TABLE 20—CONVECTION-ONLY COOLING DOWN ENERGY USE—Continued

Product type	Test unit	Test 1		Test 2		Test 3	
		Cool down energy use (*Wh*)	Cool down duration (*min*)	Cool down energy use (*Wh*)	Cool down duration (*min*)	Cool down energy use (*Wh*)	Cool down duration (*min*)
	17	6.7	6.52	6.6	6.28	7.2	6.90
	18	2.5	3.13	2.6	3.25	2.6	3.27

Note: Test units for which no values are listed indicate that no cooling fan ran after the completion of the combination or convection-only cooking cycles.

DOE may consider test procedure amendments to include the cooling fan energy consumption as part of the energy efficiency metric for convection microwave ovens. If DOE determines that such amendments are appropriate, it may also consider adjustments to the annual standby mode hours to account for the additional time that the product operates the cooling fan at the end of the cooking cycle. The total annual cooling fan hours would be calculated by multiplying the amount of time that the cooling fan operates per cycle by the number of total annual convection microwave cooking and convection-only cooking cycles. These hours would then be subtracted from the total number of standby mode hours. However, DOE is unaware of consumer usage data regarding the total annual convection microwave and convection-only cooking cycles for convection microwave ovens.

15. DOE welcomes comment on whether the cooling fan energy consumption should be included in the efficiency metric for convection microwave ovens.

G. Additional Issues on Which DOE Seeks Comment

DOE may consider amendments to the microwave oven test procedure for both microwave-only and convection microwave ovens based on the testing discussed in the sections above. In addition to the specific issues for each testing method on which DOE is seeking comment, DOE is seeking comment on the following:

16. DOE welcomes general comments about the potential testing methodologies to measure microwave oven active mode energy use presented in this notice. DOE also welcomes comment on any alternative testing methodologies appropriate for inclusion in the DOE microwave oven test procedure. DOE requests data on the repeatability and reproducibility of such testing methods. DOE also welcomes additional data on the repeatability and reproducibility of testing results using the test methods presented in this notice.

The purpose of this NODA is to solicit feedback from industry, manufacturers, academia, consumer groups, efficiency advocates, government agencies, and other stakeholders on issues related to the DOE microwave oven test procedure. DOE is specifically interested in information and additional data on the potential amendments to the microwave oven test procedure for measuring active mode energy use presented in today's notice. Respondents are advised that DOE is under no obligation to acknowledge receipt of the information received or provide feedback to respondents with respect to any information submitted under this NODA. Responses to this NODA do not bind DOE to any further actions related to this topic.

Issued in Washington, DC, on May 29, 2012.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy, Energy Efficiency and Renewable Energy.

[FR Doc. 2012–13609 Filed 6–4–12; 8:45 am]

BILLING CODE 6450–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1026

[Docket No. CFPB–2012–0022]

RIN 3170–AA17

Truth in Lending (Regulation Z)

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of reopening of comment period and request for comment.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is reopening the comment period for the proposed rule published by the Board of Governors of the Federal Reserve System (Board) in the **Federal Register** on May 11, 2011 (76 FR 27390). On May 11, 2011, the Board published for notice and comment a proposed rule amending Regulation Z (Truth in Lending) to implement amendments to the Truth in Lending Act (TILA) made by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The proposed rule addressed new ability-to-repay requirements that generally will apply to consumer credit transactions secured by a dwelling and the definition of a ''qualified mortgage.'' Among other consumer financial protection laws, the Dodd-Frank Act transferred the Board's rulemaking authority for TILA to the Bureau as of July 21, 2011. The original comment period to the proposed rule closed on July 22, 2011. The Bureau is reopening the comment period until July 9, 2012 to seek comment specifically on certain new data and information submitted during or obtained after the close of the original comment period.

DATES: Comments must be received on or before July 9, 2012.

ADDRESSES: You may submit comments, identified by *Docket No. CFPB–2012–0022* or *RIN 3170–AA17,* by any of the following methods:

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

All submissions must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. 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 record and subject to

public disclosure. You should not include sensitive personal information, such as account numbers or social security numbers. The Bureau will not edit comments to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Paul Mondor or Stephen Shin, Office of Regulations, at (202) 435–7700.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 1411, 1412, and 1414 of the Dodd-Frank Act create new TILA section 129C, which, among other things, establishes new ability-to-pay requirements and provides a presumption of compliance with those requirements if the mortgage loan is a ''qualified mortgage.'' On May 11, 2011, the Board published for notice and comment a proposed rule amending Regulation Z to implement new TILA section 129C. 76 FR 27390. The comment period closed on July 22, 2011.

As of July 21, 2011, the Dodd-Frank Act transferred the Board's rulemaking authority for TILA, among other consumer financial protection laws, to the Bureau. See sections 1061 and 1100A of the Dodd-Frank Act. Accordingly, all comment letters on the proposed rule were also transferred to the Bureau. In response to the proposed rule, approximately 1800 comment letters were received from numerous commenters, including members of Congress, lenders, consumer groups, trade associations, mortgage and real estate market participants, and individual consumers.

In addition, after the close of the original comment period, various interested parties, including industry and consumer group commenters, submitted to the Bureau oral and written ex parte presentations on the proposed rule.[1] Materials pertaining to these presentations are filed in the record and are publicly available at *http://www.regulations.gov.*

Through various comment letters, ex parte communications, and the Bureau's own collection of data, the Bureau has received additional information and new data pertaining to the proposed rule. The Bureau is interested in providing opportunity for additional public comment on these materials. Accordingly, the Bureau is issuing this notice to reopen the comment period until July 9, 2012 in order to request comment specifically on certain additional information or new data, as discussed in detail below. The Bureau is not soliciting comment on other aspects of the proposed rule. Therefore, the Bureau encourages commenters to limit their submissions accordingly.

II. Discussion and Request for Comment

A. Federal Housing Finance Agency Mortgage Loan Data

The Bureau seeks comment on mortgage loan data that the Bureau has received from the Federal Housing Finance Agency (FHFA).[2] To date, the Bureau has received a sample drawn from the FHFA's Historical Loan Performance (HLP) dataset along with tabulations from the entire file. The data include a one percent random sample of all mortgage loans in the HLP dataset from 1997 through 2011; and tabulations of the HLP dataset by FHFA showing the number of loans and performance of those loans by year and debt-to-income (DTI) range.

The HLP dataset consists of all mortgage loans purchased or guaranteed by the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (jointly with Fannie Mae, the ''Enterprises''), but does not include loans backing private-label mortgage-backed securities (MBS) bought by the Enterprises.[3] The dataset contains loan-level information on characteristics and performance of all single-family mortgages purchased or guaranteed by the Enterprises. FHFA updates the HLP dataset quarterly with information from each Enterprise. Among other elements, the dataset includes product type; payment-to-income and debt-to-income (PTI/DTI) ratios at origination; initial loan-to-value (LTV) ratios based on the purchase price or appraised property value and the first-lien balance; and credit score(s) for the borrower(s).

The Bureau notes that in the context of the multi-agency 2011 Qualified Residential Mortgage Proposal (2011 QRM Proposal)[4] and in the Mortgage Market Note 11–02, FHFA has discussed or released historical loan performance data. In particular, the Bureau notes FHFA's discussion of the HLP dataset generally, including the limitations of the data, and the FHFA's release of historical data on loan volumes and delinquency rates, including any tabulations or data based on the HLP dataset, as provided in Mortgage Market Note 11–02.[5]

FHFA's HLP dataset contains certain loan-level variables that can be used for a variety of data modeling and analysis. The Bureau proposes to use these data to tabulate volumes and performance of loans with varying characteristics and to perform other statistical analyses that may assist the Bureau in defining loans with characteristics that make it appropriate to presume that the lender complied with the ability-to-pay requirements or assist the Bureau in assessing the benefits and costs to consumers, including access to credit, and covered persons of, as well as the market share covered by, alternative definitions of a ''qualified mortgage.'' For example, the Bureau is examining various measures of delinquency and their relationship to other variables such as a consumer's total DTI ratio.

The tables below show the volume of loans and the percentage that were ever 60 days or more delinquent, tabulated by the total DTI on the loans and year of origination. The Bureau believes that loan performance, as measured by delinquency rate such as 60 days or more delinquent, is an appropriate metric to evaluate whether consumers had the ability to repay those loans at the time made. The Bureau notes that these specific tabulations include first-lien mortgages for first or second homes, that have fully documented income and that are fully amortizing with a maturity that does not exceed 30 years. The Bureau further notes that the tabulations do not include the following types of loans: loans for investor-owned properties, low- or no-document mortgages; interest-only (IO) mortgages; negatively-amortizing mortgages such as payment option-ARMs; or mortgages with a balloon payment feature.[6]

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[1] *See* CFPB Bulletin 11–3, CFPB Policy on Ex Parte Presentations in Rulemaking Proceedings, August 16, 2011.

[2] The Bureau notes that the data received by the Bureau are confidential supervisory data and subject to a confidentiality agreement between the Bureau and the FHFA. Therefore, the Bureau is seeking comment on aggregate or otherwise non-confidential aspects of the dataset.

[3] *See* Mortgage Market Note 11–02 (Apr. 11, 2011), available at: *http://www.fhfa.gov/webfiles/20686/QRM_FINAL_ALL.pdf*

[4] 76 FR 24030 (Apr. 29, 2011).

[5] *See, e.g.,* Appendix A of 2011 QRM Proposal and Appendix A of Mortgage Market Note 11–02.

[6] Some of the loans included in these tables are non-conventional loans insured by government agencies.

Table 1: Dollar Volume of Loans that Meet each DTI Restriction

Year	All DTI	DTI < 32	DTI < 34	DTI < 36
1997	$ 260,198,032,894	$ 127,136,221,292	$ 149,056,073,778	$ 171,780,180,391
1998	$ 639,906,884,983	$ 350,833,483,614	$ 396,862,034,867	$ 442,321,138,787
1999	$ 432,236,356,143	$ 207,593,289,596	$ 236,622,077,610	$ 266,063,557,436
2000	$ 312,867,626,073	$ 120,857,281,851	$ 141,316,687,790	$ 162,566,908,237
2001	$ 915,016,294,482	$ 425,529,679,716	$ 483,101,334,742	$ 539,923,938,760
2002	$ 1,188,870,345,528	$ 575,656,853,373	$ 646,146,085,211	$ 714,299,678,212
2003	$ 1,671,469,823,043	$ 837,248,554,392	$ 931,101,740,148	$ 1,021,349,845,418
2004	$ 784,012,125,845	$ 311,954,047,553	$ 356,832,888,920	$ 401,951,873,103
2005	$ 729,810,139,068	$ 246,796,327,740	$ 289,952,101,490	$ 334,764,768,022
2006	$ 618,414,458,846	$ 181,558,772,982	$ 216,612,273,605	$ 253,534,336,150
2007	$ 759,869,110,755	$ 210,157,575,459	$ 250,763,121,929	$ 293,559,091,053
2008	$ 696,311,471,701	$ 236,338,315,411	$ 275,378,745,137	$ 314,471,745,201
2009	$ 1,135,525,868,303	$ 558,215,648,015	$ 624,281,072,494	$ 688,084,046,574

Year	DTI < 38	DTI < 40	DTI < 42	DTI < 44
1997	$ 194,354,582,032	$ 214,421,756,823	$ 229,217,364,780	$ 239,389,379,963
1998	$ 485,481,538,457	$ 523,845,533,765	$ 554,011,558,453	$ 576,537,115,090
1999	$ 294,517,112,274	$ 320,797,156,065	$ 343,139,783,251	$ 361,645,455,213
2000	$ 183,995,816,042	$ 204,758,904,260	$ 223,666,370,708	$ 240,551,419,177
2001	$ 595,059,075,818	$ 646,924,009,714	$ 693,666,319,544	$ 734,846,305,440
2002	$ 779,827,644,827	$ 841,694,595,386	$ 898,196,594,958	$ 948,732,913,999
2003	$ 1,108,803,322,834	$ 1,191,663,233,946	$ 1,266,487,329,806	$ 1,333,983,737,760
2004	$ 447,202,130,671	$ 491,849,595,699	$ 534,138,292,486	$ 573,397,326,065
2005	$ 380,675,797,326	$ 426,601,312,512	$ 470,613,924,188	$ 511,910,697,445
2006	$ 292,411,287,385	$ 332,270,061,602	$ 371,506,619,804	$ 409,748,726,871
2007	$ 338,910,008,925	$ 386,213,217,160	$ 433,621,571,981	$ 480,516,570,852
2008	$ 354,373,480,560	$ 394,808,487,944	$ 434,752,914,268	$ 474,269,139,382
2009	$ 749,801,941,593	$ 809,020,689,897	$ 864,301,178,813	$ 914,925,885,278

Year	DTI < 46	Missing*
1997	$ 245,859,500,051	$ 8,954,875,452
1998	$ 592,523,816,366	$ 27,113,426,791
1999	$ 376,420,985,267	$ 23,001,221,508
2000	$ 255,196,661,650	$ 8,072,486,249
2001	$ 770,533,439,443	$ 15,761,137,694
2002	$ 993,007,860,561	$ 23,689,516,450
2003	$ 1,393,645,363,356	$ 49,393,954,569
2004	$ 608,745,225,882	$ 10,713,758,490
2005	$ 549,683,685,076	$ 6,217,624,663
2006	$ 445,168,832,015	$ 2,316,935,816
2007	$ 524,462,471,997	$ 2,954,800,660
2008	$ 511,083,266,611	$ 3,083,562,242
2009	$ 960,109,131,688	$ 3,694,553,807

*Missing not included in All DTI column

Table 2: Ever 60+ Delinquency Rates

Year	All DTI	DTI < 32	DTI < 34	DTI < 36	DTI < 38
1997	4.44%	3.27%	3.49%	3.73%	3.96%
1998	3.51%	2.66%	2.80%	2.96%	3.11%
1999	4.38%	3.38%	3.51%	3.65%	3.80%
2000	4.19%	3.31%	3.40%	3.53%	3.66%
2001	3.67%	2.63%	2.75%	2.88%	3.01%
2002	3.56%	2.44%	2.57%	2.69%	2.82%
2003	4.48%	2.95%	3.12%	3.29%	3.46%
2004	7.28%	4.74%	5.01%	5.28%	5.57%
2005	11.90%	7.22%	7.72%	8.23%	8.78%
2006	16.82%	9.84%	10.51%	11.22%	11.94%
2007	21.21%	10.56%	11.42%	12.33%	13.31%
2008	9.41%	3.77%	4.16%	4.57%	5.02%
2009	1.06%	0.49%	0.52%	0.56%	0.60%

Year	DTI < 40	DTI < 42	DTI < 44	DTI < 46	Missing*
1997	4.17%	4.29%	4.35%	4.38%	5.34%
1998	3.25%	3.34%	3.40%	3.43%	4.20%
1999	3.94%	4.05%	4.13%	4.19%	5.66%
2000	3.79%	3.88%	3.95%	4.02%	4.56%
2001	3.14%	3.24%	3.33%	3.41%	4.01%
2002	2.95%	3.06%	3.17%	3.25%	3.69%
2003	3.64%	3.79%	3.92%	4.03%	3.88%
2004	5.85%	6.10%	6.32%	6.50%	5.15%
2005	9.30%	9.76%	10.18%	10.52%	6.14%
2006	12.71%	13.39%	14.02%	14.55%	12.79%
2007	14.34%	15.35%	16.32%	17.12%	19.58%
2008	5.52%	6.04%	6.53%	6.99%	8.61%
2009	0.65%	0.70%	0.74%	0.78%	4.93%

*Missing not included in All DTI column

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The FHFA data are comprehensive and cover the entirety of mortgages purchased or guaranteed by the Enterprises. The Bureau has also acquired commercially available data on mortgages securitized into private label securities,[7] and expects to perform similar data modeling and analysis on this data. In addition, the Bureau is seeking supplemental data on loans held in portfolio and non-conventional loans insured or guaranteed by other federal agencies. These supplemental data sources may also be used to inform the Bureau's analysis.

Certain commenters and interested parties requested that the Bureau adopt a specific DTI ratio requirement for qualified mortgages. For example, some suggested that if a borrower's total DTI ratio is below a specified threshold, the mortgage loan should satisfy the qualified mortgage requirements, assuming other relevant conditions are met. In addition to a DTI requirement, some commenters and interested parties suggested that the Bureau should include within the definition of a ''qualified mortgage'' loans with a DTI above a certain threshold if the consumer has a certain amount of assets, such as money in a savings or similar account, or a certain amount of residual income. The Bureau notes, however, that available data do not provide information on certain non-collateral factors, such as liquid financial reserves, which would enable the Bureau to examine their relationship with measures of loan performance and a consumer's ability to repay. Accordingly, the Bureau seeks data, if available, from commenters or interested parties on such factors (in addition to DTI ratios as discussed above) and their relationship to measures of delinquency or their impact on the number or percentage of mortgage loans that would be a ''qualified mortgage.''

[7] For example, the Bureau has procured commercially available loan-level data related to mortgages held in private label securities from Blackbox Logic LLC.

Request for Comment

1. The Bureau seeks comment on the dataset received from FHFA and commercially available data on mortgages securitized into private label securities, including the data source, parameters, and whether other data or studies are available or more appropriate for the purposes indicated above.

2. The Bureau requests data or tabulations for loans not covered in the FHFA data, including loans insured by the Federal Housing Administration (FHA loans), the Department of Veterans Affairs (VA loans), the Department of Agriculture and the Rural Housing Service (RHS loans); or loans held in portfolio or securitized outside of the Enterprises or a federal agency, which would be appropriate for the purposes indicated above.

3. The Bureau seeks comment and data on any measures of loan performance and their relationship to a consumer's DTI ratio.

4. The Bureau seeks comment and data on any measures of residual income, the use of such measures in loan underwriting, the relationship of these measures to loan performance, and their relationship to measures of consumer expenditures.

5. The Bureau seeks comment and data regarding any measures of the amount of liquid financial reserves available to meet (i) mortgage-related obligations or (ii) current obligations, the use of such measures in loan underwriting, and the relationship of these measures to loan performance.

6. The Bureau seeks comment and data regarding any measures of stable income and timely housing payments, the use of such measures in loan underwriting, and the relationship of these measures to loan performance.

B. Litigation Cost Estimates

In response to information received from commenters and ex parte communications, the Bureau is seeking comment and data on estimates of litigation costs and liability risks associated with claims alleging a violation of ability-to-repay requirements for a mortgage loan that is not a ''qualified mortgage,'' in addition to costs and risks that might apply to a ''qualified mortgage.''

As discussed in detail in the proposal, section 1416 of the Dodd-Frank Act creates special remedies for violations of TILA section 129C(a) and provides that the statute of limitations for an action for a violation of TILA section 129C is three years from the date of the occurrence of the violation. In addition, section 1413 of the Dodd-Frank Act provides that a consumer may assert a violation of TILA section 129C as a defense to foreclosure by recoupment or set off without regard for the time limit on a private action for damages. However, new TILA section 129C, among other things, provides a presumption of compliance with the ability-to-repay requirements if the mortgage loan is a ''qualified mortgage.'' To implement this special protection from liability, the Board proposed two alternative definitions of a ''qualified mortgage'' that would provide either a legal safe harbor or a rebuttable presumption that the ability-to-repay requirements had been met.

Commenters and ex parte communications addressed various aspects of the alternative proposals implementing the presumption of compliance for a ''qualified mortgage.'' In particular, some commenters and interested parties presented estimates of the litigation costs associated with claims alleging a violation of the ability-to-repay requirements. Commenters and interested parties argued that these estimated costs should inform the Bureau's determination between a safe harbor or a rebuttable presumption as well as the scope of coverage of a ''qualified mortgage.'' Other commenters and interested parties noted that additional litigation costs should be considered, such as commercial litigation costs associated with ''put-back'' liabilities and risks for loans sold on the secondary market and extended foreclosure timelines because of ongoing ability-to-repay litigation.

An industry commenter and other interested parties argued that the estimated costs to creditors associated with litigation and penalties for an ability-to-repay violation could be substantial and provided illustrations of costs under the proposal, noting potential cost estimates of the possible statutory damages and attorney's fees.[8] For example, the total estimated costs and damages ranged between approximately $70,000 and $110,000 depending on various assumptions, such as the interest rate on a loan or whether the presumption of compliance is a safe harbor or rebuttable presumption. On the other hand, consumer group commenters and some ex parte communications asserted that the potential incidence of litigation is relatively small, and therefore liability cost and risk are minimal for any given mortgage creditor.[9] Consumer groups provided estimates of the number of cases in foreclosure and the percentage of cases that involve TILA claims, such as a claim of rescission. Consumer groups also provided percentages of borrowers in foreclosure who are represented by lawyers, noting the difficulty in bringing a TILA violation claim, and addressed estimates of litigation costs, such as attorney's fees.

The Bureau is reopening the comment period to seek comment and data on various factors the Bureau believes are relevant to analyzing estimated costs associated with litigation for a claim alleging a violation of ability-to-repay requirements, as described below.

Request for Comment

Foreclosure and other times when a suit may be filed. The Dodd-Frank Act provides that a borrower may assert a violation of the ability-to-repay requirements as a defense to foreclosure. Therefore, the Bureau believes that estimates of serious delinquency and number of homes entering foreclosure are critical to measuring the potential costs of ability-to-repay litigation risk. Although aggregate data on serious delinquency and homes entering foreclosure are available from various sources such as the Mortgage Bankers Association National Delinquency Survey, the Bureau notes that more granular estimates of homes entering foreclosure can be estimated from the FHFA data and other data sources.

1. The Bureau seeks comment on the most appropriate measure of delinquency for purposes of calculating potential costs associated with ability-to-repay litigation in the foreclosure context.

2. The Bureau seeks comment on estimates of potential lawsuits asserting an ability-to-repay violation during the first three years after consummation—when the borrower has not yet defaulted but nevertheless sues the lender.

Number of potential litigants and complaints filed. Consumer groups argued that due to the complexity of mortgage-related litigation, such as a violation of TILA, asserting an ability-to-repay violation would require access to a lawyer. These groups noted that appropriate proxies for the number of

[8] *See, e.g.,* letter from David H. Stevens, Mortgage Bankers Association, to Board of Governors of the Federal Reserve System, July 22, 2011.

[9] *See, e.g.,* letter from Center for Responsible Lending, National Consumer Law Center, Consumer Federation of America, and National Association of Consumer Advocates, to Consumer Financial Protection Bureau and Board of Governors of the Federal Reserve System, July 22, 2011; Memorandum on ''Rebuttable Presumption: A Perspective on Litigation Risk by the Numbers'' from Center for Responsible Lending and National Consumer Law Center, to Consumer Financial Protection Bureau, dated October 11, 2011.

complaints filed would be the percentage of borrowers in foreclosure who are represented by a lawyer as well as the number of other types of TILA violation cases. The Bureau notes that survey and other data indicate that a majority of borrowers in default would not have legal representation.[10]

1. The Bureau seeks comment or data on whether and if so, how the number of lawsuits alleging an ability-to-repay violation would vary under the following circumstances:

(a) The mortgage loan is conceded not to be a ''qualified mortgage.''

(b) The mortgage loan is claimed to be a ''qualified mortgage.''

Potential Outcomes From Litigation and Damages

As noted above, sections 1413 and 1416 of the Dodd-Frank Act provide special statutory remedies for violations of TILA section 129C(a), which can include an award of damages in the amount equal to the sum of all finance charges and fees paid by the consumer within the three-year statute of limitations and in the case of a defense to foreclosure, recoupment or set off.

1. The Bureau seeks comment on the likelihood of potential outcomes of litigation, such as dismissal, summary judgment, settlement, or judgment after trial, and the effect on costs under various scenarios including:

(a) The mortgage loan is conceded not to be a ''qualified mortgage.''

(b) The mortgage loan is claimed to be a ''qualified mortgage.''

2. The Bureau seeks comment and data on assumptions about a loan, such as interest rate, purchase price, finance charges, and fees, required to calculate average amount of damages awarded in a TILA case involving a violation of the ability-to-repay requirements based on the scenarios listed above in paragraph 1.

3. The Bureau seeks comment on the impact of other aspects of damages, such as a consumer's attorney's fees, and lender's litigation costs.

Other Factors or Costs

1. The Bureau seeks comment on whether any additional factors should be considered in assessing the litigation-related costs associated with the ability-to-repay requirements.

2. The Bureau seeks comment and data on any other potential costs of ability-to-repay litigation, including:

(a) Costs associated with risks that loans are ''put back'' to originators by secondary market participants due to a potential ability-to-repay claim or proven violation. Factors that may determine the total cost of put backs may include: (i) Number and type of representation and warranty provisions in purchase and sale agreements going forward; (ii) number of loans that could potentially be put back; (iii) frequency of put backs being realized; and (iv) cost to lender net of any recovery through foreclosure or sale.

(b) Costs associated with extended foreclosure timelines due to ability-to-repay litigation.

Dated: May 31, 2012.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2012–13608 Filed 6–4–12; 8:45 am]

BILLING CODE 4810–AM–P

[10] For example, the New York State Judiciary reported that before New York mandated settlement conferences in residential foreclosure cases, up to ninety percent of borrowers sued failed to appear and received default judgments. *See* State of New York Unified Court System, 2010 Report of the Chief Administrator of the Courts, at 8, 11 (2010), available at: *http://www.courts.state.ny.us/publications/pdfs/foreclosurereportnov2010.pdf.* The court stated: ''The lack of representation in foreclosure cases continues to be one of the greatest challenges we face in fulfilling our statutory mandate.'' *Id.* at 12. Similarly, in one of the most mature foreclosure diversion programs in the country, in Philadelphia, 4.5 percent of the homeowners who participated had legal representation. *See* The Reinvestment Fund, Philadelphia Residential Mortgage Foreclosure Diversion Program: Initial Report of Findings, at 10 (June 2011), available at: *http://www.trfund.com/resource/downloads/policypubs/Foreclosure_Diversion_Initial_Report.pdf.* In addition, a 2010 survey of foreclosure mediation programs across the United States by the Department of Justice and the Department of Housing and Urban Development reported that ''legal resources for homeowners in mediation programs generally are quite limited.'' Department of Justice & Department of Housing & Urban Development, Emerging Strategies for Effective Foreclosure Mediation Programs, at 6 (2010), available at: *http://www.justice.gov/atj/effective-mediation-prog-strategies.pdf.*

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0588; Directorate Identifier 2012–NM–017–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc. Model DHC–8–400 series airplanes. This proposed AD was prompted by reports of chafing between the wire harness along the wing leading edge and the inboard end rib of the wing leading edge due to insufficient clearance. This proposed AD would require inspecting the wire harness along the leading edge for chafing damage, and repair if necessary; and relocating and installing new anchor nuts. We are proposing this AD to detect and correct chafing damage to the wire harness along the wing leading edge which, if not corrected, could lead to the loss of the airframe de-icing system, and could become a possible ignition source causing fire.

DATES: We must receive comments on this proposed AD by July 20, 2012.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier, Inc., Q–Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Assata Dessaline, Aerospace Engineer,