

CONSUMER FINANCIAL PROTECTION BUREAU
INFORMATION COLLECTION REQUEST – SUPPORTING STATEMENT
REAL ESTATE SETTLEMENT PROCEDURES ACT (REGULATION X)
12 CFR 1024
(OMB CONTROL NUMBER: 3170-0016)

The Bureau of Consumer Financial Protection (CFPB) is providing a supplement to its previous supporting statement for Regulation X. This supplement addresses the information collection requirements in Regulation X that are affected by the CFPB's proposed changes as described below.

A. JUSTIFICATION

1. Circumstances Necessitating the Data Collection

Certain disclosures are required by the Real Estate Settlement Procedures Act (RESPA) of 1974, as amended by Section 461 of the Housing and Urban-Rural Recovery Act of 1983 (HURRA), and other various amendments. The statute is found at 12 U.S.C. 2601 *et seq.* The implementing regulations were historically published by the Department of Housing and Urban Development (HUD) at 24 CFR 3500. In light of the transfer of HUD's rulemaking authority for RESPA to the CFPB, the CFPB adopted an interim final rule (Interim Final Rule) recodifying HUD's Regulation X at 12 CFR 1024 to reflect the transfer of authority and to help facilitate compliance with RESPA and its implementing regulations to help prevent confusion regarding regulatory and supervisory authority.

Required disclosures include: the Good Faith Estimate (GFE), the HUD-1/HUD-1A Settlement Statements, the Servicing Disclosure Statement, and, as applicable, the Servicing Transfer Disclosure. Other disclosures may be required under certain circumstances and include: the Initial Escrow Account Statement, the Annual Escrow Account Statement, and the Affiliated Business Arrangement Disclosure.¹ This collection helps to protect consumers in several respects. The GFE and HUD-1/HUD-1A Settlement Statements enable consumers to compare estimated settlement costs with actual settlement costs. The Affiliated Business Disclosure helps to protect borrowers from unnecessarily high settlement service charges due to the settlement service provider's use of an affiliated provider. Disclosures related to the servicing of the mortgage loan help to protect consumers if the servicing of the loan could be or is transferred. Disclosures related to consumers' escrow accounts help to protect them from unnecessarily high escrow charges.

Through a proposed rule published on September 17, 2012 (the 2012 RESPA Mortgage Servicing Proposal), the CFPB is proposing to revise Regulation X to add a number of mortgage servicing requirements provided for in the Dodd-Frank Act's amendments to RESPA, as well as other requirements the CFPB is proposing to adopt pursuant to authority granted by the Dodd-

¹ The CFPB understands that the Special Information Booklet that Regulation X currently requires lenders to distribute to applicants for first-lien purchase money mortgages would not be an information collection because it does not require any information that is specific to the lenders or the transaction. HUD had previously classified the Special Information Booklet as an information collection with minimal burden.

Frank Act's amendments to RESPA. Dodd-Frank Act section 1463; 12 U.S.C. 2605. Section 1463 of the Dodd-Frank Act creates statutory mandates under new sections 6(k), 6(l) and 6(m) of RESPA. Section 1463 of the Dodd-Frank Act also amends certain consumer protection provisions set forth in sections 6(e), 6(f) and 6(g) of RESPA. Several of these requirements would involve information collections.

The CFPB is proposing to make adjustments to the Servicing Disclosure Statement and the Servicing Transfer Statement, which, as described above, are existing information collections under Regulation X. In making changes to Reg X, the Bureau relies on its authority under sections 6(g), 6(j)(3) and 19(a) of RESPA.

- *Servicing Disclosure Statement.* Through a proposed rule published on September 17, 2012 (the 2012 TILA-RESPA Proposal), the CFPB proposed to revise Regulation X to remove the disclosure requirements associated with the GFE and HUD-1/HUD-1A Settlement Statements for closed-end credit transactions secured by real property or a dwelling, other than reverse mortgages. The CFPB proposed to replace those disclosure requirements with integrated disclosure requirements, which the CFPB proposed to implement in Regulation Z. The integrated disclosure would include certain information that would ordinarily be included in the Servicing Disclosure Statement, but the CFPB proposed not to require the integrated disclosure for reverse mortgages. Thus, reverse mortgage transactions would continue to be subject to the disclosure requirements in Regulation X. In light of the proposed integrated disclosure in the 2012 TILA-RESPA Proposal, the CFPB is proposing in its 2012 RESPA Mortgage Servicing Proposal to limit the Servicing Disclosure Statement to apply only to closed-end, reverse mortgage transactions.
- *Servicing Transfer Statement.* The CFPB is proposing to make adjustments to the Servicing Transfer Statement. The Bureau's proposal would substantially reduce the length and complexity of the Servicing Transfer Statement. The Bureau also proposes to amend the model form set forth in appendix MS-2 to streamline the contents of the form. The Bureau believes that borrowers are best served by reducing the content of the form so that borrowers receive a form that clearly sets forth the required content regarding the transfer of servicing and the address to which the next payment should be sent. In addition to reducing the length and complexity of the form, the Bureau's proposal would also expand coverage from closed-end first-lien mortgages to closed-end subordinate-lien mortgages. The Bureau believes that borrowers of subordinate lien closed-end mortgage loans should be entitled to the protections that would be set forth in subpart C of part 1024. The Bureau does not believe there are any unique characteristics of subordinate-lien closed-end mortgage loans that should require servicers to treat a borrower of such a mortgage loan differently than a first-lien mortgage loan borrower.

The CFPB is also proposing to revise Regulation X to add a number of mortgage servicing requirements provided for in the Dodd-Frank Act's amendments to RESPA. The new servicing duties required by the Dodd-Frank Act's amendments to RESPA address requirements for force-placed insurance and requirements for error resolution and responses to requests for information. Dodd-Frank Act section 1463(a) added section 6(k)(1)(E) of RESPA, authorizing the Bureau to prescribe regulations that are appropriate to carry out the consumer protection

purposes of RESPA. In addition to the authorities noted below, the Bureau further has authority pursuant to section 6(j)(3) of RESPA to establish any requirements necessary to carry out section 6 of RESPA and has authority under section 19(a) of RESPA to prescribe such rules and regulations and to make such interpretations as may be necessary to achieve the consumer protection purposes of RESPA

- *Force-placed insurance.* The CFPB's proposal for force-placed insurance would require servicers to provide two notices to a borrower at least 45 days and 15 days before charging the borrow for force-placed insurance. Two model forms of the second notice are provided because the content of the second notice would differ based whether the servicer receives insurance information from the borrower after the first notice is sent. As discussed, the two notices are expressly required pursuant to Dodd-Frank Act section 1463. In addition to the two notices, the Bureau is proposing to require that servicers provide borrowers a written notice before charging a borrower for renewing or replacing pre-existing force-placed insurance on an annual basis. Although the proposed renewal notice is not expressly required to be given pursuant to Dodd-Frank Act section 1463, the Bureau believes that the notice, because it is given in advance of servicers charging a borrower for renewing or replacing pre-existing force-placed insurance, could help borrowers avoid incurring the cost associated with the renewal or replacement of such insurance.
- *Error resolution and information requests.* The CFPB's proposals for error resolution would include a requirement on servicers generally to provide written acknowledgement of receipt of a notice of error and to provide a written response to the stated error. The Bureau's proposal for response to information requests would require servicers to provide a written response acknowledging receipt of an information request. Servicers would also be required to provide the borrower with the requested information either orally or in writing, or a written notification that the information requested is not available to the servicer. Section 1463(a) of the Dodd-Frank Act amends RESPA to add section 6(k)(1)(C), which states that a servicer shall not fail to take timely action to "correct errors relating to allocation of payments, final balances for purposes of paying off the loan, or avoiding foreclosure, or other standard servicer's duties." Further, section 1463(a) of the Dodd-Frank Act amends RESPA to add section 6(k)(1)(D) which states that a servicer shall not fail to provide information regarding the owner or assignee of a mortgage loan within ten business days of a borrower's request. The Bureau relies on its authority in section 6(k)(1)(C). The Bureau also has authority applicable to qualified written requests in sections 6(e) and 6(k)(1)(B) of RESPA. The proposed error resolution and information requests would apply to qualified written requests and would replace the burden currently associated with responses to those requests.

Finally, the Dodd-Frank Act amended RESPA to provide that a servicer of a federally related mortgage must "comply with any other obligation found by the Consumer Financial Protection Bureau, by regulation, to be appropriate to carry out the consumer protection purposes of [RESPA]." 12 U.S.C. 2605(k)(1)(E). This provision gives the Bureau broad authority to adopt additional regulations to govern the conduct of servicers of federally related mortgages. In light of the systemic problems in the mortgage servicing industry, the Bureau is proposing to

exercise this authority to require servicers of federally related mortgages to take certain actions that would involve information collections. The Bureau further has authority pursuant to sections 6(j)(3) and 19(a) of RESPA.

- *Early intervention for delinquent borrowers.* Servicers would be required to undertake early intervention with delinquent borrowers. This would require servicers to send oral and written notices upon a borrower's reaching certain stages of delinquency. The Bureau is proposing these requirements because there is significant risk to consumers as a result of a delay in communication between delinquent borrowers and servicers because the longer a borrower remains delinquent, the more difficult it can be to avoid foreclosure.
- *Loss mitigation procedures.* Servicers that offer loss mitigation options in the ordinary course of business would be required to follow certain procedures when evaluating loss mitigation applications, including (1) providing a notice telling the borrower if the loss mitigation is incomplete, approved, or denied (and, for denials of loan modification requests, a more detailed notice of the specific reason for denial and appeal rights), (2) providing a notice of the appeal determination, and (3) providing servicers of senior or subordinate liens encumbering the property that is the subject of the loss mitigation application copies of the loss mitigation application. The Bureau is proposing these requirements in response to widespread concern among mortgage market participants, consumer advocates, and policymakers regarding servicers' performance of loss mitigation activity in connection with the mortgage market crisis. In addition to the authorities noted above, the Bureau has authority under section 6(k)(1)(C) of RESPA.

2. Use of the Information

The third party disclosures in this collection are required by statute and regulations. Real estate settlement service providers make the required disclosures to homebuyers/borrowers, and in some cases, sellers, pursuant to transactions involving federally related mortgage loans. Servicers make the required disclosures to borrowers of mortgage loans. Disclosures are not submitted to the federal government.

The Bureau is proposing modifications to the following disclosures that are currently required for "mortgage servicing loan," or first-lien, closed-end loans subject to Regulation X. The Bureau is proposing to expand coverage of these disclosures to "mortgage loan," which would expand the universe of loans requiring these disclosures to subordinate-lien, closed-end loans. However, as noted above, the Bureau is proposing to limit the Servicing Disclosure Statement to reverse, closed-end mortgage loans. The Bureau's proposal would maintain the exclusion for open-end lines of credit (home-equity plans).

- *Servicing Disclosure Statement.* This disclosure must be provided, within three days (excluding legal public holidays, Saturdays, and Sundays) of application, to applicants about assignment, sale, or transfer of loan servicing. As noted above, the CFPB is proposing to limit the Servicing Disclosure Statement to apply only to closed-end, reverse mortgage transactions.

- *Servicing Transfer Statement.* Transferor servicers and transferee servicers of any mortgage loan are required to provide to the borrower a notice of transfer for any assignment, sale, or transfer of the servicing of the mortgage loan.

The following information collections would be new requirements under the Bureau's proposal.

- *Force-placed insurance.* Servicers could not charge a borrower for force-placed insurance unless the servicer provided the borrower with a written notice at least 45 days before the premium charge or any fee is assessed. In addition to that written notice, the servicer would be required to provide the borrower with a reminder notice no later than 15 days before charging the borrower for force-placed insurance. In addition to the two notices, the Bureau is proposing to require that servicers provide borrowers a written notice before charging borrowers for renewing or replacing pre-existing force-placed insurance on an annual basis.
- *Error resolution.* Within five days (excluding legal public holidays, Saturdays, and Sundays) of a servicer receiving a notice of an error (enumerated by the Bureau's proposed rule) from a borrower, the servicer would be required to provide to the borrower a response acknowledging receipt of the borrower's notice of the asserted error. In addition, generally within 30-45 days, servicers would be required, as applicable, to notify the borrower that it corrected the error or notified the borrower that no error has occurred.
- *Information requests.* Within five days (excluding legal public holidays, Saturdays, and Sundays) of a servicer receiving an information request from a borrower, the servicer would be required to provide to the borrower a response acknowledging receipt of the information request. Servicers would also be required to provide the borrower with the requested information either orally or in writing, or a written notification that the information requested is not available to the servicer.
- *Early intervention.* Not later than 30 days after a borrower becomes delinquent, servicers would be required to provide an oral notice to delinquent borrowers that the borrower is late and that loss mitigation options, if applicable, may be available. Not later than 40 days after a borrower becomes delinquent, servicers would be required to provide a written notice to delinquent borrowers with information about the foreclosure process, loss mitigation options (if applicable), and housing counseling contact information. Servicers would not be required to provide the written notice more than once during any 180-day period.
- *Loss mitigation procedures.* If a servicer receives an incomplete loss mitigation application, servicers would be required to notify borrowers orally or in writing within 5 days (excluding legal public holidays, Saturdays, and Sundays) after receipt that the application is incomplete. Within 30 days of receiving the application, servicers would be required to provide the borrower with a notice stating the servicer's determination of

whether it will offer the borrower a loss mitigation option (additional detail would be required for denial of loan modifications). If the borrower appeals the servicer's determination, the servicer would be required, within 30 days of the appeal, to provide the borrower a notice stating the servicer's determination. In addition, any servicer that receives a loss mitigation application would be required to provide servicers of mortgage loans that have senior or subordinate liens on the property a copy of the loss mitigation application.

3. Use of Information Technology

These disclosures may be provided in electronic form, subject to compliance with the consumer consent and other applicable provisions of the E-Sign Act.

4. Efforts to Identify Duplication

When adopted in final form, the Bureau's rules will apply to all mortgage servicers, whether depository institutions or non-depository institutions, and to all segments of the mortgage market, regardless of the ownership of the loan. The proposals focus both on implementing the specific mortgage servicing requirements of the Dodd-Frank Act and on addressing broader systemic problems that the Bureau believes are critical to ensure that the mortgage servicing market functions to serve consumer needs.

RESPA section 6(e) contains procedures for qualified written requests that overlap with section 1463 of the Dodd-Frank Act to provide additional procedures for resolving errors and responding to inquiries. The Bureau is proposing broader, more consumer-friendly error resolution and information request procedures that cover wider topics than the current qualified written request procedures and will subsume the qualified written request procedures. The Bureau believes that a common minimum set of procedures applicable to all assertions of errors or information requests, whether in the form of a qualified written request or not, will benefit both borrowers and servicers. Further, as noted in the preamble of the 2012 RESPA Mortgage Servicing Proposal, depending on the circumstances, the error resolution procedures in this rule may overlap with the direct dispute procedures under FCRA where the dispute involves erroneously furnishing negative information to a consumer reporting agency. *See* 15 U.S.C. 1681s-2(a)(8); 12 CFR 1022.43.

As noted in the preamble in the 2012 RESPA Mortgage Servicing Proposal, the early intervention and loss mitigation procedures in this rule may overlap with existing Federal law codifying requirements of FHA, VA, and the Rural Housing Service with respect to mortgages insured by those agencies. The Bureau also understands that section 106(c)(5) of the Housing and Urban Development Act of 1968, as amended, generally requires creditors to provide notice of homeownership counseling to eligible delinquent borrowers not later than 45 days after a borrower misses a payment due date. 12 U.S.C. 1701x(c)(5)(B). Similar to the information required under section 106(c)(5) of the Housing and Urban Development Act, the written notice in proposed § 1024.39(b)(2)(vi) would include contact information for housing counselors and the borrower's State housing finance authority, although servicers would be required to provide the written notice not later than 40 days after a borrower misses a payment due date. To address the potential for duplication, the Bureau has proposed minimum standards so that, to the extent requirements proposed by Bureau overlap with existing Federal rules, the Bureau expects

servicers would abide by the stricter standard in order to comply with all requirements.

Apart from this overlap, the Bureau is not aware of any other Federal regulations that currently duplicate, overlap, or conflict with the proposals under consideration. The Bureau requested comment in the 2012 RESPA Mortgage Servicing Proposal to identify any additional such Federal rules that impose duplicative, overlapping, or conflicting requirements on servicers and potential changes to the proposed rules in light of duplicative, overlapping, or conflicting requirements.

5. Efforts to Minimize Burdens on Small Entities

The Bureau estimates that 65% of respondents are small entities. While the Bureau is not proposing any provisions specifically for small servicers, the Bureau is proposing a number of provisions to minimize burden for all entities that would be subject to the proposal. For example:

The Bureau has developed model forms and clauses at Appendix MS-3, and MS-4 to assist servicers with complying with the proposed force-place insurance and early intervention requirements. In addition, the Bureau is proposing that the written early intervention notice be provided to delinquent borrowers once during a 180-day period.

Further, the Bureau has amended the model form at Appendix MS-2 to reduce the length of the form and eliminate certain content, which will reduce the burden on servicers, including small servicers.

6. Consequences of Less Frequent Collection and Obstacles to Burden Reduction

This information is not submitted to the federal government. These third-party disclosures are required by statute, 12 U.S.C. 2601 *et seq.*, and regulations. The burdens on respondents are the minimum necessary to ensure that servicers do not (i) obtain force-placed insurance unless there is a reasonable basis to believe the borrower has failed to comply with the loan contract's requirements to maintain property insurance; (ii) charge fees for responding to valid qualified written requests; (iii) fail to take timely action to respond to correct certain types of errors; (iv) fail to respond to a request from a borrower to provide certain information about the owner or assignee of a mortgage loan; or (v) fail to comply with any other obligation found by the Bureau to be appropriate to carry out the consumer protection purposes of RESPA.

The burdens on respondents are also necessary to ensure that servicers have a reasonable basis for undertaking actions that may harm borrowers and that servicers satisfy their duties to borrowers with respect to servicing federally related mortgage loans.

7. Circumstances Requiring Special Information Collection

There are no circumstances requiring special information collection.

8. Consultation Outside the Agency

On September 17, 2012, the CFPB published a notice of proposed rulemaking in the *Federal Register* for public comment. The comment period for the PRA section of the preamble will end on November 16, 2012. Prior to issuing the proposed rule, the CFPB consulted with HUD and other Federal agencies consistent with section 1022 of the Dodd-Frank Act and consulted with affected small entities through a Small Business Review Panel convened under Small Business Regulatory Enforcement Fairness Act. The Bureau also consulted with other stakeholders, including roundtables with industry representatives and consumer advocacy groups.

9. Payments or Gifts to Respondents

Not applicable.

10. Assurances of Confidentiality

There are no assurances of confidentiality provided to respondents.

11. Justification for Sensitive Questions

There is no information of a sensitive nature being requested.

12. Estimated Burden of Information Collection

Under the proposal, the Bureau would account for the paperwork burden for all respondents under Regulation X. For purposes of this PRA analysis, the Bureau estimates that there are 11,425 depository institutions and credit unions subject to the proposed rule, and an additional 1,388 nondepository institutions. Therefore, the total number of CFPB respondents is $11,425+1,388=12,813$.

The CFPB calculates labor costs by applying appropriate hourly cost figures to the burden hours described below. The hourly rates for lawyers and software developers are based upon the Bureau of Labor Statistics' national mean hourly wage estimates by occupational employment. The estimate for customer service agents reflects reports to the Bureau by market participants. To obtain fully-loaded hourly rates, the CFPB divides hourly wages by 67.5%.² The fully-loaded hourly labor cost by occupation is given below.

<u>Occupation</u>	<u>Hourly Costs to Institutions</u>
Customer Service Agents	\$19
Lawyers	\$92
Software developer	\$72

During market outreach and the Small Business Regulatory Enforcement Fairness Act (SBREFA) panel process, the Bureau found the servicing business model to be bifurcated

² Bureau of Labor Statistics data indicate that, in Q4 2010, wages accounted for 67.5% of the total cost of compensation for credit intermediation and related activities.

between small and large servicers. The cost and organizational structures vary enough by institution size to justify calculating costs to these particular segments separately. For the purposes of this analysis, small servicers are defined as nondepositories with revenues less than \$7 million (800 respondents in this analysis), or depositories with total assets less than \$175 million (7,237 respondents). Any institution that does not meet these requirements shall be considered a large servicer (4,740 respondents). Most servicers rely upon vendor servicing systems because the use of vendors substantially mitigates the cost of revising software and compliance systems as the efforts of a single vendor can address the needs of a large number of servicers. Based on discussions with a leading servicer technology provider, the CFPB believes that updates based on new regulations, however, would likely be included in regular annual updates for larger and medium sized institutions, and therefore the costs would not be directly passed on to the client servicers. Based on small entities that participated in the Small Business Review Panel process, the CFPB estimates that vendors who cater to smaller servicers will pass along the costs of any system upgrades. Throughout the following analysis, the Bureau estimates that new required disclosures will result in one-time charges of \$288 per small servicer, and modified pre-existing disclosures will result in charges of \$144.

Although most servicers rely on software and compliance systems provided by outside vendors, there are entities with their own servicing platforms that will require software and information technology updates. The Bureau estimates that one large entity and 5% of large nondepository respondents (0% of small nondepository respondents) operate in-house servicing platforms. As such, the Bureau estimates that 29 large nondepositories have internal servicing systems (5% multiplied by 588 large nondepository institutions). Therefore, the total number of internally-operated and designed servicing platforms in this analysis is 30.

Based upon industry research, the Bureau applied a consistent methodology across all four provisions to estimate the ongoing costs incurred by large and small servicers. All respondents will have ongoing production and distribution costs from providing new or pre-existing modified disclosures. Production costs include deriving the information needed for disclosure, while distribution costs consist of printing and mailing. The CFPB believes that most large servicers (both depository and nondepository) employ vendors for the printing and distribution of their disclosures. Based upon talks with large servicers, the Bureau estimates the per response distribution cost for large servicers is approximately 30 cents. On the other hand, production costs are more likely to be handled internally at large servicers, which the Bureau estimates takes 0.003 hours of internal labor to produce. Unlike large servicers, smaller servicers are more likely to rely on vendors for their production costs while employing in-house labor for distribution. Through industry outreach, the Bureau estimates per-disclosure production costs of 20 cents, while per disclosure distribution costs are 0.004 hours per response.

A. Mortgage Servicing Transfers

The Mortgage Servicing Transfer provision would result in certain one-time and ongoing costs to covered persons. Currently, lenders are required to notify closed-end first lien borrowers at origination whether their loan may be sold and the servicing transferred. Upon any mortgage transfer, the transferor servicer is required to provide written notice to the borrower notifying them of the transfer, while the transferee servicer is required to provide notification to the

borrower that it will service the borrower's mortgage. The Bureau's proposal would require the origination notice for reverse mortgage transactions only; other mortgage loans would receive the origination notice through the 2012 TILA-RESPA Proposal, which was published by the Bureau on July 9, 2012, if the proposal is adopted as proposed with respect to implementing the disclosures required by sections 6(a) of RESPA. The Bureau's proposal would expand coverage of the transfer notices to closed-end subordinated lien mortgages, in addition to closed-end first-lien mortgages. . Furthermore, the Bureau's proposal would substantially reduce the length and complexity of the mortgage servicing transfer disclosure.

i. One-time burden

Reviewing the regulation

The CFPB estimates that, for each covered person, one lawyer would take 0.4 hours to read and review the sections of the proposed rule that describe the contents of the Mortgage Servicing Transfer provision, based on the length of the sections. The burden allocated to the CFPB respondents is therefore $0.4 * 12,813 = 5,125$ hours.

Software and information technology

The Bureau is proposing modifications to the mortgage servicing transfer disclosure, which is a pre-existing disclosure. Using the methodology described above, the Bureau estimates that the 8,073 smaller covered entities (800 nondepositories and 7,273 depositories) would each incur one-time charges of \$144. As a result, the Bureau estimates the one-time vendor costs for all nondepositories as \$1,162,500.

Larger servicers with proprietary systems would need to revise their compliance software and systems. Based on information from conversations with servicers and with software vendors, the CFPB estimates each firm will require 40 hours of software and IT to modify their systems for the revised Mortgage Servicing Transfer notices. As explained above, the Bureau estimates there are 30 respondents with in-house servicing platforms. Thus, the Bureau estimates aggregate one-time burden hours is 1,200 hours.

ii. Ongoing burden

Respondents will have ongoing production and distribution costs from providing the modified mortgage servicing transfer disclosure. To derive the number of responses, the Bureau multiplied the share of non-portfolio mortgages by the number of originations in 2011, and then multiplied by two, since each loan most likely generates a notice from the transferor and transferee.³ The Bureau then apportioned this to institutions based upon their share of all outstanding mortgages. Therefore, vendor costs to distribute the new disclosure at large servicers are \$2.7 million, which is derived from the product of \$0.30 a disclosure by the

³ 6.3 million originations in 2011 * 73% of non-portfolio loans * 2 required notices = 9.3 million responses. The transferor and the transferee would be able to provide a single joint notice under proposed 1024.33(b)(3) as under the existing rule in 1024.21(d)(2)(i)(C), but the Bureau believes that transfers generally involve two notices since respondents would have to coordinate to produce a single joint notice.

estimated 8.9 million responses. These large depositories will also incur internal production costs of approximately 0.003 hours per disclosure, for an additional annual burden 25,000 hours. The Bureau estimates annual responses at smaller servicers will be number approximately 300,000. As explained above, smaller servicers will incur \$0.20 production costs and 0.003 hours of labor for distribution costs per response, equivalent to \$60,000 in vendor costs and 900 hours in labor.

Mortgage Servicing Transfer Notice	
CFPB share of respondents	12,813
CFPB share of responses	9,297,170
Average frequency per response	726
 <i>Annual Burden (hrs):</i>	
Time per response (hours)	0.003
Total (hours)	26,032
 <u>Annual Burden (\$):</u>	
Vendor Costs	\$2,789,151

B. Force-Placed Insurance

The Bureau’s proposal for force-placed insurance would require servicers to provide two notices to a borrower at least 45 days and 15 days before charging the borrow for force-placed insurance. In addition to the two notices, the Bureau is proposing to require servicers to provide borrowers a written notice before charging a borrower for renewing or replacing existing force-placed insurance on an annual basis. The Bureau believes the proposed requirement that servicers provide borrowers with two written notices prior to charging borrowers for force-placed insurance is usual and customary for the majority of mortgage servicers. However, the Bureau believes that the proposed requirement that servicers provide a written notice prior to charging borrowers for the renewal or replacement of existing force-place insurance may not be usual and customary.

i. One-time burden

Reviewing the regulation

The CFPB estimates that, for each covered person, one lawyer would take 0.55 hours to read and review the sections of the proposed rule that describe the contents of the Mortgage Servicing Transfer provision, based on the length of the sections. The burden allocated to the CFPB institutions is therefore $0.55 \times 12,813 = 7,047$ hours.

Software and information technology

Respondents who maintain their own software and compliance systems would incur one-time costs to adapt their software and compliance systems to produce the new forms. The Bureau estimates that 30 large respondents will each require 80 hours to update their systems.

Therefore, the aggregate one-time hourly burden from software and information technology updates is $30 \times 80 = 2,400$ hours.

As discussed above, many of the Bureau’s respondents operate vendor servicing platforms. Within this group, the Bureau estimates the smaller services will incur one-time vendor costs of \$144 per institution associated with the regulatory changes. The aggregate one-time cost to these institutions is $\$144 \times 8,073 = \$1,150,000$.

ii. Ongoing burden

Respondents will have ongoing production and distribution costs from providing the new disclosure. The Bureau estimates the annual number of disclosures for renewing or replacing existing force-placed insurance as 988,000, with 953,000 apportioned to large servicers and 35,000 to small. The Bureau estimates that large depositories will incur internal production costs of approximately 0.003 hours per disclosure, multiplied by 953,000 disclosures, resulting in 2,694 burden hours. Large depositories will also incur distribution costs of \$0.30 per response from their print vendors for the distribution of the periodic statements, for an annual aggregate cost of \$285,000. The Bureau estimates nondepositories will incur vendor production costs of \$0.20 per disclosure. Multiplying this figure by the estimated annual number of responses, 35,000, gives total vendor production costs of \$7,000. Additionally, nondepositories will spend 0.003 hours to distribute each disclosure for an aggregate annual burden of 98 hours.

Force-Placed Insurance	
CFPB share of respondents	12,813
CFPB share of responses	988,000
Average frequency per response	77
 <i>Annual Burden (hrs):</i>	
Time per response (hours)	0.003
Total (hours)	2,793
 <u>Annual Burden (\$):</u>	
Vendor Costs	\$292,916

C. Error Resolution and Requests for Information

The Bureau’s proposals for error resolution and requests for information would require written acknowledgement of receiving a notice of error or an information request, written notification of correction of error, and oral or written provision of the information requested by the borrower or a written notification that the information requested is not available to the servicer, and an internal record of engagement with the borrower. These proposed activities are information collections.

Reviewing the regulation

The CFPB estimates that, for each covered person, one lawyer would take 1.1 hours to read and review the sections of the proposed rule that describe the contents of the Error Resolution and Requests for Information provision, based on the length of the sections. The burden allocated to the CFPB institutions is therefore $1.1 * 12,813 = 14,094$ hours.

Software and information technology

The Bureau does not believe there are costs associated with software and information technology for the error resolution provision.

Staff Training

Respondents would incur one-time costs associated with training employees to compose the required written notification of error acknowledgment and/or resolution, while also properly handling incoming phone calls asserting errors. The CFPB estimates that each mortgage servicing customer service agent will need to receive ten hours of training, and that one trainer could train ten customer service agents at a time, for an additional one hour of trainer time per ten hours of trainee time. The CFPB estimates that there are approximately 50,000 servicing specific customer service agents at large servicers, and another 2,000 small servicer customer service agents. Based on the CFPB's allocation of 52,000 trainees, the time for trainers and customer service agents is $(52,000 * 1.1 * 10) = 572,000$ hours.

ii. Ongoing burden

Respondents will have ongoing production and distribution costs from providing the new disclosures. Based on conversations with large servicers, the Bureau believes 0.6% of mortgages will allege an error in a given month, equivalent to 7.4% of mortgages annually. Therefore, the Bureau estimates $(7.4% * 52,000,000)$ 3.8 million errors will be alleged annually, with 3.7 million apportioned to larger servicers based upon their share of the total outstanding loans, and 135,000 to smaller servicers. Based on conversations with servicers, the Bureau believes that addressing the average error allegation will require approximately 10 minutes of staff time. This gives an aggregate industry burden of 631,000 hours.

The Bureau estimates that large depositories will incur internal production costs of approximately 0.003 hours per disclosure. Multiplying by 3.7 million disclosures gives 10,800 hours of burden. Large depositories will also incur distribution costs of \$0.30 per response from their print vendors for the distribution of the periodic statements, for an annual aggregate cost of \$1,110,000. For nondepositories, vendor production costs of \$0.20 per disclosure multiplied by 135,000 estimated annual responses gives total vendor production costs of \$27,000. Additionally, nondepositories will spend 0.003 hours to distribute each disclosure for an aggregate annual burden of 380 hours.

Error Resolution and Requests for Information	
CFPB share of respondents	12,813
CFPB share of responses	3,848,000
Average frequency per response	300
<i>Annual Burden (hrs):</i>	
Time per response (hours)	0.167
Total (hours)	642,616
<u>Annual Burden (\$):</u>	
Vendor Costs	\$1,140,829

D. Early Intervention with Delinquent Borrowers

An information collection would be created by the Bureau's proposal to require servicers to provide an oral and written notice upon a borrower's reaching certain stages of delinquency. Most respondents currently provide some form of delinquency notice, and thus the expenses associated with this information collection are from the one-time costs to incorporate the Bureau's required information.

Reviewing the regulation

The CFPB estimates that, for each covered person, one lawyer would take 0.4 hours to read and review the sections of the proposed rule that describe the contents of the Mortgage Servicing Transfer provision, based on the length of the sections. The burden allocated to the CFPB institutions is therefore $0.4 * 12,813 = 5,125$ hours.

Software and information technology

The Bureau does not believe there are costs associated with software and information technology for the error resolution provision.

ii. Ongoing burden

Respondents will have ongoing production and distribution costs from providing the disclosure. Fannie Mae, Freddie Mac, FHA, and the VA generally recommend that all institutions that service any of their guaranteed mortgages perform duties similar to those set forth in the Bureau's proposed provisions regarding early intervention with delinquent borrowers. The Bureau estimates that 80% of all 52,000,000 outstanding mortgages are guaranteed by one of these institutions. Therefore, there are $(20% * 52,000,000 =)$ 10.4 million mortgages that are currently not required to provide error resolution disclosures. However, GSE and VA/FHA servicers also manage other loans, and the Bureau believes they are likely to incorporate the most stringent policy across their entire portfolio for organizational simplicity. In consideration of this, the Bureau estimates that only 25% of loans that are not government guaranteed are currently not receiving delinquency notices that would comply with the proposal.

Consequently, the number of possible mortgages impacted by this proposal is the product of 25% and 10.4 million, or 2.6 million mortgages. Of the 2.6 million mortgages, only a small portion will become delinquent at some point during the year. To calculate this amount, the CFPB applied the New York Federal Reserve's quarterly current to 30-59 day delinquent roll rate of 1.8% to the 2.6 million loans, to derive the Bureau's estimated annual responses of 150,000. The Bureau assumes the average staff time per response is 15 minutes, for an aggregate industry burden of 37,000 hours.

The Bureau estimates that large depositories will incur internal production costs of approximately 0.003 hours per disclosure. Multiplying by 144,000 disclosures gives 432 hours of burden. Large depositories will also incur distribution costs of \$0.30 per response from their vendors for the distribution of the disclosures, for an annual aggregate cost of \$43,000. The Bureau estimates nondepositories will incur vendor production costs on the order of \$0.20 per disclosure. Thus, the \$0.20 is multiplied by the estimated annual number of responses, 5,000, for total vendor production costs of \$1,000. Additionally, nondepositories will spend 0.003 hours to distribute each disclosure for an aggregate annual burden of 15 hours.

Early Intervention with Delinquent Borrowers	
CFPB share of respondents	12,813
CFPB share of responses	149,858
Average frequency per response	12
<i>Annual Burden (hrs):</i>	
Time per response (hours)	0.250
Total (hours)	37,465
<u>Annual Burden (\$):</u>	
Vendor Costs	\$44,429

E. Loss Mitigation

Under the Bureau's proposals, servicers that offer loss mitigation options in the ordinary course of business would be required to follow certain procedures when evaluating loss mitigation applications, including (1) providing a notice telling the borrower if the loss mitigation is incomplete, approved, or denied (and, for denials of loan modification requests, a more detailed notice of the specific reason for denial and appeal rights), (2) providing a notice of the appeal determination, (3) providing servicers of senior or subordinate liens encumbering the property that is subject of the loss mitigation application copies of the loss mitigation application.

The loss mitigation provision would create an information collection by requiring servicers to notify borrowers who submit loss mitigation applications and any servicers of senior or subordinate liens encumbering the property that is the subject of the loss mitigation application where a applications have been submitted. Servicers may be required to send up to three notices per loss mitigation application. For incomplete applications, servicers are required to notify the borrower that the borrower's application is incomplete and explain the steps needed

to complete it. For complete applications, the servicers are required to notify the borrower of their decision and provide a copy of the application to any servicers of senior or subordinate liens encumbering the property that is the subject of the loss mitigation application. For incomplete applications that resubmit and possess second-lien loan on their property, the provision would require three notices.

Reviewing the regulation

The CFPB estimates that, for each covered person, one lawyer would take 0.2 hours to read and review the sections of the proposed rule that describe the contents of the Mortgage Servicing Transfer provision, based on the length of the sections. The burden allocated to the CFPB institutions is therefore $0.2 * 12,813 = 2,562$ hours.

Software and information technology

The Bureau does not believe there are costs associated with software and information technology for the loss mitigation provision.

ii. Ongoing burden

Respondents will have ongoing production and distribution costs from providing the disclosures. According to the Housing and Urban Development's June 2012 Housing Scorecard, 8.3 million loss mitigation actions occurred between April, 2009 and May, 2012.⁴ The Bureau realizes that not all loss mitigation actions are accepted, and to estimate the number of actual loss mitigation actions, assumes for every accepted modification one is rejected by the borrower. The annualized number of modifications over the past three years ($8.3 \text{ million} / 3 =$) is 2.8 million. Applying the 50% modification acceptance rate, the Bureau estimates there are approximately 5.6 million loss mitigation actions in a given year. Furthermore, the Bureau assumes that the average loss mitigation action will require 1.75 written notices be sent and involve 10 minutes of staff time, for an aggregate industry burden of $(1.75 * 5,600,000 * 0.167 =)$ 1,642,000 hours.

The Bureau estimates that large depositories will incur internal production costs of approximately 0.003 hours per disclosure, multiplied by 9.6 million disclosures, results in 27,000 hours of burden. Large depositories will also incur distribution costs of \$0.30 per response from their print vendors for the distribution of the disclosure, for an annual aggregate cost of \$2.9 million. The Bureau estimates nondepositories will incur vendor production costs on the order of \$0.20 per disclosure. Thus, the \$0.20 is multiplied by the estimated annual number of responses, 352,000, for total vendor production costs of \$70,000. Additionally, nondepositories will spend 0.003 hours to distribute each disclosure for an aggregate annual burden of 1,000 hours.

⁴ Loss mitigation includes HAMP trial modifications (1.8 million), HAMP permanent modifications (1 million), FHA loss mitigation interventions (1.3 million), HOPE Now Modifications (2.9 million) and HARP Refinances (1.2 million).

Loss Mitigation	
CFPB share of respondents	12,813
CFPB share of responses	10,380,492
Average frequency per response	810
<i>Annual Burden (hrs):</i>	
Time per response (minutes)	0.167
Total (hours)	1,670,000
<u>Annual Burden (\$):</u>	
Vendor Costs	\$2,970,662

F. Summary

The ongoing and one-time hourly costs for each information collection are list below.

	Respondents	Disclosures per Respondent	Hours Burden per Disclosure	Total Burden Hours	Total Vendor Costs
<u>Ongoing</u>					
Notice of Mortgage Service Transfer	12,813	726	0.003	26,000	\$2,760,000
Force-Placed Insurance	12,813	77	0.003	3,000	\$290,000
Error Resolution & Response to Inquiries	12,813	300	0.167	642,000	\$1,110,000
Early Intervention for Delinquent Borrowers	12,813	12	0.250	37,000	\$40,000
Loss Mitigation	12,813	810	0.161	1,670,000	\$2,930,000
<u>One-Time</u>					
Notice of Mortgage Service Transfer	12,813	1	0.495	6,000	\$1,160,000
Force-Placed Insurance	12,813	1	0.740	9,000	\$1,160,000
Error Resolution & Response to Inquiries	12,813	1	43	547,000	\$0
Early Intervention for Delinquent Borrowers	12,813	1	0.400	5,000	\$0
Loss Mitigation	12,813	1	0.295	4,000	\$1,160,000

13. **Estimated Total Annual Cost Burden to Respondents or Recordkeepers**

Covered persons will incur costs associated with producing and mailing the aforementioned disclosures. The CFPB estimates the cost per disclosure, whether directly incurred through vendors or costs associated with in-house labor or some combination, as \$0.50 per disclosure. The total annual cost burden to respondents are roughly \$4,632,000⁵ for the Mortgage Servicing Transfer, \$493,000⁶ for the Force-Placed Insurance, \$13,891,000⁷ for Error

⁵ Deriving the annual costs for the Mortgage Servicing Transfer: Vendor production costs are \$2,760,000, the 26,000 burden hours at \$72 an hour results in expenses of \$1,872,000. \$2,760,000+ \$1,872,000=\$4,632,000.

⁶ Deriving the annual costs for the Force-Placed Insurance: Vendor costs are \$290,000, the 2,793 burden hours at \$72 an hour results in expenses of \$201,000. Aggregating these items results in, \$292,000 + \$201,000=\$493,000.

⁷ Deriving the annual costs for the Error Resolution and Request for Information: Vendor production costs are \$1,110,000, 11,000 burdens hours are associated with software information and technology at an hourly cost of \$72 for an aggregate expense of \$792,000, while 631,000 burden hours are associated with customer service agents at a fully-indexed wage of \$19 an hour for an aggregate expense of \$11,989,000. Therefore, the ongoing cost from this provision is \$1,110,000 + \$792,000 + \$11,989,000=\$13,891,000.

Resolution and Request for Information, \$775,100⁸ for Early Intervention with Delinquent Borrowers, and \$36,144,000⁹ for Loss Mitigation.

14. Estimated Cost to the Federal Government

Because the CFPB does not collect any information, the cost to the CFPB is negligible.

15. Program Changes or Adjustments

The CFPB is proposing to make adjustments to the Servicing Disclosure Statement and the Servicing Transfer Statement, which, as described above, are existing information collections under Regulation X. For a more detailed explanation of these adjustments, see the previous response to A.1 (Justification).

The information collections for the Bureau's proposed requirements for force-placed insurance, error resolution, information requests, early intervention, and loss mitigation procedures would be new requirements under the Bureau's proposal. For a more detailed explanation of these adjustments, see the previous response to A.1 (Justification).

16. Plans for Tabulation, Statistical Analysis, and Publication

The information collections are third-party disclosures. There is no publication of the information.

17. Display of Expiration Date

The CFPB believes that displaying the OMB expiration date is inappropriate because it could cause confusion by leading consumers to believe that the regulation sunsets as of the expiration date. Consumers are not likely to be aware that the CFPB intends to request renewal of OMB approval and obtain a new expiration date before the old one expires.

18. Exceptions to the Certification Requirement

None.

⁸ Deriving the annual costs for the Early Intervention with Delinquent Borrowers: Vendor production costs are \$40,000, there are 447 burden hours associated with software information and technology at \$72 an hour for an aggregate cost of \$32,100, while 37,000 burden hours are associated with customer service agents at \$19 an hour for an aggregate expense of \$703,000. Therefore, the aggregate ongoing costs from this provision are \$40,000 + \$32,100 + \$703,000 = \$775,100.

⁹ Deriving the annual costs for Loss Mitigation: Vendor production costs are \$2,930,000, there are 28,000 burden hours associated with software information and technology at \$72 an hour for an aggregate cost of \$2,016,000, while 1,642,000 burden hours are associated with customer service agents at \$19 an hour for an aggregate expense of \$31,198,000. Therefore, the aggregate ongoing costs from this provision are \$2,930,000 + \$2,016,000 + \$31,198,000 = \$36,144,000.