§ 1026.37(c) *Projected payments.*

§ 1026.37 Content of disclosures for certain mortgage transactions (Loan Estimate).

For each transaction subject to § 1026.19(e), the creditor shall disclose the information in this section, as applicable:

Commentary

1. *As applicable.* The disclosures required by § 1026.37 are to be made only as applicable, except as otherwise provided in § 1026.37(o). A disclosure that is not applicable to a particular transaction generally may be eliminated entirely. For example, in a transaction for which the creditor does not require homeowner's insurance, the disclosure required by § 1026.37(m)(3) need not be included. Alternatively, the creditor generally may include disclosures that are not applicable to the transaction and note that they are "not applicable" or "N/A." As provided in § 1026.37(i) and (j), however, the adjustable payment and adjustable interest rate tables required by those paragraphs may be included only if those disclosures are applicable to the transaction and otherwise must be excluded.

2. *Format.* See § 1026.37(o) and its commentary for guidance on the proper format to be used in making the disclosures, as well as permissible modifications

(c) *Projected payments.* In a separate table under the heading "Projected Payments," an itemization of each separate periodic payment or range of payments, together with an estimate of taxes, insurance, and assessments and the payments to be made with escrow account funds.

Commentary: 37(c) *Projected payments.*

1. *Definitions.* For purposes of § 1026.37(c), the terms "adjustable rate," "fixed rate," "negative amortization," and "interest-only" have the meanings in § 1026.37(a)(10).

(1) *Periodic payment or range of payments.* (i) The initial periodic payment or range of payments is a separate periodic payment or range of payments and, except as otherwise provided in paragraph (c)(1)(ii) of this section, the following events require the disclosure of additional separate periodic payments or ranges of payments:

(A) The periodic principal and interest payment or range of such payments may change;

Commentary: 37(c)(1) *Periodic payment or range of payments.*

Paragraph 37(c)(1)(i).

1. *Periodic payments.* For purposes of § 1026.37(c)(1)(i), the periodic payment is the regularly scheduled payment of principal and interest, mortgage insurance, and escrow payments described in § 1026.37(c)(2) without regard to any final payment that differs from other payments because of rounding to account for payment amounts including fractions of cents.

Paragraph 37(c)(1)(i)(A).

1. *Periodic principal and interest payments.* For purposes of § 1026.37(c)(1)(i)(A), periodic principal and interest payments may change when the interest rate, applicable interest rate caps, required periodic principal and interest payments, or ranges of such payments may change. Minor payment variations resulting solely from the fact that months have different numbers of days are not changes to periodic principal and interest payments.

2. *Negative amortization.* In a loan that permits negative amortization, periodic principal and interest payments may change at the time of a scheduled recast of the mortgage loan and when the consumer must begin making fully amortizing payments of principal and interest. The disclosure should be based on the assumption that the consumer will make only the minimum payment required under the terms of the legal obligation, for the maximum amount of time permitted, taking into account potential changes to the interest rate. The table required by § 1026.37(c) should also reflect any balloon payment that would result from making the minimum payment required under the terms of the legal obligation.

3. *Interest-only*. In a loan that permits payment of only interest for a specified period, periodic principal and interest payments may change for purposes of § 1026.37(c)(1)(i)(A) when the consumer must begin making fully amortizing periodic payments of principal and interest

(B) A scheduled balloon payment; and

Paragraph 37(c)(1)(i)(B).

1. *Balloon payment.* For purposes of § 1026.37(c)(1)(i)(B), whether a balloon payment occurs is determined pursuant to § 1026.37(b)(5) and its commentary. Although the existence of a balloon payment is determined pursuant to § 1026.37(b)(5) and its commentary, balloon payment amounts to be disclosed under § 1026.37(c) are calculated in the same manner as periodic principal and interest payments under § 1026.37(c). For example, for a balloon payment amount that can change depending on previous interest rate adjustments that are based on the value of an index at the time of the adjustment, the balloon payment amounts are calculated using the assumptions for minimum and maximum interest rates described in § 1026.37(c)(1)(iii) and its commentary, and should be disclosed as a range of payments.

(C) The creditor must automatically terminate mortgage insurance coverage, or any functional equivalent, under applicable law.

Paragraph 37(c)(1)(i)(C).

1. *General.* "Mortgage insurance" means insurance against the nonpayment of, or default on, an individual mortgage. For purposes of § 1026.37(c), "mortgage insurance coverage or any functional equivalent" includes any mortgage guarantee that provides coverage similar to mortgage insurance (such as a United States Department of Veterans Affairs or United States Department of Agriculture guarantee), even if not technically considered insurance under State or other applicable law. The fees for such a guarantee are included in "mortgage insurance premiums."

2. *Calculation.* For purposes of § 1026.37(c)(1)(i)(C), mortgage insurance premiums should be calculated based on the declining principal balance that will occur as a result of changes to the interest rate and payment amounts, assuming the fully-indexed rate applies at consummation, taking into account any introductory interest rates.

3. *Disclosure.* The table required by § 1026.37(c) should reflect the consumer's mortgage insurance premiums until the date on which the creditor must automatically terminate coverage under applicable law, even though the consumer may have a right to request that the insurance be cancelled earlier. Unlike termination of mortgage insurance, a subsequent decline in the consumer's mortgage insurance premiums is not, by itself, an event that requires the disclosure of additional separate periodic payments or ranges of payments in the table required by § 1026.37(c). For example, some mortgage insurance programs annually adjust premiums based on the declining loan balance. Such annual adjustment to the amount of premiums would not require a separate disclosure of a periodic payment or range payments.

(ii) The table required by this paragraph (c) shall not disclose more than four separate periodic payments or ranges of payments. For all events requiring disclosure of additional separate periodic payments or ranges of payments described in paragraph (c)(1)(i) of this section after the second to occur, the separate periodic payments or ranges of payments shall be disclosed as a single range of payments, subject to the following exceptions:

(A) A final balloon payment shall always be disclosed as a separate periodic payment or range of payments, in which case no more than three other separate periodic payments or ranges of payments are disclosed.

Paragraph 37(c)(1)(ii)(A).

1. *Balloon payments that are final payments.* Section 1026.37(c)(1)(ii)(A) is an exception to the general rule in § 1026.37(c)(1)(ii), and requires that a balloon payment that is scheduled as a final payment under the terms of the legal obligation is always disclosed as a separate periodic payment or range of payments. Balloon payments that are not final payments, such as a balloon payment due at the scheduled recast of a loan that permits negative amortization, are disclosed pursuant to the general rule in § 1026.37(c)(1)(ii).

(B) The automatic termination of mortgage insurance coverage, or any functional equivalent, under applicable law shall require disclosure of a separate periodic payment or range of payments only if the total number of events that require disclosure of additional separate periodic payments or ranges of payments described in paragraph (c)(1)(i) of this section, other than the termination of mortgage insurance, or any functional equivalent, does not exceed two.

(C) If changes to periodic principal and interest payments described in paragraph (c)(1)(i)(A) of this section would require more than one separate disclosure during a single year, such periodic payments shall be disclosed as a single range of payments.

(iii) A range of payments is required under this paragraph (c)(1) when the periodic principal and interest payment may adjust based on index rates at the time an interest rate adjustment may occur or multiple events are combined in a range of payments pursuant to paragraph (c)(1)(ii) of this section. When a range of payments is required, the creditor must disclose the minimum and maximum amount for both the principal and interest payment under paragraph (c)(2)(i) of this section and the total periodic payment under paragraph (c)(2)(iv) of this section. In the case of an interest rate adjustment, the maximum payment amounts are determined by assuming that the interest rate in effect throughout the loan term is the maximum possible interest rate, and the minimum payment amounts are determined by assuming that the interest rate in effect throughout the loan term is the minimum possible interest rate.

Paragraph 37(c)(1)(iii).

1. *Calculation of minimum and maximum payments.* A range of payments is disclosed under § 1026.37(c)(1)(iii) when the periodic principal and interest payments are not known at the time the disclosure is provided because they are subject to changes based on index rates at the time of an interest rate adjustment, or when multiple events are disclosed as a range of payments pursuant to § 1026.37(c)(1)(ii). For such transactions, § 1026.37(c)(1)(iii) requires the creditor to disclose both the minimum and maximum periodic principal and interest payments, expressed as a range. In disclosing the maximum possible interest rate under § 1026.37(c), the creditor assumes that the interest rate will rise as rapidly as possible after consummation, taking into account the terms of the legal obligation, including any applicable caps on interest rate adjustments and lifetime interest rate cap. For a loan with no lifetime interest rate cap, the maximum rate is determined by reference to other applicable laws, such as State usury law. In disclosing the minimum possible interest rate for purposes of § 1026.37(c), the creditor assumes that the interest rate will decrease as rapidly possible after consummation, taking into account any introductory rates, caps on interest rate adjustments, and lifetime interest rate floor. For an adjustable rate mortgage based on an index that has no lifetime interest rate floor, the minimum interest rate is equal to the margin.

2. *Ranges of payments.* When a range of payments is required, § 1026.37(c)(1)(iii) requires the creditor to disclose the minimum and maximum amount for both the principal and interest payment under § 1026.37(c)(2)(i) and the total periodic payment under § 1026.37(c)(2)(iv). The amount required to be disclosed for mortgage insurance premiums pursuant to § 1026.37(c)(2)(ii) and the amount payable into an escrow account pursuant to § 1026.37(c)(2)(iii) shall not be disclosed as a range.

3. *Adjustable rate mortgages.* For an adjustable rate mortgage, the periodic principal and interest payment at each time the interest rate may change will depend on the rate that applies at the time of the adjustment, which is not known at the time the disclosure is provided. As a result, the creditor discloses the minimum and maximum periodic principal and interest payment that could apply during each period disclosed pursuant to § 1026.37(c)(1) after the first period.

(2) *Itemization.* Each separate periodic payment or range of payments included in the table required by this paragraph (c) shall be itemized as follows:

(i) The amount payable for principal and interest, labeled “Principal & Interest,” including the term “only interest” if the payment or range of payments includes any interest-only payment;

Commentary: 37(c)(2) *Itemization.*

(ii) The maximum amount payable for mortgage insurance premiums corresponding to the principal and interest payment disclosed pursuant to paragraph (c)(2)(i) of this section, labeled “Mortgage Insurance”;

(iii) The amount payable into an escrow account to pay some or all of the charges described in paragraphs (c)(4)(ii)(A) through (E) of this section, as applicable, labeled “Estimated Escrow,” together with a statement that the amount disclosed can increase over time; and

(iv) The total periodic payment, calculated as the sum of the amounts disclosed pursuant to paragraphs (c)(2)(i) through (iii) of this section, labeled “Total Monthly Payment.”

Paragraph 37(c)(2)(ii).

1. *Mortgage insurance.* Mortgage insurance premiums should be reflected on the disclosure required by § 1026.37(c) even if no escrow account is established for the payment of mortgage insurance premiums. If the consumer is not required to purchase mortgage insurance, the creditor shall disclose the mortgage insurance premium as “0”.

2. *Periodic payments.* The creditor discloses mortgage insurance premiums pursuant to § 1026.37(c)(2)(ii) on the same periodic basis that payments for principal and interest are disclosed pursuant to § 1026.37(c)(2)(i), even if mortgage insurance premiums are actually paid on some other periodic basis.

Paragraph 37(c)(2)(iii).

1. *Escrow.* The disclosure described in § 1026.37(c)(2)(iii) is required only if the creditor will establish an escrow account for the payment of some or all of the charges described in § 1026.37(c)(4)(ii)(A) through (E).

(3) *Subheadings*. (i) The labels required pursuant to paragraph (c)(2) of this section must be listed under the subheading "Payment Calculation."

(ii) Each separate periodic payment or range of payments to be disclosed under this paragraph (c) must be disclosed under a subheading that states the number of years of the loan during which that payment or range of payments will apply. The subheadings must be stated in a sequence of whole years from the date that the first such payment is due.

Commentary: 37(c)(3) *Subheadings.*

Paragraph 37(c)(3)(ii).

1. *Years*. Section 1026.37(c)(3)(ii) requires that each periodic payment or range of payments be disclosed under a subheading that states the number of years during which that payment or range of payments will apply and that such subheadings be stated in a sequence of whole years. For purposes of § 1026.37(c), "year" is defined as the twelve-month interval beginning on the due date of the first periodic payment and each anniversary thereafter. For example, for a loan with a 30-year term that does not require mortgage insurance and requires interest-only payments for the first 60 months of the loan, then requires fixed, fully amortizing payments of principal and interest for the duration of the loan, the creditor would label the first disclosure of periodic payments as "Years 1-5" and the second disclosure of periodic payments or range of payments as "Years 6-30." However, if that loan requires interest-only payments for the first 54 months of the loan, then requires fixed, fully amortizing payments of principal and interest for the duration of the loan, the creditor would label the first disclosure of periodic payments as "Years 1-4" and the second disclosure of periodic payments or range of payments as "Years 5-30." Finally, if the loan that requires interest-only payments for the first 54 months also requires mortgage insurance that would automatically terminate under applicable law after the 100th month of the loan's term, the creditor would label the first

disclosure of periodic payments as "Years 1-4," the second disclosure of periodic payments or range of payments as "Years 5-8," and the third disclosure of periodic payments or range of payments as "Years 9-30."

2. *Loans with variable terms.* If the loan term may increase based on an adjustment of the interest rate, the creditor must disclose the maximum loan term possible under the legal obligation. To calculate the maximum loan term, the creditor assumes that the interest rate rises as rapidly as possible, taking into account the terms of the legal obligation, including any applicable caps on interest rate adjustments and lifetime interest rate cap. *See* comment 37(a)(8)-1.

(4) *Taxes, insurance, and assessments.* Under the information required by paragraphs (c)(1) through (3) of this section:

(i) The label "Estimated Taxes, Insurance & Assessments;"

Commentary: 37(c)(4) *Taxes, insurance, and assessments.*

(ii) The sum of the following charges, if applicable, expressed as a monthly amount, even if no escrow account for the payment of some or any of such charges will be established:

(A) Property taxes;

(B) Mortgage-related insurance premiums required by the creditor, other than amounts payable for mortgage insurance premiums;

(C) Homeowner's association, condominium, or cooperative fees;

(D) Ground rent or leasehold payments; and

(E) Special assessments;

(iii) A statement that the amount disclosed pursuant to paragraph (c)(4)(ii) of this section can increase over time;

Paragraph 37(c)(4)(ii).

1. *Mortgage-related insurance premiums.* Mortgage-related insurance premiums required by the creditor are those described § 1026.35(b)(3)(i) and its commentary, except that, for purposes of § 1026.37(c)(4)(ii), mortgage-related insurance premiums do not include mortgage insurance premiums disclosed pursuant to § 1026.37(c)(2)(ii). A creditor need not include premiums for mortgage-related insurance that are not required as part of the legal obligation or under applicable law, such as optional earthquake insurance or credit insurance, or fees for optional debt suspension and debt cancellation agreements.

2. *Special assessments.* Special assessments are imposed on the consumer at or before consummation, such as a one-time homeowners' association fee that will not be paid by the consumer in full at or before consummation.

(iv) A statement of whether the amount disclosed pursuant to paragraph (c)(4)(ii) of this section includes payments for property taxes, homeowner's insurance, and other amounts described in paragraph (c)(4)(ii) of this section, along with a description of any such other amounts, and an indication of whether such amounts will be paid by the creditor using escrow account funds;

(v) A statement that the consumer must pay separately any amounts described in paragraph (c)(4)(ii) of this section that are not paid by the creditor using escrow account funds; and

(vi) A reference to the information disclosed pursuant to paragraph (g)(3) of this section.

(5) *Calculation of taxes and insurance.* For purposes of paragraphs (c)(2)(iii) and (4)(ii) of this section, estimated property taxes and homeowner's insurance shall reflect:

(i) The taxable assessed value of the real property securing the transaction after consummation, including the value of any improvements on the property or to be constructed on the property, if known, whether or not such construction will be financed from the proceeds of the transaction, for property taxes; and

(ii) The replacement costs of the property during the initial year after the transaction, for homeowner's insurance.