(ii) Subject to a Congressional subpoena or relates to an ongoing investigation by Congress, the United States Government Accountability Office, or the Corporation's Inspector General; or

(iii) An inherited record that the Corporation has determined is necessary for a present or reasonably foreseeable future evidentiary need of the Corporation or the public.

(2) *Examples.* Examples of inherited records include, without limitation: Correspondence; tax forms, accounting forms, and related work papers; internal audits; inventories; board of directors or committee meeting minutes; personnel files and employee benefits information; general ledger and financial reports; financial data; litigation files; loan documents including records relating to intercompany debt; contracts and agreements to which the covered financial company was a party; customer accounts and transactions; qualified financial contracts and related information; and reports or other records of subsidiaries or affiliates of the covered financial company that were provided to the covered financial company.

(3) *Transfer of an inherited record to an acquirer of assets or liabilities of a covered financial company.* If the Corporation transfers an inherited record of a covered financial company to a third party (including a bridge financial company) in connection with the acquisition of assets or liabilities of the covered financial company by such third party, the record retention requirements of 12 U.S.C. 5390(a)(16)(D) and paragraph (c)(1) of this section shall be satisfied if the third party agrees, in writing, that:

(i) It will maintain the inherited record for at least six years from the date of the appointment of the Corporation as receiver for the covered financial company unless otherwise notified in writing by the Corporation; and

(ii) Prior to destruction of such inherited record it will provide the Corporation with notice and the opportunity to cause the inherited record to be returned to the Corporation.

(d) *Receivership records*—(1) *Retention schedule for receivership records.* (i) A receivership record shall be retained indefinitely to the extent that there is a present or reasonably foreseeable future evidentiary or historical need for such receivership record.

(ii) A receivership record that is subject to a litigation hold imposed by the Corporation, is subject to a Congressional subpoena, or relates to an ongoing investigation by Congress, the United States Government Accountability Office, or the Corporation's Office of Inspector General shall be retained pursuant to the conditions of such hold, subpoena, or investigation.

(iii) In no event shall a receivership record be retained by the Corporation for a period of less than six years following the termination of the receivership to which it relates.

(2) *Not included in receivership records.* Receivership records do not include inherited records.

(3) *Examples.* Examples of receivership records include, without limitation: Correspondence; tax forms, accounting forms and related work papers; inventories; contracts and other information relating to the management and disposition of the assets of the covered financial company; documentary material relating to the appointment of the Corporation as receiver; administrative records and other information relating to administrative proceedings; pleadings and similar documents in civil litigation, criminal restitution, forfeiture litigation, and all other litigation matters in which the Corporation as receiver is a party; the charter and formation documents of a bridge financial company; contracts, other documents, and information relating to the role of the Corporation as receiver in overseeing the operations of the bridge financial company; reports or other records of the bridge financial company and its subsidiaries or affiliates that were provided to the Corporation as receiver; and documentary material relating to the administration, determination, and payment of claims by the Corporation as receiver.

(e) *General provisions.* With respect to any documentary material described in paragraphs (c) and (d) of this section, the following applies:

(1) *Impact on discoverability, admissibility, or release; compliance with court orders.* The Corporation's determination that documentary material must be maintained pursuant to 12 U.S.C. 5390(a)(16)(D) and this section shall not bear on the discoverability or admissibility of such documentary material in any court, tribunal, or other adjudicative proceeding nor on whether such documentary material is subject to release under the Freedom of Information Act, 5 U.S.C. 552, the Privacy Act of 1974, 5 U.S.C. 552a, or any other law. The Corporation shall comply with any applicable court order concerning mandatory retention or destruction of any documentary material subject to this section.

(2) *Exclusions.* Documentary material is not an inherited record nor a receivership record and is not subject to the record retention requirements of section 12 U.S.C. 5390(a)(16)(D) and this section if it is:

(i) A duplicate copy of retained documentary material, reference material, a draft of a document that is superseded by later drafts or revisions, documentary material provided to the Corporation by other parties in concluded litigation for which all appeals have expired, transitory information including routine system messages and system-generated log files, notes and other material of a personal nature, or other documentary material not routinely maintained under the standard record retention policies and procedures of the Corporation;

(ii) Documentary material generated or maintained by a bridge financial company, or by a subsidiary or affiliate of a covered financial company, that was not provided to the covered financial company or to the Corporation as receiver; or

(iii) Non-publicly available confidential supervisory information or operating or condition reports prepared by, on behalf of, or at the requirement of any agency responsible for the regulation or supervision of financial companies or their subsidiaries.

(f) *Policies and procedures.* The Corporation may establish policies and procedures with respect to the retention of inherited records and receivership records that are consistent with this section.

Dated at Washington, DC, this 21st day of June, 2016.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–15020 Filed 6–24–16; 8:45 am]

BILLING CODE 6714–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Parts 1026

Truth in Lending (Regulation Z) Annual Threshold Adjustments (CARD Act, HOEPA and ATR/QM)

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule; official interpretation.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is issuing this final rule amending the regulatory text and official interpretations for

Regulation Z, which implements the Truth in Lending Act (TILA). The Bureau is required to calculate annually the dollar amounts for several provisions in Regulation Z; this final rule revises, as applicable, the dollar amounts for provisions implementing amendments to TILA under the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act), the Home Ownership and Equity Protection Act of 1994 (HOEPA), and the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). In addition to adjusting these amounts, where appropriate, based on the annual percentage change reflected in the Consumer Price Index in effect on June 1, 2016, the Bureau is correcting a calculation error pertaining to the 2016 subsequent violation penalty safe harbor fee.

DATES: This final rule is effective January 1, 2017, except for the amendment to § 1026.52(b)(1)(ii)(B) which is effective on June 27, 2016.

FOR FURTHER INFORMATION CONTACT: Jaclyn Maier, Counsel, Office of Regulations, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552 at (202) 435–7700.

SUPPLEMENTARY INFORMATION: The Bureau is amending the regulatory text and official interpretations for Regulation Z, which implements TILA, to update the dollar amounts of various thresholds that are adjusted annually based on the annual percentage change in the Consumer Price Index. Specifically, for open-end consumer credit plans under the CARD Act, the threshold that triggers requirements to disclose minimum interest charges will remain unchanged in 2017. The adjusted dollar amount for the safe harbor for a first violation penalty fee will remain unchanged at $27 in 2017; the adjusted dollar amount for the safe harbor for a subsequent violation penalty fee will remain unchanged in 2017 from the corrected amount of $38 applicable in 2016, as discussed in this notice. For HOEPA loans, the adjusted total loan amount threshold for high-cost mortgages in 2017 will be $20,579. The adjusted points and fees dollar trigger for high-cost mortgages will be $1,029. For the general rule to determine consumers' ability to repay mortgage loans, the maximum threshold for total points and fees for qualified mortgages in 2017 will be 3 percent of the total loan amount for a loan greater than or equal to $102,894; $3,087 for a loan amount greater than or equal to $61,737 but less than $102,894; 5 percent of the total loan amount for a loan greater than or equal to $20,579 but less than $61,737; $1,029 for a loan amount greater than or equal to $12,862 but less than $20,579; and 8 percent of the total loan amount for a loan amount less than $12,862.

I. Background

A. CARD Act Annual Adjustments

In 2010, the Board of Governors of the Federal Reserve System (Board) published amendments to Regulation Z implementing the CARD Act, which amended TILA. Public Law 111–24, 123 Stat. 1734 (2009). Pursuant to the CARD Act, the Board's Regulation Z amendments established new requirements with respect to open-end consumer credit plans, including requirements for the disclosure of minimum interest charge amounts and the establishment of a safe harbor provision allowing card issuers to impose penalty fees for violating account terms without violating the restrictions on penalty fees established by the CARD Act. *See* 75 FR 7658, 7799 (Feb. 22, 2010) and 75 FR 37526, 37527 (June 29, 2010). The final rule issued by the Board required that these thresholds be calculated annually using the Consumer Price Index as published by the Bureau of Labor Statistics (BLS).[1]

Minimum Interest Charge Disclosure Thresholds

Sections 1026.6(b)(2)(iii) and 1026.60(b)(3) of the Bureau's Regulation Z provide that the minimum interest charge thresholds will be re-calculated annually using the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W) that was in effect on the preceding June 1. When the cumulative change in the adjusted minimum value derived from applying the annual CPI–W level to the current amounts in §§ 1026.6(b)(2)(iii) and 1026.60(b)(3) has risen by a whole dollar, the minimum interest charge amounts set forth in the regulation will be increased by $1.00. The BLS publishes consumer-based indices monthly, but does not report a CPI change on June 1; adjustments are reported in the middle of the month. This adjustment is based on the CPI–W index in effect on June 1, 2016, which was reported on May 17, 2016, and reflects the percentage change from April 2015 to April 2016. The CPI–W is a subset of the CPI–U index (based on all urban consumers) and represents approximately 28 percent of the U.S. population. The adjustment accounts for a 0.8 percent increase in the CPI–W from April 2015 to April 2016. This increase in the CPI–W when applied to the current amounts in §§ 1026.6(b)(2)(iii) and 1026.60(b)(3) did not trigger an increase in the minimum interest charge threshold of at least $1.00, and therefore the Bureau is not amending §§ 1026.6(b)(2)(iii) and 1026.60(b)(3).

Penalty Fees Safe Harbor

The Bureau's Regulation Z provides that the safe harbor provision which establishes the permissible fee thresholds in § 1026.52(b)(1)(ii)(A) and (B) will be re-calculated annually using the CPI–W that was in effect on the preceding June 1. The BLS publishes consumer-based indices monthly, but does not report a CPI change on June 1; adjustments are reported in the middle of the month. On September 21, 2015, the Bureau published an adjustment, effective January 1, 2016, based on the CPI–W index in effect on June 1, 2015, which was reported on May 22, 2015. The CPI–W is a subset of the CPI–U index (based on all urban consumers) and represents approximately 28 percent of the U.S. population. When the cumulative change in the adjusted value derived from applying the annual CPI–W level to the current amounts in § 1026.52(b)(1)(ii)(A) and (B) has risen by a whole dollar, those amounts will be increased by $1.00. Similarly, when the cumulative change in the adjusted value derived from applying the annual CPI–W level to the current amounts in § 1026.52(b)(1)(ii)(A) and (B) has decreased by a whole dollar, those amounts will be decreased by $1.00. See comment 52(b)(1)(ii)–2.

In the September 21, 2015, notice, 80 FR 56895, the subsequent violation penalty safe harbor fee amount in § 1026.52(b)(1)(ii)(B) was miscalculated, as it did not fully account for situations in which the CPI–W decreased, as occurred in 2015. The published subsequent violation penalty safe harbor fee amount was $37. Effective immediately, the Bureau is amending § 1026.52(b)(1)(ii)(B) to reflect the correct subsequent violation penalty safe harbor fee amount of $38.

[1] The responsibility for promulgating rules under TILA was generally transferred from the Board to the Bureau effective July 21, 2011. The Bureau restated Regulation Z on December 22, 2011, and on April 28, 2016, adopted as final the December 22, 2011, notice as subsequently amended. *See* 76 FR 79768 (Dec. 22, 2011) and 81 FR 25323 (April 28, 2016), respectively. The Bureau's Regulation Z is located at 12 CFR part 1026. *See* sections 1061 and 1100A of the Dodd-Frank Act, Public Law 111–203, 124 Stat. 1376 (2010). Section 1029 of the Dodd-Frank Act excludes from this transfer of authority, subject to certain exceptions, any rulemaking authority over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.

The 2017 adjustment is based on the CPI–W index in effect on June 1, 2016, which was reported on May 17, 2016, and reflects the percentage change from April 2015 to April 2016. The 0.8 percent increase in the CPI–W from April 2015 to April 2016 did not trigger an increase in the first violation penalty safe harbor fee of $27 or the corrected subsequent violation penalty safe harbor fee of $38, and therefore, the Bureau is not further amending § 1026.52(b)(1)(ii)(A) and (B) for the 2017 calendar year.

B. HOEPA Annual Threshold Adjustments

On January 10, 2013, the Bureau issued a final rule pursuant to, *inter alia,* section 1431 of the Dodd-Frank Act, which revised the loan amount threshold for HOEPA loans. 78 FR 6856 (Jan. 31, 2013) (2013 HOEPA Final Rule). The 2013 HOEPA Final Rule adjusted the dollar amount threshold to $20,000. Under § 1026.32(a)(1)(ii)(A) and (B), when determining whether a transaction is a high-cost mortgage, the determination of the applicable points and fees coverage test is based upon whether the total loan amount is for $20,000 or more, or less than $20,000. The HOEPA 2013 Final Rule provides that this threshold amount be recalculated annually and the Bureau uses the Consumer Price Index for All Urban Consumers (CPI–U) index, as published by the BLS, as the index for adjusting the $20,000 figure. The CPI–U is based on all urban consumers and represents approximately 88 percent of the U.S. population. The BLS publishes consumer-based indices monthly, but does not report a CPI change on June 1; adjustments are reported in the middle of each month. The adjustment to the CPI–U index reported by BLS on May 17, 2016, was the CPI–U index in effect on June 1, and reflects the percentage change from April 2015 to April 2016. The adjustment to the $20,000 figure being adopted here reflects a 1.1 percent increase in the CPI–U index for this period and is rounded to whole dollars for ease of compliance.

Pursuant to section 1431 of the Dodd Frank Act and § 1026.32(a)(1)(ii)(B) as amended by the 2013 HOEPA Final Rule, implementation of the 2013 HOEPA Final Rule also changed the HOEPA points and fees dollar trigger to $1,000. The HOEPA 2013 Final Rule provides that this threshold amount will be recalculated annually and the Bureau uses the CPI–U index, as published by the BLS, as the index for adjusting the $1,000 figure. The adjustment to the CPI–U index reported by BLS on May 17, 2016, was the CPI–U index in effect on June 1, and reflects the percentage change from April 2015 to April 2016. The adjustment to the $1,000 figure being adopted here reflects a 1.1 percent increase in the CPI–U index for this period and is rounded to whole dollars for ease of compliance.

C. Ability To Repay and Qualified Mortgages Annual Threshold Adjustments

On January 10, 2013, the Bureau issued a final rule pursuant to, *inter alia,* sections 1411 and 1412 of the Dodd-Frank Act, which implemented laws requiring mortgage lenders to determine consumers' ability to repay mortgage loans before extending them credit. 78 FR 6407 (Jan. 31, 2013) (2013 ATR/QM Final Rule). The 2013 ATR/QM Final Rule established the points and fees limits that a loan must not exceed in order to satisfy the requirements for a qualified mortgage. Specifically, a covered transaction is not a qualified mortgage if the transaction's points and fees exceed 3 percent of the total loan amount for a loan amount greater than or equal to $100,000; $3,000 for a loan amount greater than or equal to $60,000 but less than $100,000; 5 percent of the total loan amount for loans greater than or equal to $20,000 but less than $60,000; $1,000 for a loan amount greater than or equal to $12,500 but less than $20,000; and 8 percent of the total loan amount for loans less than $12,500. The 2013 ATR/QM Final Rule provides that the limits and loan amounts in § 1026.43(e)(3)(i) be recalculated annually for inflation and the Bureau uses the Consumer Price Index for All Urban Consumers (CPI–U) index, as published by the BLS, as the index for adjusting the figures. The CPI–U is based on all urban consumers and represents approximately 88 percent of the U.S. population. The BLS publishes consumer-based indices monthly, but does not report a CPI change on June 1; adjustments are reported in the middle of each month. The adjustment to the CPI–U index reported by BLS on May 17, 2016, was the CPI–U index in effect on June 1, and reflects the percentage change from April 2015 to April 2016. The adjustment to the 2016 figures being adopted here reflects a 1.1 percent increase in the CPI–U index for this period and is rounded to whole dollars for ease of compliance.

II. Adjustment and Commentary Revision

A. CARD Act Annual Adjustments

Minimum Interest Charge Disclosure Thresholds—§§ 1026.6(b)(2)(iii) and 1026.60(b)(3)

The minimum interest charge amounts for §§ 1026.6(b)(2)(iii) and 1026.60(b)(3) will remain unchanged for the year 2017. Accordingly, the Bureau is not amending these sections.

Penalty Fees Safe Harbor—§ 1026.52(b)(1)(ii)(A) and (B)

As discussed above, effective immediately, the permissible safe harbor fee amount in § 1026.52(b)(1)(ii)(B) is $38. Accordingly, the Bureau is revising § 1026.52(b)(1)(ii)(B) to reflect the corrected subsequent violation penalty safe harbor fee amount of $38.

Effective January 1, 2017, the permissible safe harbor fee amounts are $27 for § 1026.52(b)(1)(ii)(A) and $38 for § 1026.52(b)(1)(ii)(B). These amounts did not change based on the increase in CPI–W from April 2015 to April 2016. Thus, they remain the same as the 2016 amount for § 1026.52(b)(1)(ii)(A) and the 2016 amount corrected in this notice for § 1026.52(b)(1)(ii)(B). The Bureau is amending comment 52(b)(1)(ii)–2.i to preserve a list of the historical thresholds for this provision.

B. HOEPA Annual Threshold Adjustment—Comments 32(a)(1)(ii)–1 and –3

Effective January 1, 2017, for purposes of determining under § 1026.32(a)(1)(ii) the points and fees coverage test under HOEPA to which a transaction is subject, the total loan amount threshold is $20,579, and the adjusted points and fees dollar trigger under § 1026.32(a)(1)(ii)(B) is $1,029. When the total loan amount for a transaction is $20,579 or more, and the points and fees amount exceeds 5 percent of the total loan amount, the transaction is a high-cost mortgage. When the total loan amount for a transaction is less than $20,579, and the points and fees amount exceeds the lesser of the adjusted points and fees dollar trigger of $1,029 or 8 percent of the total loan amount, the transaction is a high-cost mortgage. Comments 32(a)(1)(ii)–1 and –3, which list the adjustments for each year, are amended to reflect for 2017 the new dollar threshold amount and the new points and fees dollar trigger, respectively.

C. Ability To Repay and Qualified Mortgages Annual Threshold Adjustments

Effective January 1, 2017, for purposes of determining whether a covered transaction is a qualified mortgage under § 1026.43(e), a covered transaction is not a qualified mortgage if, pursuant to § 1026.43(e)(3), the transaction's total points and fees exceed 3 percent of the total loan amount for a loan amount greater than or equal to $102,894; $3,087 for a loan amount greater than or equal to $61,737 but less than $102,894; 5 percent of the total loan amount for loans greater than or equal to $20,579 but less than $61,737; $1,029 for a loan amount greater than or equal to $12,862 but less than $20,579; and 8 percent of the total loan amount for loans less than $12,862. Comment 43(e)(3)(ii)–1, which lists the adjustments for each year, is amended to reflect the new dollar threshold amounts for 2017.

III. Procedural Requirements

A. Administrative Procedure Act

Under the Administrative Procedure Act (APA), notice and opportunity for public comment are not required if the Bureau finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B). Pursuant to this final rule, in Regulation Z, § 1026.52(b)(1)(ii)(B) in subpart E is amended and comments 32(a)(1)(ii)–1.iii and –3.iii, 43(e)(3)(ii)–1.iii, and 52(b)(1)(ii)–2.i.D in supplement I are added to update the exemption thresholds. Comments 32(a)(1)(ii)–1.iii and –3.iii, 43(e)(3)(ii)–1.iii, and 52(b)(1)(ii)–2.1.D added by this final rule are technical and non-discretionary, and they merely apply the method previously established in Regulation Z for determining adjustments to the thresholds. The amendment to § 1026.52(b)(1)(ii)(B) merely applies a necessary correction to address an inadvertent calculation error for the 2016 safe harbor fee. For these reasons, the Bureau has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary. Therefore, the amendments are adopted in final form. The Bureau also finds that there is good cause for making the technical calculation correction to the safe harbor fee amount in § 1026.52(b)(1)(ii)(B) in this final rule effective immediately upon publication in the **Federal Register**. 5 U.S.C. 553(d). This portion of the final rule does not establish any new requirements; instead, it corrects an inadvertent error in the September 21, 2015, notice, 80 FR 56895, regarding the subsequent violation penalty safe harbor fee. Making the rule effective immediately will allow the correct amount to be used upon publication.

B. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis. 5 U.S.C. 603(a), 604(a).

C. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320), the Bureau reviewed this final rule. No collections of information pursuant to the Paperwork Reduction Act are contained in the final rule.

List of Subjects in 12 CFR Part 1026

Advertising, 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 in the preamble, 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 G—Special Rules Applicable to Credit Card Accounts and Open End Credit Offered to College Students

■ 2. Effective on June 27, 2016, § 1026.52(b)(1)(ii)(B) is revised to read as follows:

§ 1026.52 Limitation on fees.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(B) $38 if the card issuer previously imposed a fee pursuant to paragraph (b)(1)(ii)(A) of this section for a violation of the same type that occurred during the same billing cycle or one of the next six billing cycles; or

* * * * *

■ 3. Effective on January 1, 2017, in Supplement I to Part 1026—Official Interpretations:

■ a. Under *Section 1026.32—Requirements for High-Cost Mortgages,* under *32(a)—Coverage,* under *Paragraph 32(a)(1)(ii),* paragraphs 1.iii and 3.iii are added.

■ b. Under *Section 1026.43—Minimum Standards for Transactions Secured by a Dwelling,* under *43(e)—Qualified mortgages,* under *Paragraph 43(e)(3)(ii),* paragraph 1.iii is added.

■ c. Under *Section 1026.52—Limitations on Fees,* under *52(b)—Limitations on penalty fees,* under *52(b)(1)(ii)—Safe harbors,* paragraph 2.i.D is added.

The additions read as follows:

SUPPLEMENT I TO PART 1026—OFFICIAL INTERPRETATIONS

* * * * *

Subpart E—Special Rules for Certain Home Mortgage Transactions

* * * * *

Section 1026.32—Requirements for Certain Closed-End Home Mortgages

32(a) Coverage.

Paragraph (a)(1).

* * * * *

Paragraph 32(a)(1)(ii).

1. * * *

iii. For 2017, $1,029, reflecting a 1.1 percent increase in the CPI–U from June 2015 to June 2016, rounded to the nearest whole dollar.

* * * * *

3. * * *

iii. For 2017, $20,579, reflecting a 1.1 percent increase in the CPI–U from June 2015 to June 2016, rounded to the nearest whole dollar.

* * * * *

Section 1026.43—Minimum Standards for Transactions Secured by a Dwelling

* * * * *

43(e) Qualified mortgages.

* * * * *

43(e)(3) Limits on points and fees for qualified mortgages.

* * * * *

Paragraph 43(e)(3)(ii).

1. * * *

iii. For 2017, reflecting a 1.1 percent increase in the CPI–U that was reported on the preceding June 1, a covered transaction is not a qualified mortgage unless the transactions total points and fees do not exceed:

A. For a loan amount greater than or equal to $102,894: 3 percent of the total loan amount;

B. For a loan amount greater than or equal to $61,737 but less than $102,894: $3,087;

C. For a loan amount greater than or equal to $20,579 but less than $61,737: 5 percent of the total loan amount;

D. For a loan amount greater than or equal to $12,862 but less than $20,579: $1,029;

E. For a loan amount less than $12,862: 8 percent of the total loan amount.

* * * * *

Subpart G—Special Rules Applicable to Credit Card Accounts and Open-End Credit Offered to College Students

Section 1026.52—Limitations on Fees

* * * * *

52(b) Limitations on penalty fees.

* * * * *

52(b)(1) General rule.

* * * * *

52(b)(1)(ii) Safe harbors.

* * * * *

2. * * *

i. * * *

D. Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed $27 under § 1026.52(b)(1)(ii)(A), through December 31, 2016. Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed $37 under § 1026.52(b)(1)(ii)(B), through June 26, 2016, and $38 under § 1026.52(b)(1)(ii)(B) from June 27, 2016 through December 31, 2016.

* * * * *

Dated: June 14, 2016.

Richard Cordray

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2016–14782 Filed 6–24–16; 8:45 am]

BILLING CODE 4810–AM–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 360

RIN 3064–AE38

Treatment of Financial Assets Transferred in Connection With a Securitization or Participation

AGENCY: Federal Deposit Insurance Corporation (''FDIC'').

ACTION: Final rule.

SUMMARY: The FDIC is revising a provision of its Securitization Safe Harbor Rule, which relates to the treatment of financial assets transferred in connection with a securitization or participation, in order to clarify a requirement as to loss mitigation by servicers of residential mortgage loans.

DATES: Effective July 27, 2016.

FOR FURTHER INFORMATION CONTACT: George H. Williamson, Manager, Division of Resolutions and Receiverships, (571) 858–8199. Phillip E. Sloan, Counsel, Legal Division, (703) 562–6137.

SUPPLEMENTARY INFORMATION

I. Background

The FDIC, in its regulation codified at 12 CFR 360.6 (the ''Securitization Safe Harbor Rule''), set forth criteria under which, in its capacity as receiver or conservator of an insured depository institution, it will not, in the exercise of its authority to repudiate contracts, recover or reclaim financial assets transferred in connection with securitization transactions. Asset transfers that, under the Securitization Safe Harbor Rule, are not subject to recovery or reclamation through the exercise of the FDIC's repudiation authority include those that pertain to certain grandfathered transactions, such as, for example, asset transfers made prior to December 31, 2010 that satisfied the conditions (except for the legal isolation condition addressed by the Securitization Safe Harbor Rule) for sale accounting treatment under generally accepted accounting principles (''GAAP'') in effect for reporting periods prior to November 15, 2009 and that pertain to a securitization transaction that satisfied certain other requirements. In addition, the Securitization Safe Harbor Rule provides that asset transfers that are not grandfathered, but that satisfy the conditions (except for the legal isolation condition addressed by the Securitization Safe Harbor Rule) for sale accounting treatment under GAAP in effect for reporting periods after November 15, 2009 and that pertain to a securitization transaction that satisfies all other conditions of the Securitization Safe Harbor Rule (such asset transfers, together with grandfathered asset transfers, are referred to collectively as Safe Harbor Transfers) will not be subject to FDIC recovery or reclamation actions through the exercise of the FDIC's repudiation authority. For any securitization transaction in respect of which transfers of financial assets do not qualify as Safe Harbor Transfers but which transaction satisfies all of its other requirements, the Securitization Safe Harbor Rule provides that, in the event the FDIC as receiver or conservator remains in monetary default for a specified period under a securitization due to its failure to pay or apply collections or repudiates the securitization asset transfer agreement and does not pay damages within a specified period, certain remedies can be exercised on an expedited basis.

Paragraph (b)(3)(ii) of the Securitization Safe Harbor Rule sets forth conditions relating to the servicing of residential mortgage loans. This paragraph includes a condition that the securitization documents must require that the servicer commence action to mitigate losses no later than ninety days after an asset first becomes delinquent unless all delinquencies on such asset have been cured.

In January, 2013, the Consumer Financial Protection Bureau (''CFPB'') adopted mortgage loan servicing requirements that became effective on January 10, 2014. One of the requirements, set forth in Subpart C to Regulation X, at 12 CFR 1024.41, in general prohibits a servicer from commencing a foreclosure unless the borrower's mortgage loan obligation is more than 120 days delinquent. This section of Regulation X also provides additional rules that, among other things, require a lender to further delay foreclosure if the borrower submits a loss mitigation application before the lender has commenced the foreclosure process and requires a lender to delay a foreclosure for which it has commenced the foreclosure process if a borrower has submitted a complete loss mitigation application more than 37 days before a foreclosure sale.[1]

II. The Proposed Rule

While the Securitization Safe Harbor Rule does not define what constitutes action to mitigate losses, the preamble to the notice of proposed rulemaking that accompanied an earlier amendment to the Securitization Safe Harbor Rule stated, ''action to mitigate losses may include contact with the borrower or other steps designed to return the asset to regular payments, but does not require initiation of foreclosure or other formal enforcement proceedings.'' [2] Accordingly, it should be unlikely that the 90-day loss mitigation requirement of the Securitization Safe Harbor Rule would conflict with the foreclosure commencement delays mandated by the CFPB under Regulation X. However, as there may be circumstances where commencement of foreclosure is the only available and reasonable loss mitigation action, the FDIC recently issued a notice of proposed rulemaking (the ''NPR'') to amend the Securitization Safe Harbor Rule to clarify that the documents governing a securitization transaction need not require an action prohibited by Regulation X in order to satisfy the loss mitigation conditions for safe harbor. The NPR was published in the **Federal Register** on November 25, 2015 with a 60-day comment period.[3]

[1] *See* 12 CFR 1024.41(f) and (g).

[2] 75 FR 27471, 27479 (May 17, 2010).

[3] 80 FR 73680 (November 25, 2015).