access.

E. Impact on Rural Areas

The Bureau does not believe that this final rule will have a unique impact on consumers in rural areas. Any potential effects on consumers, expected to be negligible in all cases, would be indirect effects passed through by developers, and the impact on developers is not expected to vary by geographic area.

VII. Paperwork Reduction Act

This final rule amends Regulations J and L, 12 CFR parts 1010 and 1012, to allow developers to submit ILSA filings electronically and make other technical adjustments. The Bureau's OMB control number for collections under ILSA is 3170-0012. This rule does not add any new collections and does not remove any of the existing collections, although it does reduce the number of copies required to be submitted to the Bureau for certain paper filings. Therefore, the impact of this new rule on the Paperwork Reduction Act burden associated with ILSA depends largely on the extent to which developers switch from paper submissions to electronic submissions. Currently, only 10 percent of ILSA information collections received by the Bureau are done in electronic form. If all submissions become electronic, the estimated savings in ongoing Paperwork Reduction Act burden could be up to 972 hours and 15,000 pages of paper

per year. The one-time burden associated with a new method of submission is expected to be minimal because many documents are already created electronically for business reasons.

List of Subjects in 12 CFR Parts 1010 and 1012

Land registration; Reporting requirements; Certification of substantially equivalent State law; Purchasers' revocation rights; Unlawful sales practices; Advertising disclaimers; Filing assistance; and Adjudicatory proceedings.

Authority and Issuance

For the reasons set forth above, the Bureau amends Regulation J, 12 CFR part 1010, and Regulation L, 12 CFR part 1012, as set forth below:

PART 1010—LAND REGISTRATION (REGULATION J)

1. The authority citation for part 1010 continues to read as follows:

AUTHORITY: 12 U.S.C. 5512, 5581; 15 U.S.C. 1718.

2. Section 1010.1 is amended by revising paragraph (a) to read as follows:

§ 1010.1 Definitions.

(a) *Statutory terms.* All terms are used in accordance with their statutory meaning in 15 U.S.C. 1701, unless otherwise defined in paragraph (b) of this section or elsewhere in this part.

* * * * *

3. Section 1010.4 is amended by revising paragraphs (c) and (e) to read as follows:

§ 1010.4 Exemptions—general.

* * * * *

(c) The anti-fraud provisions of the Act require that certain representations be included in the contract in transactions which are not exempt under § 1010.5. Specifically, the Act requires

that if a developer or agent represents that roads, sewers, water, gas or electric service or recreational amenities will be provided or completed by the developer, the contract must stipulate that the services or amenities will be provided or completed.

* * * * *

(e) A developer may present evidence, or otherwise discuss, in an informal hearing before the Office of Supervision Examinations, the Bureau's position on the jurisdiction or non-exempt status of a particular subdivision.

4. Section 1010.5 is revised to read as follows:

§ 1010.5 Statutory exemptions.

A listing of the statutory exemptions is contained in 15 U.S.C. 1702. In accordance with 15 U.S.C. 1702(a)(2), if the sale involves a condominium or multi-unit construction, a presale clause conditioning the sale of a unit on a certain percentage of sales of other units is permissible if it is legally binding on the parties and is for a period not to exceed 180 days. However, the 180-day provision cannot extend the 2-year period for performance. The permissible 180 days is calculated from the date the first purchaser signs a sales contract in the project or, if a phased project, from the date the first purchaser signs the first sales contract in each phase.

5. Section 1010.20 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1010.20 Requirements for registering a subdivision—Statement of Record—filing and form.

(a) *Filing.* (1) In order to register a subdivision and receive an effective date, the developer or owner of the subdivision must file a Statement of Record with the Director by either:

(i) U.S. Mail, to the following official address: Consumer Financial Protection Bureau, Interstate Land Sales Registration Program, 1700 G Street, NW., Washington, DC 20552; or

(ii) Electronic means designated on the ILSA program page on the Bureau's website at www.consumerfinance.gov/.

(2) When the Statement of Record is filed, a fee in the amount set out in § 1010.35(b) must be paid in accordance with § 1010.35(a).

(b) *Form.* (1) The Statement of Record shall be in the format specified in § 1010.100 and shall be completed in accordance with the instructions in §§ 1010.102, 1010.105 through 1010.118, 1010.200, 1010.208 through 1010.216, and 1010.219. It shall be supported by the documents required by §§ 1010.208 through 1010.216 and 1010.219. It shall include any other information or documents which the Director may require as being necessary or appropriate for the protection of purchasers.

(2) The requirements relating to paper type, tabs, folding, and ordering for filings with the Bureau in § 1010.102(a), (g), and (h) do not apply if a Statement of Record is filed with the Bureau via electronic means designated on the Bureau's website pursuant to § 1010.20(a).

* * * * *

6. Section 1010.21 is amended by revising paragraph (b)(1) to read as follows:

§ 1010.21 Effective dates.

* * * * *

(b) * * *

(1) A developer, or owner, may request that the effective date of its Statement of Record be suspended, provided there are no administrative proceedings pending against either of them at

the time the request is submitted. The request must include any consolidations or amendments which have been made to the initial Statement of Record and may be submitted via the electronic means of submission described in § 1010.20(a). Forms for this purpose will be furnished by the Director upon request.

* * * * *

7. Section 1010.23 is amended by revising paragraph (a) to read as follows:

§ 1010.23 Amendment—filing and form.

(a) *Filing.* If any change occurs in any representation of material fact required to be stated in an effective Statement of Record, an amendment shall be filed. The amendment shall be filed within 15 days of the date on which the developer knows, or should have known, that there has been a change in material fact. The amendment may be filed via the electronic means of submission described in § 1010.20(a).

* * * * *

8. Section 1010.35 is amended by revising paragraph (a)(2) to read as follows:

§ 1010.35 Payment of fees.

(a) * * *

(2) Information regarding the current mailing address or electronic payment procedures is available from: Consumer Financial Protection Bureau, Interstate Land Sales Registration Program, 1700 G Street, NW., Washington, DC 20552, or on the Bureau's website at www.consumerfinance.gov.

* * * * *

9. Section 1010.102 is amended by revising paragraphs (a), (e), (h), and (m) to read as follows:

§ 1010.102 General instructions for completing the Statement of Record.

(a) *Paper and type.* The Statement of Record shall be on good quality, unglazed white or pastel paper. Letter size paper, approximately 8 ½ × 11 inches in size, will be used for the Property Report portion, and either letter size paper, approximately 8 ½ × 11 inches in size, or legal size paper, approximately 8 ½ × 14 inches in size, will be used for the Additional Information and Documentation portion. Side margins shall be no less than 1 inch and no greater than 1 ½ inches. Top and bottom margins shall be no less than 1 inch. In the preparation of the charts to be included in the Property Report, the developer may vary from the above margin requirements or print the charts lengthwise on the required size paper if such measures are necessary to make the charts readable. The Statement of Record shall be prepared in an easily readable, uniform font.

* * * * *

(e) *Headings, subheadings, captions, introductory paragraphs, warnings.* Property Report subject “headings” are those descriptive introductory words which appear immediately after section numbers 1010.106 through 1010.116 (e.g. § 1010.108 has “General Information” and § 1010.111 has “Utilities”). Each such heading shall be printed in the Property Report in underlined capital letters and centered at the top of a new page. Section numbers shall not be printed in the Property Report. Property Report subheadings are those descriptive introductory words which appear in italics in the regulations at the beginning of paragraphs designated by paragraph letters (a), (b), (c) etc. An example of a subheading is “water” found immediately after the paragraph letter (a) in § 1010.111. These subheadings will be printed in the Property

Report only if they are relevant to the subject subdivision. If printed these subheadings shall be capitalized and shall begin at the left hand margin of the page. Property Report “captions” are those descriptive introductory words which appear in italics in the Regulations at the beginning of paragraphs designated by numbers (1), (2), (3), etc. An example of such captions is “Sales Contract and Delivery of Deed” found immediately after the paragraph number “(1)” in § 1010.109(b). These captions are to be printed in the Property Report only if they are applicable to the subject subdivision. If printed, these captions shall be centered on the page from the side margins, and shall have only the first letter of each word capitalized. Headings and subheadings will be used in the Property Report in accordance with the sample page appearing in section IX of the appendix to this part. Introductory paragraphs will follow headings if they are applicable and necessary for a readable entry into the subject matters, but note, the introductory paragraphs for “Title to the Property and Land Use” are to be used in every case as provided in § 1010.109(a)(1). Subheadings and captions which do not apply to the subdivision should be omitted from the Property Report portion and answered “not applicable” in the Additional Information and Documentation portion, unless specifically required to be included elsewhere in these instructions. Warnings shall be printed substantially as they appear in the instructions in §§ 1010.105 through 1010.118. They shall be printed in capital letters and may be enclosed in a box. The paragraphs in the Property Report portion need not be numbered. A sample page is set forth in section IX of the appendix to this part: Sample Page for Statement of Record.

* * * * *

(h) *Ordering.* The Statement of Record shall be filed with the Property Report portion on top, including any documents which may be required to be attached when delivered to the purchaser, followed by the Additional Information and Documentation portion.

* * * * *

(m) *Final version of Property Report.* On the date that a Statement of Record becomes effective, the Property Report portion shall become the Property Report for the subject subdivision. The version of the Property Report delivered to prospective lot purchasers shall be verbatim to that found effective by the Director and shall have no covers, pictures, emblems, logograms or identifying insignia other than as required by these regulations. It shall meet the same standards as to grade of paper, type size, margins, style and color of print as those set herein for the Statement of Record, except where required otherwise by these regulations. However, the date of typing or preparation of the pages and the ILSRP number shall not appear in the final version. If the final version of the Property Report is commercially printed, or photocopied by a process which results in a commercial printing quality, and is bound on the left side, both sides of the pages may be used for printed material. If it is typed or photocopied by a process which does not result in a clear and legible product on both sides of the page or is bound at the top, printing shall be done on only one side of the page. If a Statement of Record is filed with the Bureau via electronic means pursuant to § 1010.20(a), the version of the Property Report delivered to prospective lot purchasers shall meet the same standards that apply under these regulations to a Statement of Record not filed with the Bureau via electronic means. One copy of the final version of the Property Report, in the exact form in which it is delivered to prospective lot purchasers, shall be sent to ILSRP Office within 20 days of the date on which the Statement of Record, amendment, or consolidation is allowed to become effective by the Director. If a Property Report in a foreign language is used as required by § 1011.25(g), a copy of that Property Report together with a copy of the translated documents shall be furnished the Director within 20 days of the date on which the advertising is first used. A Property Report

prepared pursuant to these regulations shall not be distributed to potential lot purchasers until after the Statement of Record of which it is a part or any amendment to that Statement of Record has been made effective by the Director.

10. Section 1010.103 is amended by revising paragraph (a) to read as follows:

§ 1010.103 Developer obligated improvements.

(a) If the developer represents either orally or in writing that it will provide or complete roads or facilities for water, sewer, gas, electricity or recreational amenities, it must be contractually obligated to do so, and the obligation shall be clearly stated in the Property Report. While the developer may disclose relevant facts about completion, the obligation to complete cannot be conditioned, other than as permitted by 15 U.S.C. 1703(a)(2), and an estimated completion date (month and year) must be stated in the Property Report. However, a developer that has only tentative plans to complete may so state in the Property Report, provided that the statement clearly identifies conditions to which the completion of the facilities are subject and states that there are no guarantees the facilities will be completed.

* * * * *

11. Section 1010.209 is amended by revising paragraph (f)(3)(iv) to read as follows:

§ 1010.209 Title and land use.

* * * * *

(f) * * *

(3) * * *

(iv) If it is represented that the developer will provide or complete roads or facilities for waters, sewer, gas, electric service or recreational amenities, the contract must contain a

provision that the developer is obligated to provide or complete such roads, facilities and amenities.

* * * * *

12. Section 1010.215 is amended by revising paragraph (a) to read as follows:

§ 1010.215 Subdivision characteristics and climate.

(a) Submit a copy of a current geological survey topographic map, or maps, of the largest scale available from the U.S. Geological Survey with an outline of the entire subdivision and the area included in this Statement of Record clearly indicated. Do not shade the areas on the maps which have been outlined.

* * * * *

13. Section 1010.310 is amended by revising paragraph (b) to read as follows:

§ 1010.310 Annual report of activity.

* * * * *

(b) The report shall be submitted within 30 days of the annual anniversary of the effective date of the initial Statement of Record. The report may be submitted via the electronic means described in § 1010.20(a).

* * * * *

Subpart C—Certification of Substantially Equivalent State Law

14. Section 1010.500 is amended by revising paragraph (a) to read as follows:

§ 1010.500 General.

(a) This subpart establishes procedures and criteria for certifying state land sale or lease disclosure programs and state land development standards programs. The purpose of State

Certification is to lessen the administrative burden on the individual developer, arising where there are duplicative state and Federal registration and disclosure requirements, without affecting the level of protection given to the individual purchaser or lessee. If the Director determines that a state has adopted and is effectively administering a program that gives purchasers and lessees the same level of protection given to them by the Interstate Land Sales Registration Program, then the Director shall certify that state. Developers who accomplish an effective registration with a state in which the land is located after the Director has certified the state may satisfy the registration requirements of the Director by filing with the Director materials designated by agreement with certified states in lieu of the Federal Statement of Record and Property Report.

* * * * *

15. Section 1010.503 is amended by revising paragraph (a) to read as follows:

§ 1010.503 Notice of certification.

(a) If the Director determines that a state qualifies for certification under this subpart, the Director shall so notify the state in writing. The state will be effectively certified under the section and as of the date specified in the notice.

* * * * *

16. Section 1010.504 is amended by revising paragraphs (a) introductory text, (a)(1), and (c) to read as follows:

§ 1010.504 Cooperation among certified States and between certified States and the Director.

(a) By filing an Application for Certification of State Land Sales Program pursuant to this subpart, a state agrees that, if it is certified by the Director, it will:

(1) Accept for filing and allow to be distributed as the sole disclosure document, a disclosure document currently in effect in the situs certified State. Only those documents filed with the situs state after certification by the Director must automatically be accepted by other certified states;

* * * * *

(c) No state shall be prevented from establishing substantive or disclosure requirements which exceed the Federal standard provided that such requirements are not in conflict with the Act or these regulations. For example, a certified State may impose additional disclosure requirements on developers of land located within its borders but may not impose additional disclosure requirements on developers whose disclosure documents it is required to accept pursuant to paragraph (a)(1) of this section. However, a certified state may impose additional nondisclosure requirements on out of state developers even though the developer is registered in the certified State in which the land is located.

* * * * *

17. Section 1010.505 is amended by revising the section heading to read as follows:

§ 1010.505 Withdrawal of State certification.

* * * * *

18. Section 1010.506 is amended by revising paragraphs (a) and (f) to read as follows:

§ 1010.506 State/Federal filing requirements.

(a)(1) If the Director has certified a state under this subpart, the Director shall accept for filing disclosure materials or other acceptable documents which have been approved by the certified state within which the subdivision is located. Only those filings made by the developer

with the state after the state was certified by the Director shall be automatically accepted by the Director.

(2) Retroactive application of the effectiveness of state's certification to a specified date may be granted on a state-by-state basis, where the Director determines that retroactive application will not result in automatic Federal registration of any state filing that has not met the requirements of the certified state laws.

* * * * *

(f) If a certified state suspends the registration of a particular subdivision for any reason, the subdivision's Federal registration with the Director shall be automatically suspended as a result of the state action. No action need be taken by the Director to effect the suspension.

* * * * *

19. Section 1010.507 is amended by revising the section heading and paragraph (a) to read as follows:

§ 1010.507 Effect of suspension or withdrawal of certification granted under 15 U.S.C.

1708(a)(1): Full disclosure requirement.

(a) If a state certified under 15 U.S.C. 1708(a)(1) suspends its own certification or has its certification withdrawn under § 1010.505, the Federal disclosure materials accepted and made effective by the Director, pursuant to § 1010.506, prior to the suspension or withdrawal shall remain in effect unless otherwise suspended by the Director.

* * * * *

20. Section 1010.508 is amended by revising the section heading and paragraph (a) to read as follows:

§ 1010.508 Effect of suspension of certification granted under 15 U.S.C. 1708(a)(2):

Sufficient protection requirement.

(a) If a state certified under 15 U.S.C 1708(a)(2) suspends its own certification or has its certification withdrawn under § 1010.505, the effectiveness of the Federal disclosure materials accepted and made effective by the Director, pursuant to § 1010.506, prior to the suspension or withdrawal shall terminate ninety (90) days after the notice of withdrawal order is published in the *Federal Register* as provided in § 1010.505(c).

* * * * *

21. Section 1010.552 is amended by revising paragraph (a) to read as follows:

§ 1010.552 Previously accepted State filings.

(a) Materials filed with a state and accepted by the HUD Secretary as a Statement of Record prior to January 1, 1981, pursuant to 24 CFR 1010.52 through 1010.59 (as published in the *Federal Register* on April 10, 1979) may continue in effect. However, developers must comply with the applicable amendments to the Federal act and the regulations thereunder. In particular, see §§ 1010.558 and 1010.559, which require that the Property Report and contracts or agreements contain notice of purchaser's revocation rights. In addition, see 15 U.S.C. 1703(a)(2)(D), which provides that it is unlawful to make any representations with regard to the developer's obligation to provide or complete roads, water, sewers, gas, electrical facilities or recreational amenities, unless the developer is obligated to do so in the contract.

* * * * *

22. Appendix A is amended:

a. In section III, under the center heading "Suppliers and Utilities and Issuers of Permits" by revising the third paragraph; and

b. By revising section VIII.

The revisions read as follows:

APPENDIX A TO PART 1010—STANDARD AND MODEL FORMS AND CLAUSES

* * * * *

III. Sample Lot Information Statement and Sample Receipt—§ 1010.15(b)(11)

* * * * *

Suppliers of Utilities and Issuers or Permits

* * * * *

If misrepresentations are made in the sale of this lot to you, you may have rights under the Interstate Land Sales Full Disclosure Act. If you have evidence of any scheme, artifice or device used to defraud you, you may wish to contact: Consumer Financial Protection Bureau, Interstate Land Sales Registration Program, 1700 G Street, NW., Washington DC 20552.

* * * * *

VIII. Property Report for Statement of Record—§ 1010.100(b)

PROPERTY REPORT

Heading and Section Number

Cover Sheet.....	1010.105
Table of Contents.....	1010.106
Risks of Buying Land	1010.107
General Information.....	1010.108
Title and Land Use.....	1010.109

(a) General Instructions	
(b) Method of Sale	
(c) Encumbrances, Mortgages and Liens	
(d) Recording the Contract and Deed	
(e) Payments	
(f) Restrictions	
(g) Plats, Zoning, Surveying, Permits, Environment	
Roads.....	1010.110
Utilities.....	1010.111
(a) Water	
(b) Sewer	
(c) Electricity	
(d) Telephone	
(e) Fuel or other Energy Source	
Financial Information.....	1010.112
Local Services	1010.113
Recreational Facilities.....	1010.114
Subdivision Characteristics and Climate	1010.115
(a) General Topography	
(b) Water Coverage	
(c) Drainage and Fill	
(d) Flood Plain	
(e) Flooding and Soil Erosion	

(f) Nuisances	
(g) Hazards	
(h) Climate	
(i) Occupancy	
Additional Information	1010.116
(a) Property Owners' Association	
(b) Taxes	
(c) Violations and Litigation	
(d) Resale or Exchange Program	
(e) Unusual Situations	
1. Leases	
2. Foreign Subdivision	
3. Time Sharing	
4. Membership	
(f) Equal Opportunity in Lot Sales	
(g) Listing of lots	

Cost Sheet	1010.117
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Receipt, Agent Certification and Cancellation Page..	1010.118
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ADDITIONAL INFORMATION AND DOCUMENTATION

General Information.....	1010.208
Title and Land Use.....	1010.209
Roads.....	1010.210
Utilities.....	1010.211

Financial Information.....	1010.212
Recreational Facilities.....	1010.214
Subdivision Characteristics.....	1010.215
Additional Information	1010.216
Affirmation	1010.219

The Bureau’s OMB control number for this information collection is: 3170-0012.

* * * * *

PART 1012— SPECIAL RULES OF PRACTICE (REGULATION L)

24. The authority citation for part 1012 continues to read as follows:

AUTHORITY: 12 U.S.C. 5512, 5581; 15 U.S.C. 1718.

25. Section 1012.35 is revised to read as follows:

§ 1012.35 Prefiling assistance.

Persons intending to file with the Bureau of Consumer Financial Protection, Office of Supervision Examinations may receive advice of a general nature as to the preparation of the filing including information as to proper format to be used and the scope of the items to be included in the format. Inquiries and requests for informal discussions with staff members should be directed to the Consumer Financial Protection Bureau, Interstate Land Sales Registration Program, 1700 G Street, NW., Washington, DC 20552.

26. Section 1012.40 is amended by revising paragraph (a) introductory text to read as follows:

§ 1012.40 Processing of filings.

(a) Statements of Record and accompanying filing fees will be received on behalf of the Director by the Office of Supervision Examinations, for determination of whether the criteria set

forth in paragraphs (a)(1) through (3) of this section have been satisfied. Where it appears that all three criteria are satisfied and it is otherwise practicable, acceleration of the effectiveness of the Statement of Record will normally be granted.

* * * * *

27. Section 1012.236 is amended by revising paragraph (b) to read as follows:

§ 1012.236 Notice of proceedings to withdraw a State's certification.

* * * * *

(b) A clear and concise statement of material facts, sufficient to inform the respondent with reasonable definiteness of the basis for the Director's determination, pursuant to § 1010.505, that the State's laws, regulations and the administration thereof, taken as a whole, no longer meet the requirements of subpart C of part 1010.

* * * * *

Dated: May 1, 2016.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.