



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 Bureau of Consumer Financial Protection (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 is required to calculate annually the dollar amounts for several provisions in Regulation Z; this final rule revises, as applicable, the dollar amounts for provisions implementing TILA and amendments to TILA, including under the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act), 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, 2021.

DATES: This final rule is effective January 1, 2022.

FOR FURTHER INFORMATION CONTACT: Willie Williams, Paralegal Specialist; or Lanique Eubanks, 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 are adjusted annually based on 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 2022. For open-end consumer credit plans under the CARD Act amendments to TILA, the adjusted dollar amount in 2022 for the safe harbor for a first violation penalty fee will increase to \$30 and the adjusted dollar amount for the safe harbor for a subsequent violation penalty fee will increase to \$41. For HOEPA loans, the adjusted total loan amount threshold for high-cost mortgages in 2022 will be \$22,969. The adjusted points-and-fees dollar trigger for high-cost mortgages in 2022 will be \$1,148. 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 2022 will be: 2.25 or more percentage points for a first-lien covered transaction with a loan amount greater than or equal to \$114,847; 3.5 or more percentage points for a first-lien covered transaction with a loan amount greater than or equal to \$68,908 but less than \$114,847; 6.5 or more percentage points for a first-lien covered transaction with a loan amount less than \$68,908; 6.5 or more percentage points for a first-lien covered transaction secured by a manufactured home with a loan amount less than \$114,847; 3.5 or more percentage points for a subordinate-lien covered transaction with a loan amount greater than or equal to \$68,908; or 6.5 or more percentage points for a subordinate-lien covered transaction with a loan amount less than \$68,908. For all categories of QMs, the thresholds for total points and fees in 2022 will be 3 percent of the total loan amount for a loan greater than or equal to \$114,847; \$3,445 for a loan amount greater than or equal to \$68,908 but less than \$114,847; 5 percent of the total loan amount for a loan greater than or equal to \$22,969 but less than \$68,908; \$1,148 for a loan amount greater than or equal to \$14,356 but less than \$22,969; and 8 percent of the total loan amount for a loan amount less than \$14,356.¹

¹ The QM categories in Regulation Z are as follows: 12 CFR 1026.43(e)(2), (4), (5), and (6) applies only to covered transactions for which the application was received before April 1, 2016; and (e)(7).

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 minimum interest charge thresholds will be re-calculated 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 minimum interest charge amounts set forth in the regulation will be increased by \$1.00. This adjustment analysis is based on the CPI-W index in effect on June 1, 2021, which was reported by BLS on May 12, 2021,³ and reflects the percentage change from April 2020 to April 2021. The adjustment analysis accounts for a 4.7 percent increase in the CPI-W from April 2020 to April 2021. 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 is therefore not amending §§ 1026.6(b)(2)(iii) and 1026.60(b)(3).

Safe Harbor Penalty Fees

Section 1026.52(b)(1)(ii)(A) and (B) of Regulation Z implements section 149(e) of TILA, which was added to TILA by the CARD Act.⁴ Section 1026.52(b)(1)(ii)(D) provides that the safe harbor provision, which establishes the permissible penalty fee thresholds in

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 12, 2021, was the most current as of June 1, 2021.

⁴ Credit Card Accountability Responsibility and Disclosure Act of 2009, Pub. L. 111-24, 123 Stat. 1734 (2009).

§ 1026.52(b)(1)(ii)(A) and (B), will be re-calculated annually using the CPI that was in effect on the preceding June 1; the Bureau uses the CPI-W for this adjustment. If the cumulative change in the adjusted value derived from applying the annual CPI-W level to the current amounts in § 1026.52(b)(1)(ii)(A) and (B) has risen by a whole dollar, those amounts will be increased by \$1.00. Similarly, if the cumulative change in the adjusted value derived from applying the annual CPI-W level to the current amounts in § 1026.52(b)(1)(ii)(A) and (B) has decreased by a whole dollar, those amounts will be decreased by \$1.00. *See* comment 52(b)(1)(ii)-2. The 2022 adjustment analysis is based on the CPI-W index in effect on June 1, 2021, which was reported by BLS on May 12, 2021, and reflects the percentage change from April 2020 to April 2021. The permissible fee thresholds increased to \$30 for a first violation penalty fee and \$41 for a subsequent violation reflect a 4.7 percent increase in the CPI-W from April 2020 to April 2021 with the resulting thresholds rounded to the nearest \$1 increment.

B. HOEPA Annual Threshold Adjustments

Section 1026.32(a)(1)(ii) of Regulation Z implements section 1431 of the Dodd-Frank Act,⁵ 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 this threshold amount be recalculated annually using the CPI index in effect on the preceding June 1; the Bureau uses the CPI-U for this adjustment.⁶ The 2022 adjustment is based on the CPI-U index in effect on June 1, which was reported by BLS on May 12, 2021, and reflects the percentage change from April 2020 to April 2021. The adjustment to \$22,969 here reflects a 4.2 percent increase in the CPI-U index from April 2020 to April 2021 and is rounded to the nearest whole dollar amount for ease of compliance.

⁵ Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 Stat. 1376 (2010).

⁶ The CPI-U is based on all urban consumers and represents approximately 93 percent of the U.S. population.

Under § 1026.32(a)(1)(ii)(B) the HOEPA points-and-fees threshold is \$1,000. Section 1026.32(a)(1)(ii)(B) provides that this threshold amount will be recalculated annually using the CPI index in effect on the preceding June 1; the Bureau uses the CPI-U for this adjustment. The 2022 adjustment is based on the CPI-U index in effect on June 1, 2021, which was reported by BLS on May 12, 2021, and reflects the percentage change from April 2020 to April 2021. The adjustment to \$1,148 here reflects a 4.2 percent increase in the CPI-U index from April 2020 to April 2021 and is 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).⁷ 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 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

⁷ 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).

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 percentage points for a subordinate-lien covered transaction with a loan amount less than \$66,156 (indexed for inflation).⁸ The rule states that the loan 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 1.⁹ Section 1026.43(e)(2)(vi) of Regulation Z is also amended to add a cross-reference to the official commentary of Regulation Z where historical threshold dollar amounts for § 1026.43(e)(2)(vi)(A) through (F) can be located. This change to the regulatory text will assist creditors in locating the applicable threshold adjustments.

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; \$3,000 for a loan amount greater than or equal to \$60,000 but less than \$100,000; 5 percent of the total loan amount for loans greater than or equal to \$20,000 but less than \$60,000; \$1,000 for a loan amount greater than or equal to \$12,500 but less than \$20,000; or 8 percent of the total loan amount for loans less than \$12,500. Section 1026.43(e)(3)(ii) provides that the limits and loan amounts in § 1026.43(e)(3)(i) will be recalculated annually for inflation using the CPI-U index in effect on the preceding June 1.

The 2022 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 is based on the CPI-U index in effect on June 1, 2021, which was reported by BLS on May 12, 2021, and

⁸ The loan amounts in the regulatory text reflect the CPI-U in effect on June 1, 2020.

⁹ See comment 43(e)(2)(vi)-3.

reflects the percentage change from April 2020 to April 2021. The adjustment to the 2021 figures¹⁰ being adopted here reflects a 4.2 percent increase in the CPI-U index for this period and is 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 2022. Accordingly, the Bureau is not amending these sections of Regulation Z.

Safe Harbor Penalty Fees—§ 1026.52(b)(1)(ii)(A) and (B)

Effective January 1, 2022, the permissible fee threshold amounts increased from the amounts for 2021 to \$30 for § 1026.52(b)(1)(ii)(A) and to \$41 for § 1026.52(b)(1)(ii)(B). Accordingly, the Bureau is amending § 1026.52(b)(1)(ii)(A) and (B). The Bureau is amending comment 52(b)(1)(ii)-2.i to preserve a list of the historical thresholds for this provision.

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

Effective January 1, 2022, 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 is \$22,969, and the adjusted points-and-fees dollar trigger under § 1026.32(a)(1)(ii)(B) is \$1,148. If the total loan amount for a transaction is \$22,969 or more, and the points-and-fees amount exceeds 5 percent of the total loan amount, the transaction is a

¹⁰ For 2022, 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 \$114,847; 3.5 or more percentage points for a first-lien covered transaction with a loan amount greater than or equal to \$68,908 but less than \$114,847; 6.5 or more percentage points for a first-lien covered transaction with a loan amount less than \$68,908; 6.5 or more percentage points for a first-lien covered transaction secured by a manufactured home with a loan amount less than \$114,847; 3.5 or more percentage points for a subordinate-lien covered transaction with a loan amount greater than or equal to \$68,908; or 6.5 or more percentage points for a subordinate-lien covered transaction with a loan amount less than \$68,908. 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 \$114,847; \$3,445 for a loan amount greater than or equal to \$68,908 but less than \$114,847; 5 percent of the total loan amount for loans greater than or equal to \$22,969 but less than \$68,908; \$1,148 for a loan amount greater than or equal to \$14,356 but less than \$22,969; or 8 percent of the total loan amount for loans less than \$14,356.

high-cost mortgage. If the total loan amount for a transaction is less than \$22,969, and the points-and-fees amount exceeds the lesser of the adjusted points-and-fees dollar trigger of \$1,148 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 2022 the new points-and-fees dollar trigger and the new loan amount dollar threshold, respectively.

C. Qualified Mortgages Annual Threshold Adjustments

Effective January 1, 2022, to satisfy § 1026.43(e)(2)(vi) under the General QM loan definition, the APR 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 \$114,847; 3.5 or more percentage points for a first-lien covered transaction with a loan amount greater than or equal to \$68,908 but less than \$114,847; 6.5 or more percentage points for a first-lien covered transaction with a loan amount less than \$68,908; 6.5 or more percentage points for a first-lien covered transaction secured by a manufactured home with a loan amount less than \$114,847; 3.5 or more percentage points for a subordinate-lien covered transaction with a loan amount greater than or equal to \$68,908; or 6.5 or more percentage points for a subordinate-lien covered transaction with a loan amount less than \$68,908. 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, 2022, 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 \$114,847; \$3,445 for a loan amount greater than or equal to \$68,908 but less than \$114,847; 5 percent of the total loan amount for loans greater than or equal to \$22,969 but less than \$68,908; \$1,148 for a loan amount greater than or equal to \$14,356 but less than \$22,969; or 8 percent of the total loan amount for loans less than

\$14,356. 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 2022.

III. Procedural Requirements

A. Administrative Procedure Act

Under the Administrative Procedure Act, notice and opportunity for public comment are not required if the Bureau finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest.¹¹ Pursuant to this final rule, in Regulation Z, § 1026.52(b)(1)(ii)(A) and (B) in subpart G is amended and comments 32(a)(1)(ii)-1.vii and -3.vii, 43(e)(3)(ii)-1.vii, and 52(b)(1)(ii)-2.i.H in Supplement I are added 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. Section 1026.43(e)(2)(vi) of Regulation Z is also amended to add a cross-reference to the official commentary of Regulation Z where historical threshold dollar amounts for § 1026.43(e)(2)(vi)(A) through (F) can be located. This amendment is technical and for informational purposes only, as it merely provides a cross-reference to existing commentary that will list current and past threshold adjustments already required by Regulation Z. 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.

B. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis.¹²

¹¹ 5 U.S.C. 553(b)(B).

¹² 5 U.S.C. 603(a), 604(a).

C. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995,¹³ the Bureau reviewed this final rule. No collections of information pursuant to the Paperwork Reduction Act are contained in the final rule.

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

The Associate Director of Research, Markets, and Regulations, Janis K. Pappalardo, having reviewed and approved this document, is delegating the authority to electronically sign this document 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.*

¹³ 44 U.S.C. 3506; 5 CFR part 1320.

Subpart E—Special Rules for Certain Home Mortgage Transactions

2. Amend § 1026.43 by revising paragraph (e)(2)(vi) introductory text to read as follows:

§ 1026.43 Minimum standards for transactions secured by a dwelling.

* * * * *

(e) * * *

(2) * * *

(vi) For which the annual percentage rate does not exceed the average prime offer rate for a comparable transaction as of the date the interest rate is set by the amounts specified in paragraphs (e)(2)(vi)(A) through (F) of this section. The amounts specified here shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) that was reported on the preceding June 1. For purposes of this paragraph (e)(2)(vi), the creditor must determine 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 by treating the maximum interest rate that may apply during that five-year period as the interest rate for the full term of the loan. See the official commentary to this paragraph (e)(2)(vi) for the current dollar amounts.

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Subpart G—Special Rules Applicable to Credit Card Accounts and Open-End Credit Offered to College Students

3. Amend § 1026.52 by revising paragraphs (b)(1)(ii)(A) and (B) to read as follows:

§ 1026.52 Limitations on fees.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(A) \$30;

(B) \$41 if the card issuer previously imposed a fee pursuant to paragraph (b)(1)(ii)(A) of this section for a violation of the same type that occurred during the same billing cycle or one of the next six billing cycles; or

* * * * *

4. In Supplement I to part 1026:

a. Under *Section 1026.32—Requirements for High-Cost Mortgages, Paragraph*

32(a)(1)(ii) is revised.

b. Under *Section 1026.43—Minimum Standards for Transactions Secured by a Dwelling, Paragraphs 43(e)(2)(vi) and 43(e)(3)(ii)* are revised.

c. Under *Section 1026.52—Limitations on Fees, 52(b)(1)(ii) Safe harbors* is revised.

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.

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 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.

* * * * *

Section 1026.43—Minimum Standards for Transactions Secured by a Dwelling

* * * * *

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.

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 of this part 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.

* * * * *

Section 1026.52—Limitations on Fees

* * * * *

52(b)(1)(ii) Safe harbors

1. *Multiple violations of same type.* i. *Same billing cycle or next six billing cycles.* A card issuer cannot impose a fee for a violation pursuant to § 1026.52(b)(1)(ii)(B) unless a fee has previously been imposed for the same type of violation pursuant to § 1026.52(b)(1)(ii)(A). Once a fee has been imposed for a violation pursuant to § 1026.52(b)(1)(ii)(A), the card issuer may impose a fee pursuant to § 1026.52(b)(1)(ii)(B) for any subsequent violation of the same type until that type of violation has not occurred for a period of six consecutive complete billing

cycles. A fee has been imposed for purposes of § 1026.52(b)(1)(ii) even if the card issuer waives or rebates all or part of the fee.

A. *Late payments.* For purposes of § 1026.52(b)(1)(ii), a late payment occurs during the billing cycle in which the payment may first be treated as late consistent with the requirements of this part and the terms or other requirements of the account.

B. *Returned payments.* For purposes of § 1026.52(b)(1)(ii), a returned payment occurs during the billing cycle in which the payment is returned to the card issuer.

C. *Transactions that exceed the credit limit.* For purposes of § 1026.52(b)(1)(ii), a transaction that exceeds the credit limit for an account occurs during the billing cycle in which the transaction occurs or is authorized by the card issuer.

D. *Declined access checks.* For purposes of § 1026.52(b)(1)(ii), a check that accesses a credit card account is declined during the billing cycle in which the card issuer declines payment on the check.

ii. *Relationship to §§ 1026.52(b)(2)(ii) and 1026.56(j)(1).* If multiple violations are based on the same event or transaction such that § 1026.52(b)(2)(ii) prohibits the card issuer from imposing more than one fee, the event or transaction constitutes a single violation for purposes of § 1026.52(b)(1)(ii). Furthermore, consistent with § 1026.56(j)(1)(i), no more than one violation for exceeding an account's credit limit can occur during a single billing cycle for purposes of § 1026.52(b)(1)(ii). However, § 1026.52(b)(2)(ii) does not prohibit a card issuer from imposing fees for exceeding the credit limit in consecutive billing cycles based on the same over-the-limit transaction to the extent permitted by § 1026.56(j)(1). In these circumstances, the second and third over-the-limit fees permitted by § 1026.56(j)(1) may be imposed pursuant to § 1026.52(b)(1)(ii)(B). *See comment 52(b)(2)(ii)-1.*

iii. *Examples.* The following examples illustrate the application of § 1026.52(b)(1)(ii)(A) and (b)(1)(ii)(B) with respect to credit card accounts under an open-end (not home-secured) consumer credit plan that are not charge card accounts. For purposes of these examples, assume

that the billing cycles for the account begin on the first day of the month and end on the last day of the month and that the payment due date for the account is the twenty-fifth day of the month.

A. Violations of same type (late payments). A required minimum periodic payment of \$50 is due on March 25. On March 26, a late payment has occurred because no payment has been received. Accordingly, consistent with § 1026.52(b)(1)(ii)(A), the card issuer imposes a \$25 late payment fee on March 26. In order for the card issuer to impose a \$35 late payment fee pursuant to § 1026.52(b)(1)(ii)(B), a second late payment must occur during the April, May, June, July, August, or September billing cycles.

1. The card issuer does not receive any payment during the March billing cycle. A required minimum periodic payment of \$100 is due on April 25. On April 20, the card issuer receives a \$50 payment. No further payment is received during the April billing cycle. Accordingly, consistent with § 1026.52(b)(1)(ii)(B), the card issuer may impose a \$35 late payment fee on April 26. Furthermore, the card issuer may impose a \$35 late payment fee for any late payment that occurs during the May, June, July, August, September, or October billing cycles.

2. Same facts as in paragraph A above. On March 30, the card issuer receives a \$50 payment and the required minimum periodic payments for the April, May, June, July, August, and September billing cycles are received on or before the payment due date. A required minimum periodic payment of \$60 is due on October 25. On October 26, a late payment has occurred because the required minimum periodic payment due on October 25 has not been received. However, because this late payment did not occur during the six billing cycles following the March billing cycle, § 1026.52(b)(1)(ii) only permits the card issuer to impose a late payment fee of \$25.

B. Violations of different types (late payment and over the credit limit). The credit limit for an account is \$1,000. Consistent with § 1026.56, the consumer has affirmatively consented to the payment of transactions that exceed the credit limit. A required minimum periodic

payment of \$30 is due on August 25. On August 26, a late payment has occurred because no payment has been received. Accordingly, consistent with § 1026.52(b)(1)(ii)(A), the card issuer imposes a \$25 late payment fee on August 26. On August 30, the card issuer receives a \$30 payment. On September 10, a transaction causes the account balance to increase to \$1,150, which exceeds the account's \$1,000 credit limit. On September 11, a second transaction increases the account balance to \$1,350. On September 23, the card issuer receives the \$50 required minimum periodic payment due on September 25, which reduces the account balance to \$1,300. On September 30, the card issuer imposes a \$25 over-the-limit fee, consistent with § 1026.52(b)(1)(ii)(A). On October 26, a late payment has occurred because the \$60 required minimum periodic payment due on October 25 has not been received. Accordingly, consistent with § 1026.52(b)(1)(ii)(B), the card issuer imposes a \$35 late payment fee on October 26.

C. Violations of different types (late payment and returned payment). A required minimum periodic payment of \$50 is due on July 25. On July 26, a late payment has occurred because no payment has been received. Accordingly, consistent with § 1026.52(b)(1)(ii)(A), the card issuer imposes a \$25 late payment fee on July 26. On July 30, the card issuer receives a \$50 payment. A required minimum periodic payment of \$50 is due on August 25. On August 24, a \$50 payment is received. On August 27, the \$50 payment is returned to the card issuer for insufficient funds. In these circumstances, § 1026.52(b)(2)(ii) permits the card issuer to impose either a late payment fee or a returned payment fee but not both because the late payment and the returned payment result from the same event or transaction. Accordingly, for purposes of § 1026.52(b)(1)(ii), the event or transaction constitutes a single violation. However, if the card issuer imposes a late payment fee, § 1026.52(b)(1)(ii)(B) permits the issuer to impose a fee of \$35 because the late payment occurred during the six billing cycles following the July billing cycle. In contrast, if the card issuer imposes a returned payment fee, the amount of the fee may be no more than \$25 pursuant to § 1026.52(b)(1)(ii)(A).

2. *Adjustments based on Consumer Price Index.* For purposes of § 1026.52(b)(1)(ii)(A) and (b)(1)(ii)(B), the Bureau shall calculate each year price level adjusted amounts using the Consumer Price Index in effect on June 1 of that year. When the cumulative change in the adjusted minimum value derived from applying the annual Consumer Price level to the current amounts in § 1026.52(b)(1)(ii)(A) and (b)(1)(ii)(B) has risen by a whole dollar, those amounts will be increased by \$1.00. Similarly, when the cumulative change in the adjusted minimum value derived from applying the annual Consumer Price level to the current amounts in § 1026.52(b)(1)(ii)(A) and (b)(1)(ii)(B) has decreased by a whole dollar, those amounts will be decreased by \$1.00. The Bureau will publish adjustments to the amounts in § 1026.52(b)(1)(ii)(A) and (b)(1)(ii)(B).

i. *Historical thresholds.*

A. Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed \$25 under § 1026.52(b)(1)(ii)(A) and \$35 under § 1026.52(b)(1)(ii)(B), through December 31, 2013.

B. Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed \$26 under § 1026.52(b)(1)(ii)(A) and \$37 under § 1026.52(b)(1)(ii)(B), through December 31, 2014.

C. Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed \$27 under § 1026.52(b)(1)(ii)(A) and \$38 under § 1026.52(b)(1)(ii)(B), through December 31, 2015.

D. Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed \$27 under § 1026.52(b)(1)(ii)(A), through December 31, 2016. Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed \$37 under § 1026.52(b)(1)(ii)(B), through June 26, 2016, and \$38 under § 1026.52(b)(1)(ii)(B) from June 27, 2016 through December 31, 2016.

E. Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed \$27 under § 1026.52(b)(1)(ii)(A) and \$38 under § 1026.52(b)(1)(ii)(B), through December 31, 2017.

F. Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed \$27 under § 1026.52(b)(1)(ii)(A) and \$38 under § 1026.52(b)(1)(ii)(B), through December 31, 2018.

G. Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed \$28 under § 1026.52(b)(1)(ii)(A) and \$39 under § 1026.52(b)(1)(ii)(B), through December 31, 2019.

H. Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed \$29 under § 1026.52(b)(1)(ii)(A) and \$40 under § 1026.52(b)(1)(ii)(B), through December 31, 2020.

I. Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed \$29 under § 1026.52(b)(1)(ii)(A) and \$40 under § 1026.52(b)(1)(ii)(B), through December 31, 2021.

3. *Delinquent balance for charge card accounts.* Section 1026.52(b)(1)(ii)(C) provides that, when a charge card issuer that requires payment of outstanding balances in full at the end of each billing cycle has not received the required payment for two or more consecutive billing cycles, the card issuer may impose a late payment fee that does not exceed three percent of the delinquent balance. For purposes of § 1026.52(b)(1)(ii)(C), the delinquent balance is any previously billed amount that remains unpaid at the time the late payment fee is imposed pursuant to § 1026.52(b)(1)(ii)(C). Consistent with § 1026.52(b)(2)(ii), a charge card issuer that imposes a fee pursuant to § 1026.52(b)(1)(ii)(C) with respect to a late payment may not impose a fee pursuant to § 1026.52(b)(1)(ii)(B) with respect to the same late payment. The following examples illustrate the application of § 1026.52(b)(1)(ii)(C):

i. Assume that a charge card issuer requires payment of outstanding balances in full at the end of each billing cycle and that the billing cycles for the account begin on the first day of the month and end on the last day of the month. At the end of the June billing cycle, the account has a balance of \$1,000. On July 5, the card issuer provides a periodic statement disclosing the \$1,000 balance consistent with § 1026.7. During the July billing cycle, the account is used for \$300 in transactions, increasing the balance to \$1,300. At the end of the July billing cycle, no payment has been received and the card issuer imposes a \$25 late payment fee consistent with § 1026.52(b)(1)(ii)(A). On August 5, the card issuer provides a periodic statement disclosing the \$1,325 balance consistent with § 1026.7. During the August billing cycle, the account is used for \$200 in transactions, increasing the balance to \$1,525. At the end of the August billing cycle, no payment has been received. Consistent with § 1026.52(b)(1)(ii)(C), the card issuer may impose a late payment fee of \$40, which is 3% of the \$1,325 balance that was due at the end of the August billing cycle. Section 1026.52(b)(1)(ii)(C) does not permit the card issuer to include the \$200 in transactions that occurred during the August billing cycle.

ii. Same facts as above except that, on August 25, a \$100 payment is received. Consistent with § 1026.52(b)(1)(ii)(C), the card issuer may impose a late payment fee of \$37, which is 3% of the unpaid portion of the \$1,325 balance that was due at the end of the August billing cycle (\$1,225).

iii. Same facts as in paragraph A above except that, on August 25, a \$200 payment is received. Consistent with § 1026.52(b)(1)(ii)(C), the card issuer may impose a late payment fee of \$34, which is 3% of the unpaid portion of the \$1,325 balance that was due at the end of the August billing cycle (\$1,125). In the alternative, the card issuer may impose a late payment fee of \$35 consistent with § 1026.52(b)(1)(ii)(B). However, § 1026.52(b)(2)(ii) prohibits the card issuer from imposing both fees.

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Laura Galban,

Federal Register Liaison, Bureau of Consumer Financial Protection.

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