Congressional Review Act

FDIC

For purposes of Congressional Review Act, the OMB makes a determination as to whether a final rule constitutes a ''major'' rule.[6] If a rule is deemed a ''major rule'' by the OMB, the Congressional Review Act generally provides that the rule may not take effect until at least 60 days following its publication.[7]

The Congressional Review Act defines a ''major rule'' as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in—(A) an annual effect on the economy of $100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.[8] As required by the Congressional Review Act, the FDIC will submit the final rule and other appropriate reports to Congress and the Government Accountability Office for review.

List of Subjects

12 CFR Part 228

Banks, Banking, Community development, Credit, Federal Reserve System, Investments, Reporting and recordkeeping requirements.

12 CFR Part 345

Banks, Banking, Community development, Credit, Investments, Reporting and recordkeeping requirements.

Federal Reserve System

12 CFR Chapter II

For the reasons set forth in the common preamble, the Board of Governors of the Federal Reserve System amends part 228 of chapter II of title 12 of the Code of Federal Regulations as follows:

PART 228—COMMUNITY REINVESTMENT (REGULATION BB)

■ 1. The authority citation for part 228 continues to read as follows:

Authority: 12 U.S.C. 321, 325, 1828(c), 1842, 1843, 1844, and 2901 *et seq.*

■ 2. Section 228.12 is amended by revising paragraph (u)(1) to read as follows:

§ 228.12 Definitions.

* * * * *

(u) * * *

(1) *Definition. Small bank* means a bank that, as of December 31 of either of the prior two calendar years, had assets of less than $1.503 billion. *Intermediate small bank* means a small bank with assets of at least $376 million as of December 31 of both of the prior two calendar years and less than $1.503 billion as of December 31 of either of the prior two calendar years.

* * * * *

Federal Deposit Insurance Corporation

12 CFR Chapter III

Authority and Issuance

For the reasons set forth in the common preamble, the Federal Deposit Insurance Corporation amends part 345 of chapter III of title 12 of the Code of Federal Regulations to read as follows:

PART 345—COMMUNITY REINVESTMENT

■ 3. The authority citation for part 345 continues to read as follows:

Authority: 12 U.S.C. 1814–1817, 1819–1820, 1828, 1831u and 2901–2908, 3103–3104, and 3108(a).

■ 4. Section 345.12 is amended by revising paragraph (u)(1) to read as follows:

§ 345.12 Definitions.

* * * * *

(u) * * *

(1) *Definition. Small bank* means a bank that, as of December 31 of either of the prior two calendar years, had assets of less than $1.503 billion. *Intermediate small bank* means a small bank with assets of at least $376 million as of December 31 of both of the prior two calendar years and less than $1.503 billion as of December 31 of either of the prior two calendar years.

* * * * *

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority.

Ann E. Misback,

Secretary of the Board.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on December 15, 2022.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2022–27922 Filed 12–22–22; 8:45 am]

BILLING CODE 6210–01–P; 6714–01–P

[6] 5 U.S.C. 801 *et seq.*

[7] 5 U.S.C. 801(a)(3).

[8] 5 U.S.C. 804(2).

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1026

Truth in Lending (Regulation Z) Annual Threshold Adjustments (Credit Cards, HOEPA, and Qualified Mortgages)

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule; official interpretation.

SUMMARY: The Consumer Financial Protection Bureau (Bureau) is issuing this final rule amending the regulation text and official interpretations for Regulation Z, which implements the Truth in Lending Act (TILA). The Bureau calculates the dollar amounts for several provisions in Regulation Z annually; this final rule revises, as applicable, the dollar amounts for provisions implementing TILA and amendments to TILA, including under the Home Ownership and Equity Protection Act of 1994 (HOEPA), and the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The Bureau is adjusting these amounts, where appropriate, based on the annual percentage change reflected in the Consumer Price Index (CPI) in effect on June 1, 2022.

DATES: This final rule is effective January 1, 2023.

FOR FURTHER INFORMATION CONTACT: Thomas Dowell, Senior Counsel, Office of Regulations, at (202) 435–7700. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION: The Bureau is amending the regulation text and official interpretations for Regulation Z, which implements TILA, to update the dollar amounts of various thresholds that it must adjust annually to reflect the annual percentage change in the CPI as published by the Bureau of Labor Statistics (BLS). Specifically, for open-end consumer credit plans under TILA, the threshold that triggers requirements to disclose minimum interest charges will remain unchanged at $1.00 in 2023. For HOEPA loans, the adjusted total loan amount threshold for high-cost mortgages in 2023 will be $24,866. The adjusted points-and-fees dollar trigger for high-cost mortgages in 2023 will be $1,243. For qualified mortgages (QMs) under the General QM loan definition in § 1026.43(e)(2), the thresholds for the spread between the annual percentage rate (APR) and the average prime offer rate (APOR) in 2023 will be: 2.25 or more percentage points for a first-lien covered transaction with a loan amount greater than or equal to $124,331; 3.5 or more percentage points for a first-lien covered transaction with a loan amount greater than or equal to $74,599 but less than $124,331; 6.5 or more percentage points for a first-lien covered transaction with a loan amount less than $74,599; 6.5 or more percentage points for a first-lien covered transaction secured by a manufactured home with a loan amount less than $124,331; 3.5 or more percentage points for a subordinate-lien covered transaction with a loan amount greater than or equal to $74,599; or 6.5 or more percentage points for a subordinate-lien covered transaction with a loan amount less than $74,599. For all categories of QMs, the thresholds for total points and fees in 2023 will be 3 percent of the total loan amount for a loan greater than or equal to $124,331; $3,730 for a loan amount greater than or equal to $74,599 but less than $124,331; 5 percent of the total loan amount for a loan greater than or equal to $24,866 but less than $74,599; $1,243 for a loan amount greater than or equal to $15,541 but less than $24,866; and 8 percent of the total loan amount for a loan amount less than $15,541.[1]

I. Background

A. Credit Card Annual Adjustments

Minimum Interest Charge Disclosure Thresholds

Sections 1026.6(b)(2)(iii) and 1026.60(b)(3) of Regulation Z implement sections 127(a)(3) and 127(c)(1)(A)(ii)(II) of TILA. Sections 1026.6(b)(2)(iii) and 1026.60(b)(3) require creditors to disclose any minimum interest charge exceeding $1.00 that could be imposed during a billing cycle. These provisions also state that, for open-end consumer credit plans, the Bureau shall calculate the minimum interest charge thresholds annually using the CPI that was in effect on the preceding June 1; the Bureau uses the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W) for this adjustment.[2] If the cumulative change in the adjusted minimum value derived from applying the annual CPI–W level to the current amounts in §§ 1026.6(b)(2)(iii) and 1026.60(b)(3) has risen by a whole dollar, the Bureau will increase the minimum interest charge amounts set forth in the regulation by $1.00. The Bureau bases its 2023 adjustment analysis on the CPI–W index in effect on June 1, 2022, as reported by BLS on May 11, 2022.[3] As a result, the adjustment reflects the percentage change in the CPI–W from April 2021 to April 2022. The adjustment analysis accounts for an 8.9 percent increase in the CPI–W from April 2021 to April 2022. This increase in the CPI–W when applied to the current amounts in §§ 1026.6(b)(2)(iii) and 1026.60(b)(3) does not trigger an increase in the minimum interest charge threshold of at least $1.00, and the Bureau, therefore, is not amending §§ 1026.6(b)(2)(iii) and 1026.60(b)(3).

B. HOEPA Annual Threshold Adjustments

Section 1026.32(a)(1)(ii) of Regulation Z implements section 1431 of the Dodd-Frank Act,[4] which amended the HOEPA points-and-fees coverage test. Under § 1026.32(a)(1)(ii)(A) and (B), in assessing whether a transaction is a high-cost mortgage due to points and fees the creditor is charging, the applicable points-and-fees coverage test depends on whether the total loan amount is for $20,000 or more, or for less than $20,000. Section 1026.32(a)(1)(ii) provides that the Bureau recalculate this threshold amount annually using the CPI index in effect on the preceding June 1; the Bureau uses the CPI–U for this adjustment.[5] The Bureau bases the 2023 adjustment on the CPI–U index in effect on June 1, 2022, as reported by BLS on May 11, 2022. As a result, the adjustment reflects the percentage change in the CPI–U from April 2021 to April 2022, which is an increase of 8.3 percent. The adjustment to $24,866 here reflects the 8.3 percent increase in the CPI–U index from April 2021 to April 2022 rounded to the nearest whole dollar amount for ease of compliance.

Under § 1026.32(a)(1)(ii)(B), the HOEPA points-and-fees threshold is the lesser of 8 percent of the total loan amount or $1,000. Section 1026.32(a)(1)(ii)(B) provides that the Bureau will recalculate the dollar amount threshold annually using the CPI index in effect on the preceding June 1; the Bureau uses the CPI–U for this adjustment. The Bureau bases the 2023 adjustment on the CPI–U index in effect on June 1, 2022, as reported by BLS on May 11, 2022. As a result, the adjustment reflects the percentage change in CPI–U from April 2021 to April 2022, which is an increase of 8.3 percent. The adjustment to $1,243 here reflects the 8.3 percent increase in the CPI–U index from April 2021 to April 2022 rounded to the nearest whole dollar amount for ease of compliance.

C. QM Annual Threshold Adjustments

The Bureau's Regulation Z implements sections 1411 and 1412 of the Dodd-Frank Act, which generally require creditors to make a reasonable, good-faith determination of a consumer's ability to repay any consumer credit transaction secured by a dwelling and establishes certain protections from liability under this requirement for QMs.

On December 10, 2020, the Bureau issued a final rule amending the General QM loan definition in § 1026.43(e)(2).[6] The final rule established pricing thresholds in § 1026.43(e)(2)(vi)(A) through (F) based on the spread of a loan's APR compared to the APOR for a comparable transaction as of the date the interest rate is set. To satisfy the General QM loan definition, a loan's APR must be below the applicable pricing threshold and must satisfy other requirements in § 1026.43(e)(2). Specifically, under § 1026.43(e)(2)(vi), a covered transaction is a QM if the APR does not exceed the APOR for a comparable transaction as of the date the interest rate is set by: 2.25 or more percentage points for a first-lien covered transaction with a loan amount greater than or equal to $110,260 (indexed for inflation); 3.5 or more percentage points for a first-lien covered transaction with a loan amount greater than or equal to $66,156 (indexed for inflation) but less than $110,260 (indexed for inflation); 6.5 or more percentage points for a first-lien covered transaction with a loan amount less than $66,156 (indexed for inflation); 6.5 or more percentage points for a first-lien covered transaction secured by a manufactured home with a loan amount less than $110,260 (indexed for inflation); 3.5 or more percentage points for a subordinate-lien covered transaction with a loan amount greater than or equal to $66,156 (indexed for inflation); or 6.5 or more

[1] The QM categories in Regulation Z appear at 12 CFR 1026.43(e)(2), (e)(4), (e)(5), (e)(6), and (e)(7). Note that 12 CFR 1026.43(e)(6) applies only to covered transactions for which the application was received before April 1, 2016.

[2] The CPI–W is a subset of the Consumer Price Index for All Urban Consumers (CPI–U) index and represents approximately 29 percent of the U.S. population.

[3] BLS publishes Consumer Price Indices monthly, usually in the middle of each calendar month. Thus, the CPI–W reported on May 11, 2022, was the most current as of June 1, 2022.

[4] Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, 124 Stat. 1376 (2010).

[5] The CPI–U is based on all urban consumers and represents approximately 93 percent of the U.S. population.

[6] 85 FR 86308 (Dec. 29, 2020). This final rule was initially effective on March 1, 2021, with a mandatory compliance date of July 1, 2021. On April 27, 2021, the Bureau issued a final rule effective June 30, 2021, which extended the mandatory compliance date of the final rule published on December 29, 2020, at 85 FR 86308, until October 1, 2022. 86 FR 22844 (Apr. 30, 2021).

percentage points for a subordinate-lien covered transaction with a loan amount less than $66,156 (indexed for inflation).[7] The rule states that the Bureau will adjust the loan amounts in § 1026.43(e)(2)(vi) annually on January 1 by the annual percentage change in the CPI–U that was in effect on the preceding June 1.[8]

Regulation Z also contains points and fees limits applicable to all categories of QMs. Under § 1026.43(e)(3)(i), a covered transaction is not a QM if the transaction's total points and fees exceed: 3 percent of the total loan amount for a loan amount greater than or equal to $100,000 (indexed for inflation); $3,000 (indexed for inflation) for a loan amount greater than or equal to $60,000 (indexed for inflation) but less than $100,000 (indexed for inflation); 5 percent of the total loan amount for loans greater than or equal to $20,000 (indexed for inflation) but less than $60,000 (indexed for inflation); $1,000 (indexed for inflation) for a loan amount greater than or equal to $12,500 (indexed for inflation) but less than $20,000 (indexed for inflation); or 8 percent of the total loan amount for loans less than $12,500 (indexed for inflation). Section 1026.43(e)(3)(ii) provides that the Bureau will recalculate the limits and loan amounts in § 1026.43(e)(3)(i) annually for inflation using the CPI–U index in effect on the preceding June 1.

The Bureau bases the 2023 adjustment to the loan amounts applicable to the pricing thresholds for the General QM loan definition and the points and fees limits for all categories of QM on the CPI–U index in effect on June 1, 2022, as reported by BLS on May 11, 2022. As a result, the adjustment reflects the percentage change in CPI–U from April 2021 to April 2022, which is an increase of 8.3 percent. The 2023 adjustment[9] adopted here reflects an 8.3 percent increase in the CPI–U index for this period rounded to whole dollars for ease of compliance.

II. Adjustment and Commentary Revision

A. Credit Card Annual Adjustments

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

The minimum interest charge amounts for §§ 1026.6(b)(2)(iii) and 1026.60(b)(3) will remain unchanged at $1.00 for the year 2023. Accordingly, the Bureau is not amending these sections of Regulation Z.

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

Effective January 1, 2023, for purposes of determining under § 1026.32(a)(1)(ii) the points-and-fees coverage test under HOEPA to which a transaction is subject, the total loan amount threshold figure is $24,866, and the adjusted points-and-fees dollar trigger under § 1026.32(a)(1)(ii)(B) is $1,243. If the total loan amount for a transaction is $24,866 or more, and the points-and-fees amount exceeds 5 percent of the total loan amount, the transaction is a high-cost mortgage. If the total loan amount for a transaction is less than $24,866, and the points-and-fees amount exceeds the lesser of the adjusted points-and-fees dollar trigger of $1,243 or 8 percent of the total loan amount, the transaction is a high-cost mortgage. The Bureau is amending comments 32(a)(1)(ii)–1 and –3, which list the adjustments for each year, to reflect for 2023 the new points-and-fees dollar trigger and the new loan amount dollar threshold, respectively.

C. Qualified Mortgages Annual Threshold Adjustments

Effective January 1, 2023, to satisfy § 1026.43(e)(2)(vi) under the General QM loan definition, the annual percentage rate may not exceed the average prime offer rate for a comparable transaction as of the date the interest rate is set by the following amounts: 2.25 or more percentage points for a first-lien covered transaction with a loan amount greater than or equal to $124,331; 3.5 or more percentage points for a first-lien covered transaction with a loan amount greater than or equal to $74,599 but less than $124,331; 6.5 or more percentage points for a first-lien covered transaction with a loan amount less than $74,599; 6.5 or more percentage points for a first-lien covered transaction secured by a manufactured home with a loan amount less than $124,331; 3.5 or more percentage points for a subordinate-lien covered transaction with a loan amount greater than or equal to $74,599; or 6.5 or more percentage points for a subordinate-lien covered transaction with a loan amount less than $74,599. Accordingly, the Bureau is amending comment 43(e)(2)(vi)–3, which lists the adjustments for each year, to reflect the new dollar threshold amounts for § 1026.43(e)(2)(vi)(A) through (F).

Effective January 1, 2023, a covered transaction is not a qualified mortgage if, pursuant to § 1026.43(e)(3), the transaction's total points and fees exceed 3 percent of the total loan amount for a loan amount greater than or equal to $124,331; $3,730 for a loan amount greater than or equal to $74,599 but less than $124,331; 5 percent of the total loan amount for loans greater than or equal to $24,866 but less than $74,599; $1,243 for a loan amount greater than or equal to $15,541 but less than $24,866; or 8 percent of the total loan amount for loans less than $15,541. The Bureau is amending comment 43(e)(3)(ii)–1, which lists the adjustments for each year, to reflect the new dollar threshold amounts for 2023.

III. Procedural Requirements

A. Administrative Procedure Act

The Administrative Procedure Act does not require notice and opportunity for public comment if an agency finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest.[10] Pursuant to this final rule, the Bureau adds comments 32(a)(1)(ii)–1.ix, 32(a)(1)(ii)–3.ix, 43(e)(2)(vi)–3.ii, and 43(e)(3)(ii)–1.ix to update the exemption thresholds. The amendments in this final rule are technical and non-discretionary, as they merely apply the method previously established in Regulation Z for determining adjustments to the thresholds. For these reasons, the Bureau has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary. The amendments, therefore, are adopted in final form.

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[7] The loan amounts in the regulatory text reflect the CPI–U in effect on June 1, 2020.

[8] *See* comment 43(e)(2)(vi)–3.

[9] For 2023, a covered transaction is a qualified mortgage if the APR does not exceed the APOR for a comparable transaction as of the date the interest rate is set by: 2.25 or more percentage points for a first-lien covered transaction with a loan amount greater than or equal to $124,331; 3.5 or more percentage points for a first-lien covered transaction with a loan amount greater than or equal to $74,599 but less than $124,331; 6.5 or more percentage points for a first-lien covered transaction with a loan amount less than $74,599; 6.5 or more percentage points for a first-lien covered transaction secured by a manufactured home with a loan amount less than $124,331; 3.5 or more percentage points for a subordinate-lien covered transaction with a loan amount greater than or equal to $74,599; or 6.5 or more percentage points for a subordinate-lien covered transaction with a loan amount less than $74,599. Additionally, a covered transaction is not a qualified mortgage if the transaction's total points and fees exceed 3 percent of the total loan amount for a loan amount greater than or equal to $124,331; $3,730 for a loan amount greater than or equal to $74,599 but less than $124,331; 5 percent of the total loan amount for loans greater than or equal to $24,866 but less than $74,599; $1,243 for a loan amount greater than or equal to $15,541 but less than $24,866; or 8 percent of the total loan amount for loans less than $15,541.

[10] 5 U.S.C. 553(b)(B).

For the same reasons, the Bureau finds that there is good cause to make this rule effective on January 1, 2023. Section 553(d) of the APA generally requires publication of a final rule not less than 30 days before its effective date, except (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) as otherwise provided by the agency for good cause found and published with the rule. 5 U.S.C. 553(d). At a minimum, the Bureau believes the amendments made by this rule fall under the third exception to section 553(d). As already stated above, the amendments in this final rule are technical and non-discretionary, as they merely apply the method previously established in Regulation Z for determining adjustments to the thresholds.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) does not apply to a rulemaking where a general notice of proposed rulemaking is not required.[11] As noted previously, the Bureau has determined that it is unnecessary to publish a general notice of proposed rulemaking for this final rule. Accordingly, the RFA's requirement relating to an initial and final regulatory flexibility analysis do not apply.

C. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995,[12] the Bureau reviewed this final rule. The Bureau has determined that this final rule does not create any new information collections or substantially revise any existing collections.

D. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Bureau will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to the rule taking effect. The Office of Information and Regulatory Affairs (OIRA) has designated this rule as not a ''major rule'' as defined by 5 U.S.C. 804(2).

E. Signing Authority

Senior Advisor Brian Shearer, having reviewed and approved this document, is delegating the authority to sign this document electronically to Laura Galban, Bureau Federal Register Liaison, for purposes of publication in the **Federal Register**.

List of Subjects in 12 CFR Part 1026

Advertising, Banks, banking, Consumer protection, Credit, Credit unions, Mortgages, National banks, Reporting and recordkeeping requirements, Savings associations, Truth in lending.

Authority and Issuance

For the reasons set forth in the preamble, the Bureau amends Regulation Z, 12 CFR part 1026, as set forth below:

PART 1026—TRUTH IN LENDING (REGULATION Z)

■ 1. The authority citation for part 1026 continues to read as follows:

Authority: 12 U.S.C. 2601, 2603–2605, 2607, 2609, 2617, 3353, 5511, 5512, 5532, 5581; 15 U.S.C. 1601 *et seq.*

■ 2. In Supplement I to Part 1026:
■ a. Under *Section 1026.32—Requirements for High-Cost Mortgages,* revise *Paragraph 32(a)(1)(ii);* and
■ b. Under *Section 1026.43—Minimum Standards for Transactions Secured by a Dwelling,* revise *Paragraphs 43(e)(2)(vi) and 43(e)(3)(ii).*

The revisions read as follows:

Supplement I to Part 1026—Official Interpretations

* * * * *

Section 1026.32—Requirements for High-Cost Mortgages

* * * * *

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

1. *Annual adjustment of $1,000 amount.* The $1,000 figure in § 1026.32(a)(1)(ii)(B) is adjusted annually on January 1 by the annual percentage change in the CPI that was in effect on the preceding June 1. The Bureau will publish adjustments after the June figures become available each year.

i. For 2015, $1,020, reflecting a 2 percent increase in the CPI–U from June 2013 to June 2014, rounded to the nearest whole dollar.

ii. For 2016, $1,017, reflecting a 0.2 percent decrease in the CPI–U from June 2014 to June 2015, rounded to the nearest whole dollar.

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

iv. For 2018, $1,052, reflecting a 2.2 percent increase in the CPI–U from June 2016 to June 2017, rounded to the nearest whole dollar.

v. For 2019, $1,077, reflecting a 2.5 percent increase in the CPI–U from June 2017 to June 2018, rounded to the nearest whole dollar.

vi. For 2020, $1,099, reflecting a 2 percent increase in the CPI–U from June 2018 to June 2019, rounded to the nearest whole dollar.

vii. For 2021, $1,103, reflecting a 0.3 percent increase in the CPI–U from June 2019 to June 2020, rounded to the nearest whole dollar.

viii. For 2022, $1,148, reflecting a 4.2 percent increase in the CPI–U from June 2020 to June 2021, rounded to the nearest whole dollar.

ix. For 2023, $1,243, reflecting an 8.3 percent increase in the CPI–U from June 2021 to June 2022, rounded to the nearest whole dollar.

2. *Historical adjustment of $400 amount.* Prior to January 10, 2014, a mortgage loan was covered by § 1026.32 if the total points and fees payable by the consumer at or before loan consummation exceeded the greater of $400 or 8 percent of the total loan amount. The $400 figure was adjusted annually on January 1 by the annual percentage change in the CPI that was in effect on the preceding June 1, as follows:

i. For 1996, $412, reflecting a 3 percent increase in the CPI–U from June 1994 to June 1995, rounded to the nearest whole dollar.

ii. For 1997, $424, reflecting a 2.9 percent increase in the CPI–U from June 1995 to June 1996, rounded to the nearest whole dollar.

iii. For 1998, $435, reflecting a 2.5 percent increase in the CPI–U from June 1996 to June 1997, rounded to the nearest whole dollar.

iv. For 1999, $441, reflecting a 1.4 percent increase in the CPI–U from June 1997 to June 1998, rounded to the nearest whole dollar.

v. For 2000, $451, reflecting a 2.3 percent increase in the CPI–U from June 1998 to June 1999, rounded to the nearest whole dollar.

vi. For 2001, $465, reflecting a 3.1 percent increase in the CPI–U from June 1999 to June 2000, rounded to the nearest whole dollar.

vii. For 2002, $480, reflecting a 3.27 percent increase in the CPI–U from June 2000 to June 2001, rounded to the nearest whole dollar.

viii. For 2003, $488, reflecting a 1.64 percent increase in the CPI–U from June 2001 to June 2002, rounded to the nearest whole dollar.

ix. For 2004, $499, reflecting a 2.22 percent increase in the CPI–U from June 2002 to June 2003, rounded to the nearest whole dollar.

x. For 2005, $510, reflecting a 2.29 percent increase in the CPI–U from June

[11] 5 U.S.C. 603(a), 604(a).

[12] 44 U.S.C. 3506; 5 CFR part 1320.

2003 to June 2004, rounded to the nearest whole dollar.

xi. For 2006, $528, reflecting a 3.51 percent increase in the CPI–U from June 2004 to June 2005, rounded to the nearest whole dollar.

xii. For 2007, $547, reflecting a 3.55 percent increase in the CPI–U from June 2005 to June 2006, rounded to the nearest whole dollar.

xiii. For 2008, $561, reflecting a 2.56 percent increase in the CPI–U from June 2006 to June 2007, rounded to the nearest whole dollar.

xiv. For 2009, $583, reflecting a 3.94 percent increase in the CPI–U from June 2007 to June 2008, rounded to the nearest whole dollar.

xv. For 2010, $579, reflecting a 0.74 percent decrease in the CPI–U from June 2008 to June 2009, rounded to the nearest whole dollar.

xvi. For 2011, $592, reflecting a 2.2 percent increase in the CPI–U from June 2009 to June 2010, rounded to the nearest whole dollar.

xvii. For 2012, $611, reflecting a 3.2 percent increase in the CPI–U from June 2010 to June 2011, rounded to the nearest whole dollar.

xviii. For 2013, $625, reflecting a 2.3 percent increase in the CPI–U from June 2011 to June 2012, rounded to the nearest whole dollar.

xix. For 2014, $632, reflecting a 1.1 percent increase in the CPI–U from June 2012 to June 2013, rounded to the nearest whole dollar.

3. *Applicable threshold.* For purposes of § 1026.32(a)(1)(ii), a creditor must determine the applicable points and fees threshold based on the face amount of the note (or, in the case of an open-end credit plan, the credit limit for the plan when the account is opened). However, the creditor must apply the allowable points and fees percentage to the ''total loan amount,'' as defined in § 1026.32(b)(4). For closed-end credit transactions, the total loan amount may be different than the face amount of the note. The $20,000 amount in § 1026.32(a)(1)(ii)(A) and (B) is adjusted annually on January 1 by the annual percentage change in the CPI that was in effect on the preceding June 1.

i. For 2015, $20,391, reflecting a 2 percent increase in the CPI–U from June 2013 to June 2014, rounded to the nearest whole dollar.

ii. For 2016, $20,350, reflecting a .2 percent decrease in the CPI–U from June 2014 to June 2015, rounded to the nearest whole dollar.

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

iv. For 2018, $21,032, reflecting a 2.2 percent increase in the CPI–U from June 2016 to June 2017, rounded to the nearest whole dollar.

v. For 2019, $21,549, reflecting a 2.5 percent increase in the CPI–U from June 2017 to June 2018, rounded to the nearest whole dollar.

vi. For 2020, $21,980, reflecting a 2 percent increase in the CPI–U from June 2018 to June 2019, rounded to the nearest whole dollar.

vii. For 2021, $22,052 reflecting a 0.3 percent increase in the CPI–U from June 2019 to June 2020, rounded to the nearest whole dollar.

viii. For 2022, $22,969 reflecting a 4.2 percent increase in the CPI–U from June 2020 to June 2021, rounded to the nearest whole dollar.

ix. For 2023, $24,866 reflecting an 8.3 percent increase in the CPI–U from June 2021 to June 2022, rounded to the nearest whole dollar.

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Section 1026.43—Minimum Standards for Transactions Secured by a Dwelling

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Paragraph 43(e)(2)(vi).

1. *Determining the average prime offer rate for a comparable transaction as of the date the interest rate is set.* For guidance on determining the average prime offer rate for a comparable transaction as of the date the interest rate is set, see comments 43(b)(4)-1 through –3.

2. *Determination of applicable threshold.* A creditor must determine the applicable threshold by determining which category the loan falls into based on the face amount of the note (the ''loan amount'' as defined in § 1026.43(b)(5)). For example, for a first-lien covered transaction with a loan amount of $75,000, the loan would fall into the tier for loans greater than or equal to $66,156 (indexed for inflation) but less than $110,260 (indexed for inflation), for which the applicable threshold is 3.5 or more percentage points.

3. *Annual adjustment for inflation.* The dollar amounts in § 1026.43(e)(2)(vi) will be adjusted annually on January 1 by the annual percentage change in the CPI–U that was in effect on the preceding June 1. The Bureau will publish adjustments after the June figures become available each year.

i. For 2022, reflecting a 4.2 percent increase in the CPI–U that was reported on the preceding June 1, to satisfy § 1026.43(e)(2)(vi), the annual percentage rate may not exceed the average prime offer rate for a comparable transaction as of the date the interest rate is set by the following amounts:

A. For a first-lien covered transaction with a loan amount greater than or equal to $114,847, 2.25 or more percentage points;

B. For a first-lien covered transaction with a loan amount greater than or equal to $68,908 but less than $114,847, 3.5 or more percentage points;

C. For a first-lien covered transaction with a loan amount less than $68,908, 6.5 or more percentage points;

D. For a first-lien covered transaction secured by a manufactured home with a loan amount less than $114,847, 6.5 or more percentage points;

E. For a subordinate-lien covered transaction with a loan amount greater than or equal to $68,908, 3.5 or more percentage points;

F. For a subordinate-lien covered transaction with a loan amount less than $68,908, 6.5 or more percentage points.

ii. For 2023, reflecting an 8.3 percent increase in the CPI–U that was reported on the preceding June 1, to satisfy § 1026.43(e)(2)(vi), the annual percentage rate may not exceed the average prime offer rate for a comparable transaction as of the date the interest rate is set by the following amounts:

A. For a first-lien covered transaction with a loan amount greater than or equal to $124,331, 2.25 or more percentage points;

B. For a first-lien covered transaction with a loan amount greater than or equal to $74,599 but less than $124,331, 3.5 or more percentage points;

C. For a first-lien covered transaction with a loan amount less than $74,599, 6.5 or more percentage points;

D. For a first-lien covered transaction secured by a manufactured home with a loan amount less than $124,331, 6.5 or more percentage points;

E. For a subordinate-lien covered transaction with a loan amount greater than or equal to $74,599, 3.5 or more percentage points;

F. For a subordinate-lien covered transaction with a loan amount less than $74,599, 6.5 or more percentage points.

4. *Determining the annual percentage rate for certain loans for which the interest rate may or will change.*

i. *In general.* The commentary to § 1026.17(c)(1) and other provisions in subpart C address how to determine the annual percentage rate disclosures for closed-end credit transactions. Provisions in § 1026.32(a)(3) address how to determine the annual percentage rate to determine coverage under § 1026.32(a)(1)(i). Section 1026.43(e)(2)(vi) requires, for the purposes of § 1026.43(e)(2)(vi), a different determination of the annual percentage rate for a qualified mortgage under § 1026.43(e)(2) for which the interest rate may or will change within the first five years after the date on which the first regular periodic payment will be due. An identical special rule for determining the annual percentage rate for such a loan also applies for purposes of § 1026.43(b)(4).

ii. *Loans for which the interest rate may or will change.* Section 1026.43(e)(2)(vi) includes a special rule for determining the annual percentage rate for a loan for which the interest rate may or will change within the first five years after the date on which the first regular periodic payment will be due. This rule applies to adjustable-rate mortgages that have a fixed-rate period of five years or less and to step-rate mortgages for which the interest rate changes within that five-year period.

iii. *Maximum interest rate during the first five years.* For a loan for which the interest rate may or will change within the first five years after the date on which the first regular periodic payment will be due, a creditor must treat the maximum interest rate that could apply at any time during that five-year period as the interest rate for the full term of the loan to determine the annual percentage rate for purposes of § 1026.43(e)(2)(vi), regardless of whether the maximum interest rate is reached at the first or subsequent adjustment during the five-year period. For additional instruction on how to determine the maximum interest rate during the first five years after the date on which the first regular periodic payment will be due, see comments 43(e)(2)(iv)–3 and –4.

iv. *Treatment of the maximum interest rate in determining the annual percentage rate.* For a loan for which the interest rate may or will change within the first five years after the date on which the first regular periodic payment will be due, the creditor must determine the annual percentage rate for purposes of § 1026.43(e)(2)(vi) by treating the maximum interest rate that may apply within the first five years as the interest rate for the full term of the loan. For example, assume an adjustable-rate mortgage with a loan term of 30 years and an initial discounted rate of 5.0 percent that is fixed for the first three years. Assume that the maximum interest rate during the first five years after the date on which the first regular periodic payment will be due is 7.0 percent. Pursuant to § 1026.43(e)(2)(vi), the creditor must determine the annual percentage rate based on an interest rate of 7.0 percent applied for the full 30-year loan term.

5. *Meaning of a manufactured home.* For purposes of § 1026.43(e)(2)(vi)(D), manufactured home means any residential structure as defined under regulations of the U.S. Department of Housing and Urban Development (HUD) establishing manufactured home construction and safety standards (24 CFR 3280.2). Modular or other factory-built homes that do not meet the HUD code standards are not manufactured homes for purposes of § 1026.43(e)(2)(vi)(D).

6. *Scope of threshold for transactions secured by a manufactured home.* The threshold in § 1026.43(e)(2)(vi)(D) applies to first-lien covered transactions less than $110,260 (indexed for inflation) that are secured by a manufactured home and land, or by a manufactured home only.

* * * * *

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

1. *Annual adjustment for inflation.* The dollar amounts, including the loan amounts, in § 1026.43(e)(3)(i) will be adjusted annually on January 1 by the annual percentage change in the CPI–U that was in effect on the preceding June 1. The Bureau will publish adjustments after the June figures become available each year.

i. For 2015, reflecting a 2 percent increase in the CPI–U that was reported on the preceding June 1, a covered transaction is not a qualified mortgage unless the transactions total points and fees do not exceed;

A. For a loan amount greater than or equal to $101,953: 3 percent of the total loan amount;

B. For a loan amount greater than or equal to $61,172 but less than $101,953: $3,059;

C. For a loan amount greater than or equal to $20,391 but less than $61,172: 5 percent of the total loan amount;

D. For a loan amount greater than or equal to $12,744 but less than $20,391; $1,020;

E. For a loan amount less than $12,744: 8 percent of the total loan amount.

ii. For 2016, reflecting a 0.2 percent decrease in the CPI–U that was reported on the preceding June 1, a covered transaction is not a qualified mortgage unless the transactions total points and fees do not exceed;

A. For a loan amount greater than or equal to $101,749: 3 percent of the total loan amount;

B. For a loan amount greater than or equal to $61,050 but less than $101,749: $3,052;

C. For a loan amount greater than or equal to $20,350 but less than $61,050: 5 percent of the total loan amount;

D. For a loan amount greater than or equal to $12,719 but less than $20,350; $1,017;

E. For a loan amount less than $12,719: 8 percent of the total loan amount.

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

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

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

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

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

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

iv. For 2018, reflecting a 2.2 percent increase in the CPI–U that was reported on the preceding June 1, a covered transaction is not a qualified mortgage unless the transaction's total points and fees do not exceed:

A. For a loan amount greater than or equal to $105,158: 3 percent of the total loan amount;

B. For a loan amount greater than or equal to $63,095 but less than $105,158: $3,155;

C. For a loan amount greater than or equal to $21,032 but less than $63,095: 5 percent of the total loan amount;

D. For a loan amount greater than or equal to $13,145 but less than $21,032: $1,052;

E. For a loan amount less than $13,145: 8 percent of the total loan amount.

v. For 2019, reflecting a 2.5 percent increase in the CPI–U that was reported on the preceding June 1, a covered transaction is not a qualified mortgage unless the transaction's total points and fees do not exceed:

A. For a loan amount greater than or equal to $107,747: 3 percent of the total loan amount;

B. For a loan amount greater than or equal to $64,648 but less than $107,747: $3,232;

C. For a loan amount greater than or equal to $21,549 but less than $64,648: 5 percent of the total loan amount;

D. For a loan amount greater than or equal to $13,468 but less than $21,549: $1,077;

E. For a loan amount less than $13,468: 8 percent of the total loan amount.

vi. For 2020, reflecting a 2 percent increase in the CPI–U that was reported on the preceding June 1, a covered transaction is not a qualified mortgage unless the transaction's total points and fees do not exceed:

A. For a loan amount greater than or equal to $109,898: 3 percent of the total loan amount;

B. For a loan amount greater than or equal to $65,939 but less than $109,898: $3,297;

C. For a loan amount greater than or equal to $21,980 but less than $65,939: 5 percent of the total loan amount;

D. For a loan amount greater than or equal to $13,737 but less than $21,980: $1,099;

E. For a loan amount less than $13,737: 8 percent of the total loan amount.

vii. For 2021, reflecting a 0.3 percent increase in the CPI–U that was reported on the preceding June 1, a covered transaction is not a qualified mortgage unless the transaction's total points and fees do not exceed:

A. For a loan amount greater than or equal to $110,260: 3 percent of the total loan amount;

B. For a loan amount greater than or equal to $66,156 but less than $110,260: $3,308;

C. For a loan amount greater than or equal to $22,052 but less than $66,156: 5 percent of the total loan amount;

D. For a loan amount greater than or equal to $13,783 but less than $22,052: $1,103;

E. For a loan amount less than $13,783: 8 percent of the total loan amount.

viii. For 2022, reflecting a 4.2 percent increase in the CPI–U that was reported on the preceding June 1, a covered transaction is not a qualified mortgage unless the transaction's total points and fees do not exceed:

A. For a loan amount greater than or equal to $114,847: 3 percent of the total loan amount;

B. For a loan amount greater than or equal to $68,908 but less than $114,847: $3,445;

C. For a loan amount greater than or equal to $22,969 but less than $68,908: 5 percent of the total loan amount;

D. For a loan amount greater than or equal to $14,356 but less than $22,969: $1,148;

E. For a loan amount less than $14,356: 8 percent of the total loan amount.

ix. For 2023, reflecting an 8.3 percent increase in the CPI–U that was reported on the preceding June 1, a covered transaction is not a qualified mortgage unless the transaction's total points and fees do not exceed:

A. For a loan amount greater than or equal to $124,331: 3 percent of the total loan amount;

B. For a loan amount greater than or equal to $74,599 but less than $124,331: $3,730;

C. For a loan amount greater than or equal to $24,866 but less than $74,599: 5 percent of the total loan amount;

D. For a loan amount greater than or equal to $15,541 but less than $24,866: $1,243;

E. For a loan amount less than $15,541: 8 percent of the total loan amount.

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Laura Galban,

Federal Register Liaison, Consumer Financial Protection Bureau.

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FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1282

RIN 2590–AB21

2023–2024 Multifamily Enterprise Housing Goals

AGENCY: Federal Housing Finance Agency.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Agency (FHFA or the Agency) is issuing a final rule on the multifamily housing goals for Fannie Mae and Freddie Mac (the Enterprises) for 2023 and 2024. The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (the Safety and Soundness Act) requires FHFA to establish annual housing goals for mortgages purchased by the Enterprises. Under FHFA's existing housing goals regulation, the multifamily housing goals for the Enterprises include benchmark levels through the end of 2022 based on the total number of affordable units in multifamily properties financed by mortgage loans purchased by the Enterprise each year. This final rule amends the regulation to establish benchmark levels for the multifamily housing goals for 2023 and 2024 based on a new methodology—the percentage of affordable units in multifamily properties financed by mortgages purchased by the Enterprise each year.

DATES: The final rule is effective on February 21, 2023.

FOR FURTHER INFORMATION CONTACT: Ted Wartell, Associate Director, Housing & Community Investment, Division of Housing Mission and Goals, (202) 649–3157, *Ted.Wartell@fhfa.gov;* Padmasini Raman, Supervisory Policy Analyst, Housing & Community Investment, Division of Housing Mission and Goals, (202) 649–3633, *Padmasini.Raman@fhfa.gov;* Kevin Sheehan, Associate General Counsel, Office of General Counsel, (202) 649–3086, *Kevin.Sheehan@fhfa.gov.* These are not toll-free numbers. The mailing address is: Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. For TTY/TRS users with hearing and speech disabilities, dial 711 and ask to be connected to any of the contact numbers above.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory and Regulatory Background for the Housing Goals

The Safety and Soundness Act requires FHFA to establish several annual housing goals for both single-family and multifamily mortgages purchased by the Enterprises.[1] The achievement of the annual housing goals is one measure of the extent to which the Enterprises are meeting their public purposes, which include ''an affirmative obligation to facilitate the financing of affordable housing for low- and moderate-income families in a manner consistent with their overall public purposes, while maintaining a strong financial condition and a reasonable economic return.''[2]

Since 2010, FHFA has established annual housing goals for Enterprise purchases of both single-family and multifamily mortgages by rulemaking, consistent with the requirements of the Safety and Soundness Act. FHFA's most recent final rule amending the housing goals regulation was issued in December 2021 and established benchmark levels for the single-family housing goals for 2022 through 2024 and benchmark levels for the multifamily housing goals for 2022 only.[3] On August 18, 2022, FHFA issued a proposed rule that proposed a new methodology and benchmark levels for the multifamily housing goals for 2023 and 2024.[4]

B. Adjusting the Housing Goals

If, after publication of the final rule establishing the multifamily housing goals for 2023 and 2024, FHFA determines that any of the multifamily housing goals or subgoals should be adjusted in light of market conditions to ensure the safety and soundness of the Enterprises, or for any other reason,

[1] *See* 12 U.S.C. 4561(a).

[2] *See* 12 U.S.C. 4501(7).

[3] *See* 86 FR 73641 (December 28, 2021).

[4] *See* 87 FR 50794 (August 18, 2022).