- Transfers resulting from mergers or acquisitions of servicers or subservicers
- Transfers between master servicers, when the subservicer remains the same

Servicers Must Respond to Borrower's Inquiries (§3500.21(e))

A financial institution servicer must respond to a borrower's qualified written inquiry and take appropriate action within established time frames after receipt of the inquiry. Generally, the financial institution must provide written acknowledgment within 20 business days, and take certain specified actions within 60 business days of receipt of such inquiry. The inquiry must include the name and account number of the borrower and the reasons the borrower believes the account is in error.

During the 60 business day period following receipt of a qualified written request from a borrower relating to a disputed payment, a financial institution may not provide information regarding any overdue payment, and relating to this period or the qualified written request, to any consumer reporting agency.

Relationship to State Law (§3500.21(h))

Financial institutions complying with the mortgage servicing transfer disclosure requirements of RESPA are considered to have complied with any State law or regulation requiring notice to a borrower at the time of application or transfer of a mortgage.

State laws shall not be affected by the act, except to the extent that they are inconsistent and then only to the extent of the inconsistency. The Secretary of Housing and Urban Development is authorized, after consulting with the appropriate federal agencies, to determine whether such inconsistencies exist.

Penalties and Liabilities (§3500.21(f))

Failure to comply with any provision of §3500.21 will result in actual damages, and where there is a pattern or practice of noncompliance any additional damages in an amount not to exceed $1,000. In class action cases, each borrower will receive actual damages and any additional damages, as the court allows, up to $1,000 for each member of the class, except that the total amount of damages in any class action may not exceed the lesser of $500,000 or one percent of the net worth of the servicer. In addition, costs of the action and attorney fees in case of any successful action.

Examination Objectives

- To determine if the financial institution has established procedures to ensure compliance with RESPA.
- To determine whether the financial institution engages in any practices prohibited by RESPA, such as kickbacks, payment or receipt of referral fees or unearned fees, or excessive escrow assessments.
- To determine if the Special Information Booklet, Good Faith Estimate, Uniform Settlement Statement (Form HUD-1 or HUD 1A), mortgage servicing transfer disclosures, and other required disclosures are in a form that complies with Regulation X, are properly completed, and provided to borrowers within prescribed time periods.
- To determine if the institution is submitting the required initial and annual escrow account statements to borrowers as applicable and complying with established limitations on escrow account arrangements.
- To determine whether the institution is responding to borrower inquiries for information relating to the servicing of their loans in compliance with the provisions of RESPA.

Examination Procedures

If the financial institution has loans covered by the Act, determine whether the institution's policies, practices and procedures are in compliance.

1. Review the types of loans covered by RESPA and applicable exemptions.
2. Review the Special Information Booklet, Good Faith Estimate (GFE) form, Uniform Settlement Statement form (HUD-1 or HUD-1A), mortgage servicing transfer disclosure forms, and affiliated business arrangement disclosure form for compliance with the requirements of Regulation X. Review model forms in the appendices to the regulation and after §3500.21.
3. Review written loan policies and operating procedures in connection with federally related mortgage loans and discuss them with institution personnel.
4. Interview mortgage lending personnel to determine:
   a. Identity of persons or entities referring federally related mortgage loan business;
   b. The nature of services provided by referral sources, if any;
   c. Settlement service providers used by the institution;
   d. When the Special Information Booklet is given;
   e. The timing of the good faith estimate and how fee information is determined;
   f. Any providers whose services are required by the institution;
   g. How borrower inquiries regarding loan servicing are handled and within what time frames; and
   h. Whether escrow arrangements exist on mortgage loans.
5. Assess the overall level of knowledge and understanding of mortgage lending personnel.