



### III. Servicing Rule Provisions That Apply to Small Servicers

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# TILA - Regulation Z Mortgage Servicing Rules Applicable to Small Servicers

- 1. Initial interest rate adjustment disclosures for adjustable rate mortgages or “ARMs” § 1026.20(d)**
- 2. ARM interest rate adjustment with corresponding payment change disclosure § 1026.20(c)**
- 3. Prompt crediting of mortgage payments §1026.36(c)(1)**
- 4. Request for payoff balance (Payoff Statement) §1026.36(c)(3)**

# RESPA - Regulation X Mortgage Servicing Rules Applicable to Small Servicers

- 5. Force-placed insurance and escrow § 1024.34 - .37**
- 6. Error resolution procedures § 1024.35**
- 7. Information requests § 1024.36**
- 8. Loss mitigation 120-day pause requirement  
§ 1024.41(f) and (i)**
- 9. Transfer of servicing disclosures  
§ 1024.33**

# 1. Initial ARM Interest Rate Adjustment Notice

- The initial interest rate adjustment notice:
  - **Required first time the interest rate adjusts**
  - **Must state the actual or estimated new rate and payment**
- Timing
  - **Must be provided between 210 days and 240 days before the first payment is due at the new rate, or**
  - **At consummation if the first payment at the adjusted level is due within first 210 days after consummation.**

*§ 1026.20(d)*

## 2. ARM Interest Rate Adjustment With Corresponding Payment Change Disclosure

Adjustment interest rate notice:

- **Required each time an interest rate adjustment results in a payment change**
- **Must be provided between 60 and 120 days before the adjustment**  
*§ 1026.20(d)*

Not required:

- **For ARMs with term of 1 year or less,**
- **For first interest rate adjustment due within 210 days after consummation if the new interest rate disclosed was not an estimate, or**
- **If servicer is a debt collector under the FDCPA to whom the consumer has sent a written cease communication notice**  
*§ 1026.20(c)(1)(ii)(B)*

# 3. Prompt Crediting of Payments

- **Day of Receipt - The servicer must promptly credit a periodic payment generally on the day it is received.**
- **Partial Payments - If a payment received is for less than the amount due, the servicer may credit the partial payment, return the partial payment or place the partial payment in a suspense or unapplied funds account.**
- **Suspense Account - If the servicer places the partial payment in a suspense or unapplied funds account, when there is enough in the account to make a full periodic payment, the servicer must credit it to the borrower's loan account.**

**§ 1026.36(c)(1)**

## 4. Response to Request for Payoff Balance (Payoff Statement)

- **7 Business Days - Servicers must provide an accurate statement of the payoff balance to the borrower no later than 7 business days after receipt of the borrower's written request for the payoff balance (Servicers may respond to oral requests)**
- **Do not have to comply if: (i) a loan is in bankruptcy or in foreclosure, or (ii) the loan is a reverse or shared appreciation mortgage or (iii) delay is the result of a natural disaster or similar circumstances -- then within a reasonable time**
- **Specific Date - Must provide payoff amount as of a specified date**  
**§ 1026.36(c)(3)**

# 5. Force-Placed Insurance

## Force-Placed Insurance Requirements:

- **Must have a reasonable basis to believe borrower has failed to maintain required hazard insurance**
- **Must send 2 notices before force-placing meeting the timing requirements (Notice must have the content and format specified in the Rule )**
- **May not force-place insurance if borrower responds with evidence that hazard insurance is in place**
- **Must cancel force-placed insurance within 15 days after receiving evidence of insurance and refund any fees or charges for periods of overlapping coverage**
- **May only assess fees that are “bona fide and reasonable”**

**Note:** A “bona fide and reasonable” charge is a charge for a service actually performed that bears a reasonable relationship to the cost to provide the service and is not otherwise prohibited by applicable law.

**§ 1024.37**



## 5. Force-Place Insurance -- Escrow (Small Servicer Feature)

Small Servicers Must Follow the Force-Placed Insurance and Escrow Rules --

Except – **A small servicer may purchase force-placed insurance for a consumer with an escrow account whose mortgage loan obligation is more than 30 days overdue, if the cost of the force-placed insurance to the consumer is less than the amount the small servicer would need to disburse from the consumer’s escrow account to pay the consumer’s hazard insurance premium.**

**§ 1024.17(k)(5)(iii)**

# 6. Error Resolution Procedures and Requests For Information

Servicer must:

- **For both error resolution and information requests, acknowledge error resolution and information requests within 5 days AND**
- **For error resolution requests:**
  1. **Investigate the error and provide written notification to the borrower that no error occurred within 30 or within 45 days if extended, OR**
  2. **Correct the error and provide the borrower with written notification of correction of the error within 30 or within 45 days if extended.**
- **For an information requests, within 30 days, either:**
  1. **Provide the borrower with the requested information, OR**
  2. **Deliver a written notification explaining why information is not available.**

***§ 1024.35 and .36***

# 7. Loss Mitigation – Small Servicer 120-day Pause Rule

Unless a borrower is more than 120 days delinquent, a servicer cannot make the first notice or filing required for a foreclosure process — judicial or non-judicial

Exceptions:

- 1. The foreclosure is based on a borrower's violation of a due-on-sale clause, or**
- 2. The servicer is joining the foreclosure action of a subordinate lienholder § 1024.41(j)**

**Note: A servicer may not move for foreclosure judgment or order of sale or conduct a foreclosure sale if a borrower is performing pursuant to the terms of a loss mitigation agreement.**

# 8. Mortgage Servicing Transfer Disclosures

Differences from prior transfer of servicing rule:

- 1. Now applies to first and subordinate liens**
- 2. New “Notice of Servicing Transfer” model form**
- 3. “Notice of Servicing Transfer” must be provided by both the former (transferor) servicer and the new (transferee) servicer within the timeframes specified in the Rule**
- 4. New requirement on transferor servicer when a payment is received after loan transfer:**
  - Forward payment to transferee servicer or**
  - Return it to borrower and notify borrower of proper recipient**

**§ 1024.33**

# Other Mortgage Servicing Rules – Large Servicers

- 1. Periodic statements § 1026.41**
- 2. Force-placed insurance and escrow § 1024.34 and .37**
- 3. General servicing written policies, procedures and requirements § 1024.38**
- 4. Loss mitigation:**
  - a. Early intervention – delinquent borrowers § 1024.39**
  - b. Continuity of contact – delinquent borrowers § 1024.40**
  - c. Modification agreements § 1024.41**

# Reg Z (TILA) Periodic Statements

For any residential mortgage loan transmit for each billing cycle, a statement setting forth in a conspicuous and prominent manner:

- 1. Key loan terms**
- 2. Contact information for servicers and homeownership counselors**
- 3. Other information set forth in the Rule**

**Excludes: Reverse mortgages, timeshares, fixed-rate loans with coupon books, or borrowers in bankruptcy**

**§ 1026.41**

# Force-Placed Insurance Rule If Hazard Insurance Escrow (without small servicer component)

- Requirements -- **If a borrower has an escrow account, a servicer must follow the escrow rules and may not purchase force-placed insurance, unless:**
  - **(1) the borrower is more than 30 days overdue and (2) the servicer is “unable to disburse funds” from the escrow account to ensure that the borrower’s hazard insurance premium charges are paid in a timely manner**
- **“Unable to disburse funds” means Servicer reasonably believes that either:**
  - **(a) the property is vacant, or (b) the borrower’s hazard insurance was cancelled or not renewed for reasons other than nonpayment**
- **Advance Premiums -- A servicer may advance premiums from the overdue borrower’s escrow account to ensure that the borrower’s hazard insurance premiums are paid in a timely manner and may seek repayment from the borrower for the funds advanced unless otherwise prohibited by applicable law**  
**§ 1024.34 & .37 and § 1024.17(k)(5)**

# General Servicing Policies, Procedures, and Requirements

Policies and procedures reasonably designed to achieve the following objectives:

- 1. Accessing and providing timely and accurate information**
- 2. Properly evaluating loss mitigation applications**
- 3. Facilitating oversight of, and compliance by, service providers**
- 4. Facilitating transfer of information during servicing transfers**
- 5. Informing borrowers of the written error resolution and information request procedures.**

**§ 1024.38**



# Loss Mitigation Generally

Servicers required to:

- **Contact borrowers within specified timeframes after they become delinquent,**
- **Maintain continuity of contact with delinquent borrowers, and**
- **Take procedural steps to help borrowers retain their homes through loan modifications or other loss mitigation options, if possible.**

*§ 1024.39 - .41*