

**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.

The Dodd-Frank Act amended RESPA and the Truth in Lending Act (TILA), 15 U.S.C. 1601 *et seq.*, to mandate specifically that the CFPB establish a single, integrated disclosure (including real estate settlement cost statements) that includes the disclosure requirements of TILA and RESPA for mortgage loan transactions that are subject to both or either provisions of law. 15 U.S.C. 1604(a); 12 U.S.C. 2603(a). Accordingly, through a proposed rule published in the *Federal Register* in August 2012, the CFPB is proposing 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

¹The 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.

or a dwelling, other than reverse mortgages. The CFPB proposes to replace those disclosure requirements with integrated disclosure requirements, which the CFPB proposes to implement in Regulation Z. Therefore, only reverse mortgage transactions will remain subject to the GFE and HUD-1 and HUD-1A Settlement Statement requirements under Regulation X.²

2. Use of the Information

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

The following disclosures are currently required for transactions subject to Regulation X. Under the proposed rule, the following disclosures only would be required for reverse mortgage transactions that are subject to Regulation X. For all other closed-end transactions secured by real property, the CFPB is proposing to remove the disclosure requirements associated with the GFE and HUD-1/HUD-1A and to replace those disclosure requirements with integrated disclosure requirements in Regulation Z.

- Good Faith Estimate (GFE). Lenders must give borrowers an estimate of the settlement costs that the borrower is likely to incur in connection with settlement (see Section 5(c) of RESPA). Under the proposed rule, lenders would be required to provide the GFE under Regulation X only in reverse mortgage transactions. For all other federally related mortgage loans, the good faith estimate requirement of RESPA would be implemented in Regulation Z as part of the integrated disclosure provisions, discussed above.
- HUD-1/HUD-1A Uniform Settlement Statements. Borrowers and sellers receive a statement of actual charges and disbursements pursuant to the settlement (see Section 4(a) of RESPA). The information required to be set forth in the HUD-1/HUD-1A Settlement Statements include a comparison between the charges listed on the GFE and the charges listed on the HUD-1/HUD-1A and a summary of the final loan terms of the borrower's loan. Under the proposed rule, lenders would be required to provide the HUD-1 and HUD-1A under Regulation X in reverse mortgage transactions only. For all other federally related mortgage loans, the settlement statement requirement of RESPA would be implemented in Regulation Z as part of the integrated disclosure provisions.

3. Use of Information Technology

² Additionally, the proposal transfers the requirement to disclose the Special Information Booklet to Regulation Z for closed-end transactions secured by real property or a dwelling.

The third party disclosures described above may be submitted to consumers electronically. Additionally, most disclosures are computer generated. The CFPB expects to make the HUD-1/ HUD-1A and GFE forms available on the CFPB's website (www.consumerfinance.gov). HUD has previously noted that lenders/brokers may use a computer generated program to estimate costs reported on the GFE for specific settlement services.

Under the proposed rule, lenders would be required to provide the GFE pursuant to Regulation X only in reverse mortgage transactions. The CFPB estimates that the majority of reverse mortgage originators generate the GFE by computer.

4. Efforts to Identify Duplication

For open-end lines of credit, the GFE and HUD-1 are not required when certain truth-in-lending disclosures are given. As noted, the CFPB is proposing to implement in Regulation Z certain disclosure requirements under TILA and RESPA to reduce the number of overlapping disclosures that consumers currently receive under those two statutes.

5. Efforts to Minimize Burdens on Small Entities

The CFPB's Regulation X contains information collection requirements, which have been previously submitted by HUD and approved by OMB under the OMB Control No. 2502-0265. As part of that collection, HUD has previously estimated that 52% of the paperwork costs associated with the GFE are borne by small business and that 38% of the closings are performed by small business.

As noted, under the proposed rule, creditors would provide the GFE and HUD-1/ HUD-1A disclosures in reverse mortgage transactions only, which would further reduce the burden on small business associated with Regulation X.

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 comply with the statute, and to assist borrowers in comparison shopping for loans and tracking escrow funds.

7. Circumstances Requiring Special Information Collection

Information is not reported to the CFPB. By law, respondents are required to keep records (HUD-1/ HUD-1A, affiliated business arrangement disclosures, escrow account records) for five years. The disclosures required under Regulation X serve an important purpose as both the record of all fees associated with the transaction and as part of the official disbursement record and may be needed for five years after the transaction. For example, State and local laws related to transactions involving real property may depend on the information being available for five years. The five-year recordkeeping requirement under Regulation X

has been in effect since 1992.³ The CFPB is unaware of any problems caused by the five year requirement. Information may be requested from providers as part of an investigation.

8. Consultation Outside the Agency

In August 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 6, 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

Hours: 6,387,350

Prior to the passage of the Dodd-Frank Act, HUD's ongoing recordkeeping and disclosure burdens for Regulation X were approximately 17,183,000 hours. In light of the changes made by the Dodd-Frank Act, all 17,183,000 hours of that burden transferred to the CFPB.

The proposal removes from Regulation X the majority of the burden associated with two information collections: (i) the GFE and (ii) the HUD-1/HUD-1A Settlement Statement. Currently, the GFE and HUD-1/HUD-1A Settlement Statement disclosures account for approximately 10.9 million annual burden hours.⁴ Under the proposal, the majority of this burden would be eliminated, with only reverse mortgage transactions remaining subject to the GFE and HUD-1/HUD-1A Settlement Statement requirements under Regulation X. The remaining burden associated with these disclosures in Regulation X would total approximately 62,400 hours, assuming no change in the time required to respond. The burden for all other information collections would remain the same.

³ 57 FR 49600, 49607 (Nov. 2, 1992).

⁴ See Supporting Statement for OMB Control Number 2502-0265, available at http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=200810-2502-001.

Associated Labor Costs: \$95,769,000

The CFPB calculated labor costs by applying appropriate hourly cost figures to the burden hours described above. For the GFE and HUD-1/HUD-1A Settlement Statement, the hourly rates used are based on Bureau of Labor Statistics wages data for depository and nondepository credit intermediation entities. For all other information collections, the hourly rates used are those associated with the burden hours assumed from HUD.

The below table summarizes the annual burdens under Regulation X associated with the information collections affected by the proposal for CFPB respondents under the PRA.

Regulation X Annual Burdens Impacted by Proposal

	GFE	HUD-1	Total
Number of responses	122,400	72,000	194,400
Number of respondents	2,000	2,000	
Average frequency of response	61	36	
Time per response (minutes)	10	35	
Annual burden (hours)	20,400	42,000	62,400
Hourly cost	\$46	\$46	\$46
Annual cost	\$938,400	\$1,932,000	\$2,870,400

The CFPB previously estimated that the ongoing recordkeeping and disclosure costs allocated to the CFPB under Regulation X are **\$727,302,490**. This estimate was calculated following HUD's own cost analysis. A detailed breakdown of the cost analysis is found at HUD's supporting statement for Regulation X.⁵ Using this same methodology, under the proposed rule, the CFPB estimates that the ongoing recordkeeping and disclosure costs allocated to the CFPB under Regulation X are **\$95,769,400**.

13. Estimated Total Annual Cost Burden to Respondents or Recordkeepers

The CFPB does not believe the information collections affected by the proposal impose costs burdens that are not captured in the estimates of burden hours, *i.e.*, estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

14. Estimated Cost to the Federal Government

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

15. Program Changes or Adjustments

⁵ See Supporting Statement for OMB Control Number 2502-0265, available at http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=200810-2502-001 (HUD).

As noted above, the Dodd-Frank Act amended TILA and RESPA to mandate specifically that the CFPB establish a single, integrated disclosure (including real estate settlement cost statements) that includes the disclosure requirements of TILA and RESPA for mortgage loan transactions that are subject to both or either provisions of law. 15 U.S.C. 1604(a); 12 U.S.C. 2603(a). In light of this statutory mandate, the CFPB is proposing to implement in Regulation Z disclosures to be provided to consumers within three business days after receipt of the consumer's mortgage loan application, to replace the "early" TILA disclosure and RESPA GFE, and at least three business days prior to consummation, to replace the "final" TILA disclosure and RESPA HUD-1 and HUD-1A Settlement Statement. The integrated disclosures under the proposed rule would apply to all closed-end transactions secured by real property or a dwelling, other than reverse mortgage transactions. Therefore, only reverse mortgage transactions remain subject to the GFE and HUD-1 and HUD-1A Settlement Statement requirements under Regulation X.

Accordingly, the proposed rule eliminates the majority of the ongoing PRA burden under Regulation X for the GFE and HUD-1 and HUD-1A Settlement Statement disclosures. On a market-wide basis, annual PRA burden in Regulation X decreases by approximately 10.8 million hours.

16. Plans for Tabulation, Statistical Analysis, and Publication

The results of the information collection will not be published.

17. Display of Expiration Date

We believe 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.

Note: The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.