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.

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52(b)(1) General rule.

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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).

No comments were received by the FDIC in response to the NPR.

III. The Final Rule

Having received no comments on the NPR, the FDIC is adopting the amendment set forth in the NPR as a final rule (the ''Final Rule''). Specifically, § 360.6(b)(3)(ii)(A) is being revised to include language stating that the loss mitigation action requirement thereunder ''shall not be deemed to require that the documents include any provision concerning loss mitigation that requires any action that may conflict with the requirements of Regulation X . . .''

IV. Policy Objective

One of the FDIC's general policy objectives is to facilitate regulatory compliance and ease regulatory burden by ensuring that regulations are clear and consistent with other regulatory initiatives. In particular, the objective of this rulemaking is to harmonize the residential loan servicing condition of the Securitization Safe Harbor Rule with the CFPB's loan servicing requirements. Adopting the Final Rule accomplishes that objective.

V. Administrative Law Matters

A. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*) (''PRA''), the FDIC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (''OMB'') control number. The amendment set forth in the Final Rule would not revise the Securitization Safe Harbor Rule information collection (OMB No. 3064–0177) or create any new information collection pursuant to the PRA. Consequently, no submission will be made to the Office of Management and Budget with respect to the PRA.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) (''RFA'') requires each federal agency to prepare a final regulatory flexibility analysis in connection with the promulgation of a final rule, or certify that the final rule will not have a significant economic impact on a substantial number of small entities.[4] Pursuant to section 605(b) of the RFA, the FDIC certifies that the Final Rule will not have a significant economic impact on a substantial number of small entities.

[4] *See* 5 U.S.C. 603, 604 and 605.

C. Small Business Regulatory Enforcement Act

The Office of Management and Budget has determined that this final rule is not a ''major rule'' within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801, *et seq.*) (''SBREFA''). As required by the SBREFA, the FDIC will file the appropriate reports with Congress and the Government Accountability Office so that the Final Rule may be reviewed.

D. Plain Language

Section 722 of the Gramm-Leach-Bliley Act (Pub. L. 106–102, 113 Stat. 1338, 1471) requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The FDIC has sought to present the Final Rule in a simple and straightforward manner.

List of Subjects in 12 CFR Part 360

Banks, Banking, Bank deposit insurance, Holding companies, National banks, Participations, Reporting and recordkeeping requirements, Savings associations, Securitizations.

For the reasons stated above, the Board of Directors of the Federal Deposit Insurance Corporation amends 12 CFR part 360 as follows:

PART 360—RESOLUTION AND RECEIVERSHIP RULES

■ 1. The authority citation for part 360 is revised to read as follows:

Authority: 12 U.S.C. 1821(d)(1),1821(d)(10)(C), 1821(d)(11), 1821(e)(1), 1821(e)(8)(D)(i), 1823(c)(4), 1823(e)(2); Sec. 401(h), Pub. L. 101–73, 103 Stat. 357.

■ 2. Revise § 360.6(b)(3)(ii)(A) to read as follows:

§ 360.6 Treatment of financial assets transferred in connection with a securitization or participation.

* * * * *

(b) * * *

(3) * * *

(ii) * * *

(A) Servicing and other agreements must provide servicers with authority, subject to contractual oversight by any master servicer or oversight advisor, if any, to mitigate losses on financial assets consistent with maximizing the net present value of the financial asset. Servicers shall have the authority to modify assets to address reasonably foreseeable default, and to take other action to maximize the value and minimize losses on the securitized financial assets. The documents shall require that the servicers apply industry best practices for asset management and servicing. The documents shall require the servicer to act for the benefit of all investors, and not for the benefit of any particular class of investors, that the servicer maintain records of its actions to permit full review by the trustee or other representative of the investors and that the servicer must commence action to mitigate losses no later than ninety (90) days after an asset first becomes delinquent unless all delinquencies have been cured, *provided* that this requirement shall not be deemed to require that the documents include any provision concerning loss mitigation that requires any action that may conflict with the requirements of Regulation X (12 CFR part 1024), as Regulation X may be amended or modified from time to time.

* * * * *

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. 2016–15019 Filed 6–24–16; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

13 CFR Parts 109, 115, 120, and 121

RIN 3245–AG73

Affiliation for Business Loan Programs and Surety Bond Guarantee Program

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations pertaining to the determination of size eligibility based on affiliation by creating distinctive requirements for small business applicants for assistance from the Business Loan, Disaster Loan and Surety Bond Guarantee Program (''SBG''). For purposes of this rule, the Business Loan Programs consist of the 7(a) Loan Program, the Microloan Program, the Intermediary Lending Pilot Program (''ILP''), and the Development Company Loan Program (''504 Loan Program''). Note: the Intermediary Lending Pilot Program was inadvertently left out of the proposed rule. There are currently intermediaries with revolving funds for eligible small businesses, so the program has been included in this final rule. The Disaster Loan Programs consist of Physical Disaster Business Loans, Economic Injury Disaster Loans, Military Reservist Economic Injury