



II. Who is a Small Servicer?

Small Servicer Exemption – Who is a Small Servicer?

A Small Servicer is an entity that:

- 1. Services, together with any affiliates, 5,000 or fewer mortgage loans for all of which the entity (or an affiliate) is the creditor or assignee,**
- 2. Is a Housing Finance Agency, or**
- 3. Is a nonprofit that services 5,000 or fewer mortgage loans, including any mortgage loans serviced on behalf of associated nonprofit entities, for all of which the servicer or an associated nonprofit entity is the creditor.**

§ 1026.41(e)(4)

Small Servicer – Points to Keep in Mind

- 1. Sub-servicers must meet the definition of a Small Servicer to maintain Small Servicer status.**
- 2. All loans serviced for compensation must be loans you or an affiliate originated or own.**
- 3. An “affiliate” is any company that controls, is controlled by, or is under common control with another company.**

Mortgage Loan

A “mortgage loan” for the Small Servicer is a:

- 1. Closed-end consumer credit transaction**
- 2. Secured by a dwelling**
§ 1026.41(a)(1)

Note: The dwelling can be any residential dwelling, including houses, condominiums, co-operatives, manufactured homes, mobile homes and trailers. The loan does not have to be secured by the land on which the dwelling is situated.

Small Servicer Determination – Loans Included and Excluded From the Count

Loans counted toward 5,000 loan cap, unless excluded:

- **Count all first and junior lien “mortgage loans” serviced by the servicer and any affiliate**
§ 1026.41(e)(4)(ii)

Loans excluded:

- **Reverse Mortgages**
- **Home Equity Lines of Credit**
- **Timeshares**
- **Mortgage loans voluntarily serviced (“charitably serviced loans”)**
§ 1026.41 (a) and (e)

Small Servicer Determination – Counting Loans

Example 1 --

- You service 3,000 mortgage loans, and one of your affiliates services 3,000 mortgage loans. All the loans were originated by you. All are secured by houses or condominiums, and none are reverse mortgages or timeshares.
- All of these loans count. This makes 6,000 serviced mortgage loans. You do not qualify as a Small Servicer.

Small Servicer Determination

Example 2 –

- You and your affiliates together service 5,200 mortgage loans, all of which you originated. But, 200 of these loans are reverse mortgages.
- The 200 reverse mortgages are not counted. Thus, only 5,000 loans are counted; you still qualify as a Small Servicer.

Small Servicer Determination

Example 3 –

- **You service 4,000 loans in total. A number of these loans were originated by a lender other than you or your affiliates, and you are paid for servicing these loans. Neither you nor any of your affiliates is a creditor or assignee for those loans.**
- **You do not qualify as a Small Servicer, even if you own the mortgage servicing rights for all of the loans. To qualify as a Small Servicer, you or an affiliate must also be the creditor or assignee of all of the serviced mortgage loans.**

Small Servicer Determination -- Timing

Count made as of January 1st of each year

- **If your bank meets the definition of a Small Servicer on January 1, your bank will retain small servicer status for that coming year.**
 - **If your bank does not meet the definition of a Small Servicer on January 1, your bank must start complying with the Mortgage Servicing Rules from which you were previously exempt either:**
 - **Six months from the date you cease to qualify, or**
 - **The following January 1, whichever is later.**
- § 1026.41(e)(4)(iii)**

Small Servicer Determination – Timing

Example 1 –

- **Servicer qualifies as a Small Servicer on January 1, 2015.**
- **Servicer increases the number of mortgage loans that it services to more than the 5,000 as of February 1, 2015.**
- **Servicer still services more than 5,000 as of January 1, 2016.**
- ❖ **Servicer would lose the Small Servicer Exemption as of February 1, 2015, and as of January 1, 2016, servicer would have to start complying with all applicable Servicing Rules.**

Small Servicer Determination – Timing

Example 2 –

- **Servicer qualifies as a Small Servicer on January 1, 2015.**
- **Servicer increases the number of loans it services to more than 5,000 as of February 1, 2015.**
- **Servicer services fewer than 5,000 on January 1, 2016.**
- ❖ **Servicer would still qualify as a Small Servicer on January 1, 2016.**

Small Servicer Determination – Timing

Example 3 –

- **Servicer qualifies as a Small Servicer on January 1, 2015.**
- **Servicer increases the loans it services to more than the 5,000 as of October 1, 2015**
- **Servicer still services more than 5,000 as of January 1, 2016.**
- ❖ **Servicer will have to start complying with all applicable Servicing Rules on April 1, 2016 — 6 months after October 1, 2015, because this is later than January 1, 2016.**