

**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 or Bureau) 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 final rule titled "Integrated Mortgage Disclosures Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z) issued in November 2013 (final rule).¹

Terms of Clearance: The Office of Management and Budget's (OMB) December 16, 2012, Notice of Action (NOA) for OMB No. 3170-0016 states that "[p]ursuant to the previous terms of clearance, with publication of the final rule associated with this collection, the previous agreement between HUD and CFPB to permit regulated industries to use either the HUD control number (2502-0265) associated with this information collection, or the CFPB control number, is no longer applicable. Regulated entities now should only use this CFPB OMB control number for the information collections instruments previously associated with the HUD (2502-0265) forms. CFPB should work with HUD to ensure that HUD's related collection is discontinued."

The Terms of Clearance provide in OMB's November 01, 2013, NOA for OMB No. 2502-0265, which expires on November 30, 2015, in part states that "After two years, HUD and CFPB shall update OMB on the status of revisions to form to reflect new rulemakings. If new rules amending the collection are not issued, HUD shall seek further approval of this collection." The CFPB requests that OMB update the Terms of Clearance for this control number (3170-0016) to reflect that regulated entities can continue to use HUD's control number until the final rule takes effect.

Reverse mortgages are excluded from coverage of the final rule for integrated disclosures and therefore remain subject to the current Regulation X and Z disclosure requirements. Accordingly, regulated entities should continue to use HUD OMB control number 2502-0265 for reverse mortgage loan products. The Bureau will work with HUD to transfer the HUD-1/1A to its custodianship during the future rulemaking for reverse mortgages.

Abstract: Regulation X, which implements the Real Estate Settlement Procedures Act (RESPA), ensures that consumers are provided with more helpful information about the cost of the mortgage settlement and protected from unnecessarily high settlement charges caused by

¹ There are several other OMB Control numbers associated with revisions to Regulation X, including the Homeownership Counseling Amendments (HOEPA) at 3170-0025 and the Mortgage Servicing Amendment 3170-0027. These breakouts were made by the Bureau to assist the public in understanding these rule changes, and it is anticipated that the Bureau will re-integrate these sections of this regulation under this OMB control number in the near future and discontinue those other control numbers.

certain abusive practices. Regulation X contains information collections in the form of third party disclosures and recordkeeping requirements. This collection also contains recordkeeping requirements..

A. JUSTIFICATION

1. Circumstances Necessitating the Data Collection

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

Required disclosures under RESPA and Regulation X 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, the Voluntary Escrow Account Payments, and the Affiliated Business Arrangement Disclosure.² This regulation 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 Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Pub. L. 111-203, amended RESPA and the Truth in Lending Act (TILA), 15 U.S.C. 1601 *et seq.*, to, among other things, 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 the final rule, the CFPB revised Regulation X such that the disclosure requirements associated with the GFE and HUD-1/HUD-1A Settlement Statements do not apply to closed-end credit transactions secured by real property, other than reverse mortgages. For such transactions, the CFPB is replacing those disclosure requirements with integrated disclosure requirements, which the CFPB is implementing 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

²The CFPB does not consider the Special Information Booklet that Regulation X currently requires lenders to distribute to applicants for first-lien purchase money mortgages to be an information collection under 5 C.F.R. 1320.3(c)(2). HUD had previously classified the Special Information Booklet as an information collection with minimal burden.

2. Use of the Information

The third party disclosures under this control number are required by statute and regulations, as explained above. 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. Consumers rely on the disclosures required by RESPA and Regulation X to shop among options and to facilitate informed credit decision making. Without this information, consumers would be hindered in their ability to assess the true costs and terms of financing offered.

Under the final rule, the following disclosures only will 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 removing the disclosure requirements associated with the GFE and HUD-1/HUD-1A and replacing 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 final rule, lenders will 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 will 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-1/1A settlement statements include a comparison between the charges listed on the GFE and the charges listed on the HUD-1/1A and a summary of the final loan terms of the borrower's loan. Under the final rule, lenders will 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 will be implemented in Regulation Z as part of the integrated disclosure provisions.

3. Use of Information Technology

The third party disclosures described above may be submitted to consumers electronically. Additionally, most disclosures are computer generated. The CFPB expects to make the HUD1/1-A 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 final rule, lenders will 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. Regulation X also permits creditors to retain records by any method that reproduces records accurately, including computer programs. Creditors need only retain enough information to reconstruct the required disclosure or other records.

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. In addition, as noted above, the CFPB is implementing in Regulation Z certain disclosure requirements for closed-end transactions other than reverse mortgages 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 final rule, creditors provide the GFE and HUD-1/HUD-1A disclosures in reverse mortgage transactions only, which further reduces the burden on small business associated with Regulation X. The use of standard forms is also required by the CFPB in order to assist in compliance with the relevant disclosure requirement.

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 Regulation X, 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-1/1-A, GFE, 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. The recordkeeping and disclosure requirements contained in Regulation X are otherwise consistent with the requirements of 5 CFR 1320.8(d)(2).

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 most aspects of the rule, including the PRA analysis, ended on November 6, 2012. In response to this request for comments, the CFPB did not receive comments related to the PRA analysis contained in the proposed rule or comments containing specific cost information relevant to the PRA burden estimates contained in the proposed rule.

Prior to issuing the proposed rule and before issuing the final 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 the Small Business Regulatory Enforcement Fairness Act. The CFPB 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, that burden was transferred to the CFPB.

The final rule 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

³ 57 FR 49600, 49607 (Nov. 2, 1992).

annual burden hours.⁴ Under the final rule, the majority of this burden will 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 will total approximately 62,400 hours. The burden for all other information collections would remain the same.

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-A Settlement Statement, the hourly rates used are based on BLS 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 final rule for CFPB respondents under the PRA.

Table 1: Regulation X Annual Burdens Impacted by Final Rule

	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 final 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 final rule impose costs burdens that are not captured in the estimates of burden hours, *i.e.*, estimates of capital or

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

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).

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

As noted above, the Dodd-Frank Act amended TILA and RESPA, among other things, 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 implementing 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 final rule will apply to all closed-end transactions secured by real property, 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 final 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 (these hours are being transferred to OMB No. 3170-0015 (Regulation Z)). The Bureau also notes that the \$727,302,490 cost previously reported as cost burden was hourly costs and not O&M (“cost burden”). This submission corrects this error by removing these costs from the cost burden estimate.

Table 2: Summary of Burden Changes

	Burden Hours	Cost Burden
Old Burden	17,183,000	727,302,490
New Burden	6,387,350	0
Net Change	(10,795,650)	(727,302,490)

16. Plans for Tabulation, Statistical Analysis, and Publication

The results of the information collections will not be published.

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.

Currently, the HUD-1 forms are approved under OMB control number 2502-0265; therefore, these forms do not need to display OMB control number 3170-0016 at this time. When the HUD-1 model forms are transferred to control number 3170-0016 before the expiration of control number 2502-0265, they will be modified to display that the CFPB's number. Further, the model disclosure forms serve only as models on which to base the disclosures that are actually provided to customers. Therefore, as provided to customers, the disclosures are proprietary and, as such, it would be inappropriate for them to display an OMB control number. The expiration will, however, be displayed on OMB's public-facing docket on [reginfo.gov](http://www.reginfo.gov/public/do/PRAOMBHistory?ombControlNumber=3170-0015) (<http://www.reginfo.gov/public/do/PRAOMBHistory?ombControlNumber=3170-0015>).

18. Exceptions to the Certification Requirement

The CFPB certifies that this collection of information is consistent with the requirements of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3) and is not seeking an exemption to the certification requirements.