

c. By revising the first paragraph after the heading "Section L. Settlement Charges";

d. By revising the paragraphs for "Line 801" through "Lines 808-811" after the heading "Section L. Settlement Charges";

e. By revising the second paragraph and removing the third paragraph of instructions for "Lines 1000-1008" after the heading "Section L. Settlement Charges", and by removing the heading for the instructions for "Lines 1000-1008" and adding in its place "Lines 1000-1009";

f. By removing the paragraphs for "Lines 1100-1113" through "Lines 1111-1113" after the heading "Section L. Settlement Charges" and adding in their place nine paragraphs of instructions for lines 1100-1114;

g. By removing the paragraph for "Lines 1201-1205" after the heading "Section L. Settlement Charges" and adding in its place two paragraphs of instructions for lines 1200-1205;

h. By removing the paragraphs for "Lines 1301 and 1302" and for "Lines 1303-1305" after the heading "Section L. Settlement Charges" and adding in their place a paragraph of instructions for lines 1301-1305;

i. By revising the paragraph for "Line 1400";

j. By revising the first sentence in the first paragraph following the heading "Line Item Instructions for Completing HUD-1A";

k. By adding after the paragraph of instructions for "Line 1604" a new heading "General Instructions for Completing Closing Script Addendum to HUD-1/1A Settlement Form" and a new paragraph of instructions;

l. By revising the Forms "Settlement Statement" and "Settlement Statement Optional Form for Transactions without Sellers"; and

m. By adding new Instructions to Closing Script Preparer and Examples of Completed Closing Scripts 1 through 6, as follows:

APPENDIX A TO PART 3500—INSTRUCTIONS FOR COMPLETING HUD-1 AND HUD-1A SETTLEMENT STATEMENTS; SAMPLE HUD-1 AND HUD-1A STATEMENTS

The following are instructions for completing sections A through L and the closing script addendum of the HUD-1 settlement statement, required under section 4 of RESPA and Regulation X of the Department of Housing and Urban Development (24 CFR part 3500). This form is to be used as a statement of actual charges and adjustments paid by the borrower and the seller and received by each settlement service provider, to be given to the parties in connection with the settlement. * * *

General Instructions

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The settlement agent shall complete the HUD-1 to itemize all charges imposed upon the Borrower and the Seller by the loan originator and all sales commissions, whether to be paid at settlement or outside of settlement, and any other charges which either the Borrower or the Seller will pay at settlement. For all items except for those paid to and retained by the loan originator, the name of the person or firm ultimately receiving the payment must be shown together with the total amount paid to such person in connection with the transaction. Charges that are customarily paid for by the seller must be shown in the seller's column on page 2 of the HUD-1 (unless paid outside closing), and charges that are customarily paid for by the borrower must be shown in the borrower's column (unless paid outside closing). If a seller pays for a charge that is customarily paid for by the borrower, the charge should not be shown on page 2 of the HUD-1 but instead should be listed as an adjustment in lines 506-509 of the HUD-1. If a borrower pays for a charge that is customarily paid for by the seller, the charge should not be shown on page 2 of the HUD-1, but instead should be listed as an adjustment in lines 204-209 of the HUD-1.

Charges to be paid outside of settlement by the borrower, seller, or loan originator, including cases where a non-settlement agent (i.e., attorneys, title companies, escrow agents, real estate agents, or brokers) holds the Borrower's deposit toward the sales price (earnest money) and applies the entire deposit towards the charge for the settlement service it is rendering, must be included on the HUD-1 but marked "P.O.C." for "Paid Outside of Closing" (settlement) and cannot be included in computing totals. P.O.C. items must not be placed in the Borrower or Seller columns, but rather on the appropriate line next to the columns. The settlement agent must indicate whether P.O.C. items are paid for by the Borrower, Seller, or some other party by marking the items paid for by whoever made the payment as "P.O.C. (payor)."

In the case of "no cost" loans where "no cost" encompasses third party fees as well as the up-front payment to the loan originator, the third party services to be paid for out of the adjusted origination charge must be itemized and listed on the HUD-1/1A with the charge for the third party service. These itemized charges must be recorded in the columns.

For charges disclosed using average cost pricing, the amount stated on the HUD-1 Settlement Statement as a charge to the borrower or seller for the settlement service must be the average price established pursuant to 24 CFR 3500.8(e).

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Line Item Instructions

Section L. Settlement Charges

For all items except for those paid to and retained by the loan originator, the name of the person or firm ultimately receiving the payment must be shown. In the case of loans where third party settlement services, other

than origination services, are paid from the adjusted origination charge by the loan originator, the individual third party settlement services should be itemized, with the charges shown in the columns. In those cases, the adjusted origination charge in line 803 will be a negative number large enough to offset the amounts of the third party settlement services that are paid out of the adjusted origination charge.

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Line 801 is used to record "Our Service Charge," which is received by the loan originators. This number must not be listed in either the buyer's or seller's column.

Line 802 is used to record "Your charge or credit for the specific interest rate chosen," which states the charge or credit adjustment as applied to "Our Service Charge," if applicable. This number must not be listed in either column or shown on page one of the HUD-1.

Line 803 is used to record "Your Adjusted Origination Charges," which states the net amount of the loan origination charges. This number must be listed in either the buyer's column or as "paid outside closing."

Lines 804-811 may be used to record each of the "Required services that we select". Each settlement service provider must be identified by name and the amount paid recorded inside the columns or "P.O.C."

Lines 808-811 may also be used to record other required lender or loan program disclosures. In such a case, any charge must be listed outside the columns.

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Lines 1000-1009. * * *

After itemizing individual deposits in the 1000 series, the servicer shall make an adjustment based on aggregate accounting. This adjustment equals the difference between the deposit required under aggregate accounting and the sum of the itemized deposits. The computation steps for aggregate accounting are set out in § 3500.17(d). The adjustment will always be a negative number or zero (-0-). The settlement agent shall enter the aggregate adjustment amount on a final line of the 1000 series of the HUD-1 or HUD-1A statement.

Lines 1100-1115. This series covers title charges and charges by attorneys. The title charges include a variety of services performed by title companies or others, and include fees directly related to the transfer of title (title examination, title search, document preparation) and fees for title insurance. The legal charges include fees for Lender's, Seller's, or Buyer's attorney, or the attorney preparing title work. The series also includes any settlement, notary, or delivery fees.

Line 1101 is used to record the total for the category of "Title services and lender's title insurance," and the amount must be listed in the columns.

Lines 1102-1108 may be used to itemize charges paid other than those defined as "primary title services," such as for a closing attorney or escrow agent, and those charges paid must be listed outside the columns. Lines 1102-1108 may also be used to itemize some required title services whose costs are already included in Line 1101. In such a

case, any charge must be listed outside the columns.

Line 1109 is used to record "Lender's title insurance premium," and the amount must be listed outside the columns.

Line 1110 is used to record "Optional owner's title insurance," and the amount must be listed in the columns.

Line 1111 is used to record the lender's title insurance policy limits of coverage, and the amount must be listed outside the columns.

Line 1112 is used to record the owner's title insurance policy limits of coverage, and the amount must be listed outside the columns.

Line 1113 is used to record the title agent's portion of the total title insurance premium, and the amount must be listed outside the columns.

Line 1114 is used to record the underwriter's portion of the title insurance

premium, and the amount must be listed outside the columns.

Line 1201 is used to record the total "Government recording and transfer charges," and the amount must be listed in the columns.

Lines 1202–1205 may be used to record specific itemized third party charges for government recording and transfer services, but the amounts must be listed outside the columns.

Lines 1301–1305 may be used to record additional itemized settlement charges, and the amounts must be listed in either column.

Line 1400 must state the total settlement charges stated within each column.

Line Item Instructions for Completing HUD-1A

Note: The HUD-1A, including the closing script addendum, is an optional form that

may be used for refinancing and subordinate lien federally related mortgage loans, as well as for any other one-party transaction that does not involve the transfer of title to residential real property.³⁴ * * *

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General Instructions for Completing Closing Script Addendum to HUD-1/1A Settlement Form

The settlement agent must complete the closing script addendum to the HUD-1/1A settlement form pursuant to § 3500.8(d) and in accordance with the instructions and example closing script forms contained in this Appendix A.

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³⁴Note the HUD-1A and its instructions will be conformed to changes to the HUD-1 and HUD-1 instructions at the final rule stage.