

441 G St. N.W.  
Washington, DC 20548

B-333398

July 13, 2021

The Honorable Sherrod Brown  
Chairman  
The Honorable Patrick J. Toomey  
Ranking Member  
Committee on Banking, Housing, and Urban Affairs  
United States Senate

The Honorable Maxine Waters  
Chairwoman  
The Honorable Patrick McHenry  
Ranking Member  
Committee on Financial Services  
House of Representatives

Subject: *Bureau of Consumer Financial Protection: Protections for Borrowers Affected by the COVID-19 Emergency Under the Real Estate Settlement Procedures Act (RESPA), Regulation X*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Bureau of Consumer Financial Protection (Bureau) entitled “Protections for Borrowers Affected by the COVID-19 Emergency Under the Real Estate Settlement Procedures Act (RESPA), Regulation X” (RIN: 3170-AB07). We received the rule on June 28, 2021. It was published in the *Federal Register* as final rule; official interpretation on June 30, 2021. 86 Fed. Reg. 34848. The effective date is August 31, 2021.

According to the Bureau, it is issuing this final rule to amend Regulation X to assist mortgage borrowers affected by the COVID-19 emergency. See *generally* 12 C.F.R. pt. 1024. The Bureau stated that the final rule establishes temporary procedural safeguards to help ensure that borrowers have a meaningful opportunity to be reviewed for loss mitigation before the servicer can make the first notice or filing required for foreclosure on certain mortgages. The Bureau also stated that the final rule would temporarily permit mortgage servicers to offer certain loan modifications made available to borrowers experiencing a COVID-19-related hardship based on the evaluation of an incomplete application. The Bureau stated further that it is also finalizing certain temporary amendments to the early intervention and reasonable diligence obligations that Regulation X imposes on mortgage servicers.

Enclosed is our assessment of the Bureau's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones  
Managing Associate General Counsel

Enclosure

cc: Edward J. Lovett, Jr.  
Senior Congressional Liaison  
Bureau of Consumer Financial Protection

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
BUREAU OF CONSUMER FINANCIAL PROTECTION  
ENTITLED  
“PROTECTIONS FOR BORROWERS AFFECTED BY THE  
COVID-19 EMERGENCY UNDER THE REAL ESTATE SETTLEMENT  
PROCEDURES ACT (RESPA), REGULATION X”  
(RIN: 3170-AB07)

(i) Cost-benefit analysis

The Bureau of Consumer Financial Protection (Bureau) stated that it considered the potential benefits and costs of this final rule. The Bureau’s analysis established a baseline upon which it estimated the potential benefits and cost to consumers and covered persons of (1) temporary special COVID-19 lost mitigation procedural safeguards; (2) the evaluation of loss mitigation applications; and (3) live contact and reasonable diligence requirements.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

The Bureau certified that this final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

As an independent regulatory agency, the Bureau is not subject to the Act. See 2 U.S.C. §§ 658(1), 1502(1); 44 U.S.C. § 3502(5).

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On April 9, 2021, the Bureau published a proposed rule titled, “*Protections for Borrowers Affected by the COVID-19 Emergency Under the Real Estate Settlement Procedures Act (RESPA), Regulation X.*” 86 Fed. Reg. 18840. According to the Bureau, it received over 200 comments from individual consumers, consumer advocate commenters, state attorneys general, industry, and others. The Bureau stated that it considered comments that addressed issues within the scope of the proposed rule in adopting this final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

The Bureau has determined that this final rule does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by the Office of Management and Budget under PRA.

Statutory authorization for the rule

The Bureau promulgated this final rule pursuant to sections 2603–2605, 2607, 2609, 2617, 5512, 5532, 5581 of title 12, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

As an independent regulatory agency, the Bureau is not subject to the Order.

Executive Order No. 13132 (Federalism)

As an independent regulatory agency, the Bureau is not subject to the Order.