Board, if the company is a U.S. company, this amount will be the average of the nonbank financial company's total consolidated assets as reported for the assessment period on such regulatory or other reports as are applicable to the nonbank financial company determined by the Board; if the company is a foreign company, this amount will be the average of the nonbank financial company's total combined assets of U.S. operations, net of intercompany balances and transactions between U.S. domiciled affiliates, branches and agencies, as reported for the assessment period on such regulatory or other reports as determined by the Board as applicable to the nonbank financial company.

§ 246.5 Notice of Assessment and Appeal

(a) *Notice of Assessment.* The Board shall issue a notice of assessment to each assessed company no later than July 15 of each calendar year following the assessment period.

(b) *Appeal Period.*

(1) Each assessed company will have thirty calendar days from July 15 to submit a written statement to appeal the Board's determination (i) that the company is an assessed company; or (ii) of the company's total assessable assets.

(2) The Board will respond with the results of its consideration to an assessed company that has submitted a written appeal within 15 calendar days from the end of the appeal period.

§ 246.6 Collection of Assessments; Payment of Interest.

(a) *Collection date.* Each assessed company shall remit to the Federal Reserve the amount of its assessment using the Fedwire Funds Service by September 30 of the calendar year following the assessment period.

(b) *Payment of interest.*

(1) If the Board does not receive the total amount of an assessed company's assessment by the collection date for any reason not attributable to the Board, the assessment will be delinquent and the assessed company shall pay to the Board interest on any sum owed to the Board according to this rule (delinquent payments).

(2) Interest on delinquent payments will be assessed beginning on the first calendar day after the collection date, and on each calendar day thereafter up to and including the day payment is received. Interest will be simple interest, calculated for each day payment is delinquent by multiplying the daily equivalent of the applicable interest rate by the amount delinquent. The rate of interest will be the United State Treasury Department's current value of funds rate (the ''CVFR percentage''); issued under the Treasury Fiscal Requirements Manual and published quarterly in the **Federal Register**. Each delinquent payment will be charged interest based on the CVFR percentage applicable to the quarter in which all or part of the assessment goes unpaid.

By order of the Board of Governors of the Federal Reserve System, April 12, 2013.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2013–09061 Filed 4–17–13; 8:45 am]

BILLING CODE P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1026

[Docket No. CFPB–2013–0009]

RIN 3170–AA37

Amendments to the 2013 Escrows Final Rule Under the Truth in Lending Act (Regulation Z)

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Proposed rule with request for public comment.

SUMMARY: This rule proposes clarifying and technical amendments to a final rule issued by the Bureau of Consumer Financial Protection (Bureau) on January 10, 2013, which, among other things, lengthens the time for which a mandatory escrow account established for a higher-priced mortgage loan (HPML) must be maintained. The rule also established an exemption from the escrow requirement for certain creditors that operate predominantly in ''rural'' or ''underserved'' areas. The amendments clarify the determination method for the ''rural'' and ''underserved'' designations and keep in place certain existing protections for HPMLs until other similar provisions take effect in January 2014.

DATES: Comments must be received on or before May 3, 2013.

ADDRESSES: You may submit comments, identified by Docket No. CFPB–2013–0009 or RIN 3170–AA37, by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail/Hand Delivery/Courier:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552.

Instructions: All submissions should include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, comments will be available for public inspection and copying at 1700 G Street NW., Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning (202) 435–7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or social security numbers, should not be included. Comments will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Whitney Patross, Attorney; Joseph Devlin and Richard Arculin, Counsels; Office of Regulations, at (202) 435–7700.

SUPPLEMENTARY INFORMATION:

I. Summary of Proposed Rule

In January 2013, the Bureau issued several final rules concerning mortgage markets in the United States pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) Public Law 111–203, 124 Stat. 1376 (2010) (2013 Title XIV Final Rules). One of these rules was Escrow Requirements Under the Truth in Lending Act (Regulation Z) (2013 Escrows Final Rule),[1] issued on January 10.[2] The rule expanded on an existing Regulation Z requirement that creditors maintain escrow accounts for higher-priced mortgage loans and created an exemption for certain loans made by

[1] 78 FR 4726 (Jan. 22, 2013).

[2] The other rules include: Ability-to-Repay and Qualified Mortgage Standards under the Truth in Lending Act (Regulation Z) (2013 ATR Final Rule), 78 FR 6407; High-Cost Mortgages and Homeownership Counseling Amendments to the Truth in Lending Act (Regulation Z) and Homeownership Counseling Amendments to the Real Estate Settlement Procedures Act (Regulation X) (2013 HOEPA Final Rule), 78 FR 6855; Disclosure and Delivery Requirements for Copies of Appraisals and Other Written Valuations under the Equal Credit Opportunity Act (Regulation B), 78 FR 7215; Mortgage Servicing Rules Under the Real Estate Settlement Procedures Act (Regulation X), 78 FR 10695; Mortgage Servicing Rules Under the Truth in Lending Act (Regulation Z), 78 FR 10901; Appraisals for Higher-Priced Mortgage Loans (issued jointly with other agencies) (2013 Interagency Appraisals Final Rule), 78 FR 10367; Loan Originator Compensation Requirements under the Truth in Lending Act (Regulation Z), 78 FR 11279.

certain creditors that operate predominantly in ''rural'' or ''underserved'' areas. Three other of the 2013 Title XIV Final Rules also contain provisions affecting certain loans made in ''rural'' or ''underserved'' areas.

The Bureau is now proposing certain clarifying and technical amendments to the 2013 Escrows Final Rule, including clarification of how to determine whether a county is considered ''rural'' or ''underserved'' for the application of the escrows requirement and the other Dodd-Frank Act regulations.[3] Specifically, the Bureau is proposing changes to clarify how a county's ''rural'' and ''underserved'' status may be determined based on currently applicable Urban Influence Codes (UICs) established by the United States Department of Agriculture, Economic Research Service (USDA–ERS) (for ''rural'') or based on Home Mortgage Disclosure Act (HMDA) data (for ''underserved'') and to provide illustrations of the rule to facilitate compliance.

In addition, the proposal would restore certain existing Regulation Z requirements related to the consumer's ability to repay and prepayment penalties for HPMLs. The scope of these protections is being expanded in connection with the 2013 Title XIV Final Rules to apply to most mortgage transactions, rather than just HPMLs. For this reason, the 2013 Escrows Final Rule removed the regulatory text providing these protections solely to HPMLs. That final rule, however, takes effect on June 1, 2013, whereas the new ability-to-repay and prepayment penalty provisions do not take effect until January 10, 2014. To prevent any interruption in applicable protections, this proposal would establish a temporary provision to ensure the protections remain in place for HPMLs until the expanded provisions take effect in January 2014.

In addition, the Bureau is making some technical corrections to enhance clarity.

[3] The specific provisions that rely on the ''rural'' and ''underserved'' definitions are as follows: (1) The § 1026.35(b)(2)(iii) exemption to the 2013 Escrows Final Rule's escrow requirement for higher-priced mortgage loans; (2) the § 1026.43(f) allowance for balloon-payment qualified mortgages; (3) the § 1026.32(d)(1)(ii)(C) exemption from the balloon payment prohibition on high-cost mortgages; and (4) the § 1026.35(c)(4)(vii)(H) exemption from the § 1026.35(c)(4)(i) HPML second appraisal requirement for credit transactions made by creditors located in a rural county.

II. Background

A. Title XIV Rulemakings Under the Dodd-Frank Act and the 2013 Escrows Final Rule

In response to an unprecedented cycle of expansion and contraction in the mortgage market that sparked the most severe U.S. recession since the Great Depression, Congress passed the Dodd-Frank Act, which was signed into law on July 21, 2010. In the Dodd-Frank Act, Congress established the Bureau and, under sections 1061 and 1100A, generally consolidated the rulemaking authority for Federal consumer financial laws, including the Truth in Lending Act (TILA), in the Bureau.[4] At the same time, Congress significantly amended the statutory requirements governing mortgages with the intent to restrict the practices that contributed to and exacerbated the crisis. In January 2013, the Bureau issued the 2013 Title XIV Final Rules. The 2013 Escrows Final Rule,[5] issued on January 10, was one of these rules. Among the 2013 Title XIV Final Rules in January were the 2013 ATR Final Rule, 2013 HOEPA Final Rule, and 2013 Interagency Appraisals Final Rule.

B. Implementation Plan for New Mortgage Rules

On February 13, 2013, the Bureau announced an initiative to support implementation of the new mortgage rules (Implementation Plan),[6] under which the Bureau would work with the mortgage industry to ensure that the 2013 Title XIV Final Rules can be implemented accurately and expeditiously. The Implementation Plan included: (1) Coordination with other agencies; (2) publication of plain-language guides to the new rules; (3) publication of additional interpretive guidance and other updates regarding the new rules as needed; (4) publication of readiness guides for the new rules; and (5) education of consumers on the new rules.

This proposed rule is the first publication of additional guidance and updates regarding the 2013 Title XIV Final Rules. Priority for this first set of updates has been given to the 2013 Escrows Final Rule because the effective date is June 1, 2013, and certainty regarding compliance is a matter of some urgency. Another update to certain of the 2013 Title XIV Final Rules will be proposed shortly, which will affect provisions that take effect in January 2014, and others will be issued as needed.

[4] Sections 1011 and 1021 of the Dodd-Frank Act, in title X, the ''Consumer Financial Protection Act,'' Public Law 111–203, secs. 1001–1100H, codified at 12 U.S.C. 5491, 5511. The Consumer Financial Protection Act is substantially codified at 12 U.S.C. 5481–5603. Section 1029 of the Dodd-Frank Act excludes from this transfer of authority, subject to certain exceptions, any rulemaking authority over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both. 12 U.S.C. 5519.

[5] 78 FR 4726 (Jan. 22, 2013).

[6] Consumer Financial Protection Bureau Lays Out Implementation Plan for New Mortgage Rules. Press Release. Feb. 13, 2013.

III. Legal Authority

The Bureau is issuing this proposed rule pursuant to its authority under TILA and the Dodd-Frank Act. Section 1061 of the Dodd-Frank Act transferred to the Bureau the ''consumer financial protection functions'' previously vested in certain other Federal agencies, including the Federal Reserve Board (Board) and the Department of Housing and Urban Development (HUD). The term ''consumer financial protection function'' is defined to include ''all authority to prescribe rules or issue orders or guidelines pursuant to any Federal consumer financial law, including performing appropriate functions to promulgate and review such rules, orders, and guidelines.''[7] TILA, title X of the Dodd-Frank Act, and certain subtitles and provisions of title XIV of the Dodd-Frank Act are Federal consumer financial laws.[8] Accordingly, the Bureau has authority to issue regulations pursuant to TILA, title X, and the enumerated subtitles and provisions of title XIV.

The Bureau is proposing to amend the 2013 Escrows Final Rule.[9] This proposed rule relies on the broad rulemaking authority specifically granted to the Bureau by TILA section 105(a) and title X of the Dodd-Frank Act, as well as the exemption authority in TILA section 129D(c). Additionally, the proposed rule relies on the rulemaking authority used in connection with the 2013 HOEPA Final Rule,[10] including RESPA section 19(a) and TILA section 129(p).

[7] 12 U.S.C. 5581(a)(1).

[8] Dodd-Frank Act section 1002(14), 12 U.S.C. 5481(14) (defining ''Federal consumer financial law'' to include the ''enumerated consumer laws'' and the provisions of title X of the Dodd-Frank Act); Dodd-Frank Act section 1002(12), 12 U.S.C. 5481(12) (defining ''enumerated consumer laws'' to include TILA), Dodd-Frank section 1400(b), 15 U.S.C. 1601 note (defining ''enumerated consumer laws'' to certain subtitles and provisions of title XIV).

[9] 78 FR 4726 (January 22, 2013).

[10] 78 FR 6856 (January 31, 2013).

IV. Section-by-Section Analysis

Section 1026.35 Requirements for Higher-Priced Mortgage Loans

35(b) Escrow Accounts

35(b)(1)

The Bureau is making a technical correction to 1026.35(b)(1) to update a citation.

35(b)(2) Exemptions

''Rural'' or ''Underserved'' Designation

Four of the Bureau's January 2013 mortgage rules included provisions that provide for special treatment under various Regulation Z requirements for certain credit transactions made by creditors operating predominantly in ''rural'' or ''underserved'' areas: (1) § 1026.35(b)(2)(iii) provides an exemption to the 2013 Escrows Final Rule's escrow requirement for HPMLs; (2) § 1026.43(f) provides an allowance to originate balloon-payment qualified mortgages under the 2013 ATR Final Rule; (3) § 1026.32(d)(1)(ii)(C) provides an exemption from the balloon payment prohibition on high-cost mortgages under the 2013 HOEPA Final Rule; and (4) § 1026.35(c)(4)(vii)(H) provides an exemption from a requirement to obtain a second appraisal for certain HPMLs under the 2013 Interagency Appraisals Final Rule. These provisions rely on the criteria for ''rural'' and/or ''underserved'' counties set forth in § 1026.35(b)(2)(iv)(A) and (B), respectively, of the 2013 Escrows Final Rule, which takes effect on June 1, 2013.

Two special provisions for creditors operating predominantly in ''rural'' or ''underserved'' areas were set forth in the Dodd-Frank Act amendments to TILA, but the terms were not defined by statute. TILA section 129D, as added and amended by Dodd-Frank Act sections 1461 and 1462 and implemented by § 1026.35(b), generally requires that creditors establish escrow accounts for HPMLs secured by a first lien on a consumer's principal dwelling, but the statute also authorizes the Bureau to exempt from this requirement transactions by a creditor that, among other criteria, ''operates predominantly in rural or underserved areas.'' TILA section 129D(c)(1). Similarly, the ability-to-repay provisions in Dodd-Frank Act section 1412 contain a set of criteria with regard to certain balloon-payment mortgages originated and held in portfolio by certain creditors that operate predominantly in rural or underserved areas, allowing those loans to be considered qualified mortgages. *See* TILA section 129C(b)(2)(E), 15 U.S.C. 1639c(b)(2)(E). In the 2013 Escrows and ATR Final Rules, the Bureau implemented the HPML escrows requirement and the section 1412 balloon-payment qualified mortgage provision through §§ 1026.35(b)(2)(iii) and 1026.43(f), respectively. In addition, the Bureau adopted an exemption to the general prohibition of balloon payments for high-cost mortgages when those mortgages meet the criteria for balloon-payment qualified mortgages set forth in § 1026.43(f), as part of the 2013 HOEPA Final Rule, in § 1026.32(d)(1)(ii)(C). Finally, the Bureau and other Federal agencies adopted § 1026.35(c)(4)(vii)(H), which provides an exemption from a requirement to obtain a second appraisal for certain HPMLs under the 2013 Interagency Appraisals Final Rule for credit transactions made by creditors in rural counties.

Through the 2013 Escrows Final Rule, the Bureau adopted § 1026.35(b)(2)(iv)(A) and (B) to define ''rural'' and ''underserved'' respectively for the purposes of the four rules discussed above that contain special provisions that use one or both of those terms. The 2013 Escrows Final Rule also provided comment 35(b)(2)(iv)–1 to clarify further the criteria for ''rural'' and ''underserved'' counties, and provided that the Bureau will annually update on its public Web site a list of counties that meet the definitions of rural and underserved in § 1026.35(b)(2)(iv). In advance of the rule's June 1 effective date, the Bureau is proposing to amend § 1026.35(b)(2)(iv) and comment 35(b)(2)(iv)–1 to clarify how to determine whether a county is rural or underserved for the purposes of these provisions.

35(b)(2)(iii)

The Bureau is proposing modifications to § 1026.35(b)(2)(iii) and comment 35(b)(2)(iii)–1.i for clarification purposes and for consistency with other provisions. As adopted, § 1026.35(b)(2)(iii) and its commentary state that the Bureau will designate or determine which counties are rural or underserved for the purposes of the special provisions of the four rules discussed above. This was not the Bureau's intent. Rather, the Bureau intended to require determinations of ''rural'' or ''underserved'' status to be made by creditors as prescribed by § 1026.35(b)(2)(iv)(A) and (B), but also intended for the Bureau to apply both tests to each U.S. county and publish an annual list of counties that satisfy either test for a given calendar year, which creditors may rely upon as a safe harbor. The Bureau is proposing modifications to § 1026.35(b)(2)(iii)(A) and comment 35(b)(2)(iii)–1.i for the purposes of clarification and consistency with these provisions.

35(b)(2)(iv)(A)

''Rural''

As adopted, § 1026.35(b)(2)(iv)(A) defines ''rural'' based on currently applicable UICs established by the USDA–ERS. The UICs are based on the definitions of ''metropolitan statistical area'' and ''micropolitan statistical area'' as developed by the Office of Management and Budget (OMB), along with other factors reviewed by the ERS that place counties into twelve separately defined UICs depending, in part, on the size of the largest city and town in the county. Based on these definitions, § 1026.35(b)(2)(iv)(A) as adopted states that a county is ''rural'' during a calendar year if it is neither in a metropolitan statistical area nor in a micropolitan statistical area that is adjacent to a metropolitan statistical area, as those terms are defined by OMB and applied under currently applicable UICs.

As adopted, comment 35(b)(2)(iv)–1.i explains that, for the purposes of the provision, the terms ''metropolitan statistical areas'' and ''micropolitan statistical areas adjacent to a metropolitan statistical area'' are given the same meanings used by USDA–ERS for the purposes of determining UICs. The USDA–ERS considers micropolitan counties as ''adjacent'' to a metropolitan statistical area for this purpose if they abut a metropolitan statistical area and have at least 2% of employed persons commuting to work in the core of the metropolitan statistical area.[11] It is thus implicit in this comment that ''adjacent'' is given the same meaning used by the USDA–ERS for the purposes of § 1026.35(b)(2)(iv)(A).

Nevertheless, the Bureau believes additional commentary that explains the meaning of ''adjacent'' more directly would be useful to facilitate compliance with § 1026.35(b)(2)(iv) and the provisions that rely on it. Accordingly, the Bureau is proposing to amend comment 35(b)(2)(iv)–1.i. to state expressly that ''adjacent'' entails physical contiguity with a metropolitan statistical area where certain minimum commuting standards are also met, as defined by the USDA–ERS. The Bureau believes this is consistent with USDA–ERS's use of ''adjacent'' and better explains the rule for compliance purposes.

Similarly, the Bureau is proposing language to specify under § 1026.35(b)(2)(iv)(A) how ''rural'' status

[11] *See http://www.ers.usda.gov/data-products/urban-influence-codes/documentation.aspx.*

should be determined for a county that does not have a currently applicable UIC because it was created after the USDA–ERS last categorized counties by UIC. Because the USDA–ERS only updates UICs decennially based on the most recent census, it is possible that new counties may be created that will not have a designated UIC until after the next census. In such instances, clarification is needed to explain how ''rural'' status would be determined. The Bureau is proposing to amend comment 35(b)(2)(iv)–1.i to address this issue and explain that any such county is considered ''rural'' for the purposes of § 1026.35(b)(2)(iv) only if all counties from which the new county's land was taken are themselves rural under the rule.

The Bureau is also proposing comment 35(b)(2)(iv)–2.i to provide an example of how ''rural'' status is determined. In addition, the Bureau is making small technical changes to the rule provision and commentary to enhance clarity.

35(b)(2)(iv)(B)

''Underserved''

Section 1026.35(b)(2)(iii)(A) creates an exemption from the HPML escrow requirement for transactions by creditors operating in rural or underserved counties, if they meet certain criteria involving the loans they originated *during the preceding calendar year.* Thus, the availability of the rural or underserved exemption always follows a year after the origination activity that makes a creditor eligible for the exemption.

As adopted by the 2013 Escrows Final Rule, § 1026.35(b)(2)(iv)(B) states that a county is ''underserved'' during a calendar year if, ''according to Home Mortgage Disclosure Act (HMDA) data for that year,'' no more than two creditors extended covered transactions, as defined in § 1026.43(b)(1), secured by a first lien, five or more times in the county. However, HMDA data typically are released for a given calendar year during the third or fourth quarter of each subsequent calendar year. It is thus not generally possible for creditors to make determinations concerning whether a county was underserved during the preceding calendar year based on that preceding year's HMDA data, because such data likely will not be available until late in the following year. In wording § 1026.35(b)(2)(iv)(B) as it did, the Bureau did not intend to require the use of HMDA data that is not yet available at the time the determination of a county's ''underserved'' status is made; the Bureau's intent was to provide for the use of the most recent HMDA data available at the time of the determination.

The Bureau therefore is proposing to amend § 1026.35(b)(2)(iv)(B) to clarify that a county is considered ''underserved'' during a given calendar year based on HMDA data for ''the preceding calendar year'' as opposed to ''that calendar year.'' This look-back feature coordinates with the look-back feature in the exemption itself at § 1026.35(b)(2)(iii)(A), so that a creditor would rely on the underserved status of a county based on HMDA data from two years previous to the use of the exemption, which are the most recent data available for use as the Bureau intended. The Bureau is also proposing to amend comment 35(b)(2)(iv)–1.ii to conform to this change, and to add proposed comment 35(b)(2)(iv)–2.ii to provide an example.

1026.35(e) Repayment Ability, Prepayment Penalties

The Bureau is proposing language in § 1026.35(e) to keep in place existing requirements contained in § 1026.35(b) concerning assessment of consumers' ability to repay an HPML and limitations on prepayment penalties for HPMLs. These provisions were originally adopted by the Board in 2008,[12] and will be supplanted by the Bureau's new rules implementing similar Dodd-Frank requirements in § 1026.43 on January 10, 2014.

The 2013 Escrows Final Rule inadvertently removed the existing language of § 1026.35(b) between June 1, 2013 and the January 10, 2014, effective date for the ability-to-repay and prepayment penalty provisions in § 1026.43. This proposed rule would restore this language at § 1026.35(e) and keep it in effect during that intervening period. The Bureau is also proposing to update existing cross-references to the § 1026.35(b) HPML provisions.

V. Effective Date

The Bureau contemplates making the proposed § 1026.35(e) effective from June 1, 2013, through and including January 9, 2014, and making the other proposed amendments effective on June 1, 2013. Section 553(d) of the Administrative Procedure Act generally requires the effective date of a final rule to be at least 30 days after publication of a rule, except for (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). The Bureau believes the proposed amendments would likely fall under one or more of these exceptions to section 553(d). The Bureau particularly notes that making the proposed amendments effective on June 1, 2013, would ease compliance and reduce disruption in the market, and ensure that the protections of the rule are uninterrupted.

VI. Section 1022(b)(2) of the Dodd-Frank Act

A. Overview

The Bureau is considering the potential benefits, costs, and impacts of the proposed rule.[13] The Bureau requests comment on the preliminary analysis presented below as well as submissions of additional data that could inform the Bureau's analysis of the benefits, costs, and impacts of the proposed rule. The Bureau has consulted, or offered to consult with, the prudential regulators, SEC, HUD, FHFA, the Federal Trade Commission, and the Department of the Treasury, including regarding consistency with any prudential, market, or systemic objectives administered by such agencies.

The proposal would clarify how to determine whether a county is considered ''rural'' or ''underserved'' for the application of the special provisions adopted in certain of the 2013 Title XIV Final Rules.[14] These changes would not have a material impact on consumers or covered persons.

Other provisions of the proposed rule are related to underwriting and features of HPMLs. As described above, existing

[12] 73 FR 44522 (July 30, 2008).

[13] Section 1022(b)(2)(A) of the Dodd-Frank Act, 12 U.S.C. 5521(b)(2), directs the Bureau, when prescribing a rule under the Federal consumer financial laws, to consider the potential benefits and costs of regulation to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services; the impact on insured depository institutions and credit unions with $10 billion or less in total assets as described in section 1026 of the Dodd-Frank Act; and the impact on consumers in rural areas. Section 1022(b)(2)(B) of the Dodd-Frank Act directs the Bureau to consult with appropriate prudential regulators or other Federal agencies regarding consistency with prudential, market, or systemic objectives that those agencies administer.

[14] The special provisions that rely on the ''rural'' and ''underserved'' definitions are as follows: (1) The § 1026.35(b)(2)(iii) exemption to the 2013 Escrows Final Rule's escrow requirement for higher-priced mortgage loans; (2) the § 1026.43(f) allowance for balloon-payment qualified mortgages; (3) the § 1026.32(d)(1)(ii)(C) exemption from the balloon payment prohibition on high-cost mortgages; and (4) the § 1026.35(c)(4)(vii)(H) exemption from the § 1026.35(c)(4)(i) HPML second appraisal requirement for credit transactions made by creditors located in a rural county.

Regulation Z contains requirements related to the consumer's ability to repay and prepayment penalties for HPMLs. The scope of these protections is being expanded in connection with the Dodd-Frank Act title XIV rulemakings to apply to most mortgage transactions, rather than just HPMLs. For this reason, the 2013 Escrows Final Rule removed the regulatory text providing these protections solely to HPMLs. That final rule, however, takes effect on June 1, 2013, whereas the new ability-to-repay and prepayment penalty provisions do not take effect until January 10, 2014. Absent a correction, as proposed, the final rules issued in January would inadvertently create an interruption in applicable protections for certain consumers obtaining HPMLs effective June 1, and a corresponding relaxation of the requirements for lenders. This proposal would establish a temporary provision to ensure the protections remain in place for HPMLs until the expanded provisions take effect in January 2014. Because this interruption was inadvertent, the Bureau's 1022 analyses in the 2013 Title XIV Final Rules considered the impact of the protections at issue in this rule as if they were remaining in place.

B. Potential Benefits and Costs to Consumers and Covered Persons

Compared to the baseline established by the issuance of the final rules issued in January 2013, the proposed rule would offer consumers who obtain HPMLs from June 1, 2013 through and including January 9, 2014 the benefit of the existing protections under Regulation Z regarding ability-to-repay and prepayment penalties.[15] These provisions are designed to limit consumers' exposure to collateral-based lending, potentially harmful prepayment penalties and other harms. The price of HPMLs may be slightly higher than they would be in the absence of these protections; however, these effects are likely to be minimal.

Compared to the same baseline, covered persons issuing such mortgages during this time period would incur any costs related to the ability-to-pay requirements and the restrictions on certain prepayment penalties. These costs would include the costs of documenting and verifying the consumer's ability to repay and some expected litigation-related costs. As noted above, the evidence to date is that these costs are quite limited. The 2013 ATR Final Rule and the Board's earlier 2008 HOEPA Final Rule (73 FR 44522 (July 30, 2008)) discuss these costs and benefits in greater detail. This rule simply extends these impacts from June 1, 2013 through and including January 9, 2014. The Bureau also believes that the proposed rule would benefit both consumers and covered persons in limiting unnecessary and possibly disruptive changes in the regulatory regime.

The proposed rule may have a small differential impact on depository institutions and credit unions with $10 billion or less in total assets as described in Section 1026. To the extent that HPMLs comprise a larger percentage of originations at these institutions, the relative increase in costs may be higher relative to other lenders.

The proposed rule would have some differential impacts on consumers in rural areas. In these areas, a greater fraction of loans are HPMLs. As such, to the extent that these added protections lead to additional lender costs, interest rates may be slightly higher on average; however, rural consumers will derive greater benefit from the proposed provisions than non-rural consumers.

Given the small changes for the proposed rule, the Bureau does not believe that the proposed rule would meaningfully reduce consumers' access to credit.

VII. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) of any rule subject to notice-and-comment rulemaking requirements.[16] These analyses must ''describe the impact of the proposed rule on small entities.'' [17] An IRFA or FRFA is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities,[18] or if the agency considers a series of closely related rules as one rule for purposes of complying with the IRFA or FRFA requirements.[19] The Bureau also is subject to certain additional procedures under the RFA involving the convening of a panel to consult with small business representatives prior to proposing a rule for which an IRFA is required.[20]

This rulemaking is part of a series of rules that have revised and expanded the regulatory requirements for entities that offer HPMLs. In January 2013, the Bureau adopted the 2013 Escrows Final Rule and 2013 ATR Final Rule, along with other related rules mentioned above. Section VIII of the supplementary information to each of these rules set forth the Bureau's analyses and determinations under the RFA with respect to those rules. See 78 FR 4749, 78 FR 6575. The Bureau also notes because the potential interruption in applicable protections created by the issuance of the final rules in January was inadvertent, its Regulatory Flexibility analyses considered the impact of the protections at issue in this rule remaining in place for HPMLs until the expanded provisions take effect in January 2014. Because these rules qualify as ''a series of closely related rules,'' for purposes of the RFA, the Bureau relies on those analyses and determines that it has met or exceeded the IRFA requirement.

In the alternative, the Bureau also concludes that the proposed rule would not have a significant impact on a substantial number of small entities. The proposal would establish a temporary provision to ensure the protections remain in place for HPMLs until the expanded provisions take effect in January 2014. Since the new requirements and liabilities that will take effect in January 2014 as applied to higher-priced mortgage loans are very similar in nature to those that exist under the pre-existing regulations, the gap absent the proposed correction would be short-lived and would affect only the higher-priced mortgage loan market. It is therefore very unlikely absent the proposed correction that covered persons would alter their behavior substantially in the intervening period.

The proposal would also clarify how to determine whether a county is considered ''rural'' or ''underserved'' for the application of the special provisions adopted in certain of the 2013 Title XIV

[15] The Bureau has discretion in any rulemaking to choose an appropriate scope of analysis with respect to potential benefits and costs and an appropriate baseline.

[16] 5 U.S.C. 601 *et. seq.*

[17] 5 U.S.C. 603(a). For purposes of assessing the impacts of the proposed rule on small entities, ''small entities'' is defined in the RFA to include small businesses, small not-for-profit organizations, and small government jurisdictions. 5 U.S.C. 601(6). A ''small business'' is determined by application of Small Business Administration regulations and reference to the North American Industry Classification System (NAICS) classifications and size standards. 5 U.S.C. 601(3). A ''small organization'' is any ''not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' 5 U.S.C. 601(4). A ''small governmental jurisdiction'' is the government of a city, county, town, township, village, school district, or special district with a population of less than 50,000. 5 U.S.C. 601(5).

[18] 5 U.S.C. 605(b).

[19] 5 U.S.C. 605(c).

[20] 5 U.S.C. 609.

Final Rules.[21] These changes would not have a material impact on small entities.

As such, the Bureau affirms that the proposal would not have a significant impact on a substantial number of small entities.

VIII. Paperwork Reduction Act

This proposed rule would amend 12 CFR part 1026 (Regulation Z), which implements the Truth in Lending Act (TILA). Regulation Z currently contains collections of information approved by OMB. The Bureau's OMB control number for Regulation Z is 3170–0015. However, the Bureau has determined that this proposed rule would not materially alter these collections of information nor impose any new recordkeeping, reporting, or disclosure requirements on the public that would constitute collections of information requiring approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Comments on this determination may be submitted to the Bureau as instructed in the **ADDRESSES** section of this Notice and to the attention of the Paperwork Reduction Act Officer.

List of Subjects in 12 CFR Part 1026

Advertising, Consumer protection, Mortgages, Recordkeeping requirements, Reporting, Truth in lending.

Authority and Issuance

For the reasons set forth in the preamble, the Bureau proposes to further amend Regulation Z, 12 CFR part 1026, as amended by the final rule published on January 22, 2013, 78 FR 4726, 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, 5511, 5512, 5532, 5581; 15 U.S.C. 1601 *et seq.*

Subpart C—Closed-End Credit

■ 2. Section 1026.23 is amended by revising paragraph (a)(3)(ii) to read as follows:

§ 1026.23 Right of rescission.

(a) * * *

(3) * * *

(ii) For purposes of this paragraph (a)(3), the term ''material disclosures'' means the required disclosures of the annual percentage rate, the finance charge, the amount financed, the total of payments, the payment schedule, and the disclosures and limitations referred to in §§ 1026.32(c) and (d) and 1026.35(e)(2).

Subpart E—Special Rules for Certain Home Mortgage Transactions

■ 3. Section 1026.34 is amended by revising paragraph (a)(4)(i) to read as follows:

§ 1026.34 Prohibited acts or practices in connection with high-cost mortgages.

(a) * * *

(4) * * *

(i) *Mortgage-related obligations.* For purposes of this paragraph (a)(4), mortgage-related obligations are expected property taxes, premiums for mortgage-related insurance required by the creditor as set forth in § 1026.35(b), and similar expenses.

■ 4. Section 1026.35 is amended by revising paragraphs (b)(1), (b)(2)(iii)(A) and (b)(iv)(A) and (B), and adding paragraph (e), to read as follows:

§ 1026.35 Requirements for higher-priced mortgage loans.

* * * * *

(b) * * * For purposes of this paragraph (b), the term ''escrow account'' has the same meaning as under Regulation X (12 CFR 1024.17(b)), as amended.

(2) *Exemptions.* Notwithstanding paragraph (b)(1) of this section:

* * * * *

(iii) Except as provided in paragraph (b)(2)(v) of this section, an escrow account need not be established for a transaction if, at the time of consummation:

(A) During the preceding calendar year, the creditor extended more than 50 percent of its total covered transactions, as defined by § 1026.43(b)(1), secured by a first lien, on properties that are located in counties that are either ''rural'' or ''underserved,'' as set forth in paragraph (b)(2)(iv) of this section;

* * * * *

(iv) For purposes of paragraph (b)(2)(iii)(A) of this section:

(A) A county is ''rural'' during a calendar year if it is neither in a metropolitan statistical area nor in a micropolitan statistical area that is adjacent to a metropolitan statistical area, as those terms are defined by the U.S. Office of Management and Budget and as they are applied under currently applicable Urban Influence Codes (UICs), established by the United States Department of Agriculture's Economic Research Service (USDA–ERS). A creditor may rely as a safe harbor on the list of counties published by the Bureau to determine whether a county qualifies as ''rural'' for a particular calendar year.

(B) A county is ''underserved'' during a calendar year if, according to Home Mortgage Disclosure Act (HMDA) data for the preceding calendar year, no more than two creditors extended covered transactions, as defined in § 1026.43(b)(1), secured by a first lien, five or more times in the county. A creditor may rely as a safe harbor on the list of counties published by the Bureau to determine whether a county qualifies as ''underserved'' for a particular calendar year.

* * * * *

(e) *Repayment ability, Prepayment penalties.* Higher-priced mortgage loans are subject to the following restrictions:

(1) *Repayment ability.* A creditor shall not extend credit based on the value of the consumer's collateral without regard to the consumer's repayment ability as of consummation as provided in § 1026.34(a)(4).

(2) *Prepayment penalties.* A loan may not include a penalty described by § 1026.32(d)(6) unless:

(i) The penalty is otherwise permitted by law, including § 1026.32(d)(7) if the loan is a mortgage transaction described in § 1026.32(a); and

(ii) Under the terms of the loan:

(A) The penalty will not apply after the two-year period following consummation;

(B) The penalty will not apply if the source of the prepayment funds is a refinancing by the creditor or an affiliate of the creditor; and

(C) The amount of the periodic payment of principal or interest or both may not change during the four-year period following consummation.

(3) *Sunset of requirements on repayment ability and prepayment penalties.* The requirements described in paragraphs (e)(1) and (e)(2) of this section shall expire on January 10, 2014.

■ 5. In Supplement I to Part 1026—Official Interpretations:

■ A. Under *Section 1026.32—Requirements for Certain Closed-End Home Mortgages,* under *Paragraph 32(d) Limitations,* paragraph 1 is revised.

■ B. Under *Section 1026.34—Repayment Ability*

■ i. Under Paragraph 34(a)(4) Repayment ability for high-cost mortgages, paragraph 1 is revised.

■ ii. Under Paragraph 34(a)(4)(i) Mortgage-Related Obligations, paragraph 1 is revised.

[21] The special provisions that rely on the ''rural'' and ''underserved'' definitions are as follows: (1) the § 1026.35(b)(2)(iii) exemption to the 2013 Escrows Final Rule's escrow requirement for higher-priced mortgage loans; (2) the § 1026.43(f) allowance for balloon-payment qualified mortgages; (3) the § 1026.32(d)(1)(ii)(C) exemption from the balloon payment prohibition on high-cost mortgages; and (4) the § 1026.35(c)(4)(vii)(H) exemption from the § 1026.35(c)(4)(i) HPML second appraisal requirement for credit transactions made by creditors located in a rural county.

■ C. Under *Section 1026.35—Requirements for Higher-Priced Mortgage Loans:*
■ i. Under *Paragraph 35(b)(2)(iii),* paragraphs 1 and i are revised.
■ ii. Under *Paragraph 35(b)(2)(iv),* paragraphs 1, i, ii, 2, i, and ii are revised.
■ iii. The headings *35(e) Rules for Higher-Priced Mortgage Loans* and *Paragraph 35(e)(2)(ii)(C),* and paragraphs 1 and 2 are added.

Supplement I to Part 1026—Official Interpretations

* * * * *

Subpart E—Special Rules for Certain Home Mortgage Transactions

* * * * *

§ 1026.32—Requirements for Certain Closed-End Home Mortgages

* * * * *

Paragraph 32(d) Limitations.

1. *Additional prohibitions applicable under other sections.* Section 1026.34 sets forth certain prohibitions in connection with mortgage credit subject to § 1026.32, in addition to the limitations in § 1026.32(d). Further, § 1026.35 prohibits certain practices in connection with transactions that meet the coverage test in § 1026.35(a). Because the coverage test in § 1026.35(a) is generally broader than the coverage test in § 1026.32(a), most § 1026.32 mortgage loans are also subject to the prohibitions set forth in § 1026.35 (such as escrows), in addition to the limitations in § 1026.32(d).

* * * * *

§ 1026.34—Prohibited Acts or Practices in Connection with High-Cost Mortgages

* * * * *

Paragraph 34(a)(4) Repayment Ability.

1. *Application of repayment ability rule.* The § 1026.34(a)(4) prohibition against making loans without regard to consumers' repayment ability applies to mortgage loans described in § 1026.32(a). In addition, the § 1026.34(a)(4) prohibition applies to higher-priced mortgage loans described in § 1026.35(a). *See* § 1026.35(e)(1).

* * * * *

Paragraph 34(a)(4)(i) Mortgage-Related Obligations.

1. *Mortgage-related obligations.* A creditor must include in its repayment ability analysis the expected property taxes and premiums for mortgage-related insurance required by the creditor as set forth in § 1026.35(b), as well as similar mortgage-related expenses. Similar mortgage-related expenses include homeowners' association dues and condominium or cooperative fees.

* * * * *

§ 1026.35—Requirements for Higher-Priced Mortgage Loans

* * * * *

Paragraph 35(b)(2)(iii).

1. *Requirements for exemption.* Under § 1026.35(b)(2)(iii), except as provided in § 1026.35(b)(2)(v), a creditor need not establish an escrow account for taxes and insurance for a higher-priced mortgage loan, provided the following four conditions are satisfied when the higher-priced mortgage loan is consummated:

i. During the preceding calendar year, more than 50 percent of the creditor's total first-lien covered transactions, as defined in § 1026.43(b)(1), are secured by properties located in counties that are either ''rural'' or ''underserved,'' as set forth in § 1026.35(b)(2)(iv). Pursuant to that section, a creditor may rely as a safe harbor on a list of counties published by the Bureau to determine whether counties in the United States are rural or underserved for a particular calendar year. Thus, for example, if a creditor originated 90 covered transactions, as defined by § 1026.43(b)(1), secured by a first lien, during 2013, the creditor meets this condition for an exemption in 2014 if at least 46 of those transactions are secured by first liens on properties that are located in such counties.

* * * * *

Paragraph 35(b)(2)(iv).

1. *Requirements for ''rural'' or ''underserved'' status.* A county is considered to be ''rural'' or ''underserved'' for purposes of § 1026.35(b)(2)(iii)(A) if it satisfies either of the two tests in § 1026.35(b)(2)(iv). The Bureau applies both tests to each county in the United States. If a county satisfies either test, the Bureau will include the county on a published list of ''rural'' or ''underserved'' counties for a particular calendar year. To facilitate compliance with appraisal requirements in § 1026.35(c), the Bureau will also create a list of only those counties that are ''rural'' but excluding those that are only ''underserved.'' The Bureau will post on its public Web site the applicable lists for each calendar year by the end of that year, thus permitting creditors to ascertain the availability to them of the exemption during the following year. For 2012, however, the list will be published before June 1, 2013. A creditor may rely as a safe harbor, pursuant to section 130(f) of the Truth in Lending Act, on the lists of counties published by the Bureau to determine whether a county qualifies as ''rural'' or ''underserved'' for a particular calendar year. A creditor's originations of covered transactions, as defined by § 1026.43(b)(1), secured by a first lien, in such counties during that year are considered in determining whether the creditor satisfies the condition in § 1026.35(b)(2)(iii)(A) and therefore will be eligible for the exemption during the following calendar year.

i. Under § 1026.35(b)(2)(iv)(A), a county is rural during a calendar year if it is neither in a metropolitan statistical area nor in a micropolitan statistical area that is adjacent to a metropolitan statistical area. These areas are defined by the Office of Management and Budget and applied under currently applicable Urban Influence Codes (UICs), established by the United States Department of Agriculture's Economic Research Service (USDA–ERS). Accordingly, for purposes of § 1026.35(b)(2)(iv)(A), ''adjacent'' has the meaning applied by the USDA–ERS in determining a county's UIC; as so applied, ''adjacent'' entails a county not only being physically contiguous with a metropolitan statistical area but also meeting certain minimum population commuting patterns. Specifically, a county is ''rural'' if the USDA–ERS categorizes the county under UIC 4, 6, 7, 8, 9, 10, 11, or 12. Descriptions of UICs are available on the USDA–ERS Web site at *http://www.ers.usda.gov/data-products/urban-influence-codes/documentation.aspx.* A county for which there is no currently applicable UIC (because the county has been created since the USDA–ERS last categorized counties) is rural only if all counties from which the new county's land was taken are themselves rural under currently applicable UICs.

ii. Under § 1026.35(b)(2)(iv)(B), a county is underserved during a calendar year if, according to Home Mortgage Disclosure Act (HMDA) data for the preceding calendar year, no more than two creditors extended covered transactions, as defined in § 1026.43(b)(1), secured by a first lien, five or more times in the county. Specifically, a county is ''underserved'' if, in the applicable calendar year's public HMDA aggregate dataset, no more than two creditors have reported five or more first-lien covered transactions with HMDA geocoding that places the properties in that county. For purposes of this determination, because only covered transactions are counted, all first-lien originations (and only first-lien originations) reported in the HMDA data are counted except those for which the owner-occupancy status is reported as ''Not owner-occupied'' (HMDA code 2), the property type is reported as ''Multifamily'' (HMDA code 3), the applicant's or co-applicant's race is reported as ''Not applicable'' (HMDA code 7), or the applicant's or co-applicant's sex is reported as ''Not applicable'' (HMDA code 4). The most recent HMDA data are available at *http://www.ffiec.gov/hmda.*

2. *Examples.* i. A county is considered ''rural'' for a given calendar year based on the most recent available UIC designations, which are updated by the USDA–ERS once every ten years. As an example, assume a creditor makes first-lien covered transactions in County X during calendar year 2014, and the most recent UIC designations have been published in the second quarter of 2013. To determine ''rural'' status for County X during calendar year 2014, the creditor will use the 2013 UIC designations. However, to determine ''rural'' status for County X during 2012 or 2013, the creditor would use the UIC designations last published in 2003.

ii. A county is considered ''underserved'' for a given calendar year based on the most recent available HMDA data. For example, assume a creditor makes first-lien covered transactions in County Y during calendar year 2013, and the most recent HMDA data is for calendar year 2012, published in the third quarter of 2013. To determine ''underserved'' status for County Y in calendar year 2013 for the purposes of qualifying for the ''rural or underserved'' exemption in calendar year 2014, the creditor will use the 2012 HMDA data.

* * * * *

35(e) Rules for Higher-Priced Mortgage Loans

Paragraph 35(e)(2)(ii)(C).

1. *Payment change.* Section 1026.35(e)(2) provides that a loan subject to this section may not have a penalty described by § 1026.32(d)(6) unless certain conditions are met. Section 1026.35(e)(2)(ii)(C) lists as a condition that the amount of the periodic payment of principal or interest or both may not change during the four-year period following consummation. For examples showing whether a prepayment penalty is permitted or prohibited in connection with particular payment changes, see comment 32(d)(7)(iv)–1. Those examples, however, include a condition that § 1026.35(e)(2) does not include: the condition that, at consummation, the consumer's total monthly debt payments may not exceed 50 percent of the consumer's monthly gross income. For guidance about circumstances in which payment changes are not considered payment changes for purposes of this section, see comment 32(d)(7)(iv)–2.

2. *Negative amortization.* Section 1026.32(d)(2) provides that a loan described in § 1026.32(a) may not have a payment schedule with regular periodic payments that cause the principal balance to increase. Therefore, the commentary to § 1026.32(d)(7)(iv) does not include examples of payment changes in connection with negative amortization. The following examples show whether, under § 1026.35(e)(2), prepayment penalties are permitted or prohibited in connection with particular payment changes, when a loan agreement permits negative amortization:

i. Initial payments for a variable-rate transaction consummated on January 1, 2010, are $1,000 per month and the loan agreement permits negative amortization to occur. Under the loan agreement, the first date that a scheduled payment in a different amount may be due is January 1, 2014, and the creditor does not have the right to change scheduled payments prior to that date even if negative amortization occurs. A prepayment penalty is permitted with this mortgage transaction provided that the other § 1026.35(e)(2) conditions are met, that is: provided that the prepayment penalty is permitted by other applicable law, the penalty expires on or before December 31, 2011, and the penalty will not apply if the source of the prepayment funds is a refinancing by the creditor or its affiliate.

ii. Initial payments for a variable-rate transaction consummated on January 1, 2010 are $1,000 per month and the loan agreement permits negative amortization to occur. Under the loan agreement, the first date that a scheduled payment in a different amount may be due is January 1, 2014, but the creditor has the right to change scheduled payments prior to that date if negative amortization occurs. A prepayment penalty is prohibited with this mortgage transaction because the payment may change within the four-year period following consummation.

* * * * *

Dated: April 11, 2013.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2013–09058 Filed 4–17–13; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5 and 202

[Docket No. FR–5536–P–01]

RIN 2502–AJ00

Federal Housing Administration (FHA) Approval of Lending Institutions and Mortgagees: Streamlined Reporting Requirements for Small Supervised Lenders and Mortgagees

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would streamline the FHA financial statement reporting requirements for lenders and mortgagees who are supervised by federal banking agencies and whose consolidated assets do not meet the thresholds set by their supervising federal banking agencies for submission of audited financial statements (currently set at $500 million in consolidated assets). HUD's regulations currently require all supervised lenders and mortgagees to submit annual audited financial statements as a condition of FHA lender approval and recertification. Through this proposed rule, in lieu of the annual audited financial statements, small supervised lenders and mortgagees would be required to submit the unaudited financial regulatory reports that align with their fiscal year ends and are required to be submitted to their supervising federal banking agencies. Small supervised lenders and mortgagees would only be required to submit audited financial statements if HUD determines that the supervised lenders or mortgagees pose heightened risk to the FHA insurance fund.

This rule does not impact FHA's annual audited financial statements submission requirement for nonsupervised and large supervised lenders and mortgagees. The rule also does not impact those supervised lenders and mortgagees with consolidated assets in an amount that requires that lenders or mortgagees submit audited financial statements to their respective supervising federal banking agencies. Finally, HUD has