The new integrated disclosures are not used to disclose information about reverse mortgages, home equity lines of credit (HELOCs), chattel-dwelling loans such as loans secured by a mobile home or by a dwelling that is not attached to real property (i.e., land), or other transactions not covered by the TILA-RESPA Integrated Disclosure Rule. The final rule also does not apply to loans made by a creditor who makes five or fewer mortgages in a year. Creditors originating these types of mortgages must continue to use, as applicable, the GFE, HUD-1 Settlement Statement, and Truth in Lending (TIL) disclosures.

On August 4, 2016, the CFPB issued a final rule to further clarify, revise, and amend provisions of Regulation X as well as Regulation Z, the regulation implementing TILA. (81 Fed. Reg. 72160) (October 19, 2016). The amendments in the final rule are referenced in this document as the "2016 Servicing Rule." The 2016 Servicing Rule establishes a definition of successor in interest and provides that confirmed successors in interest are considered "borrowers" for the purposes of Regulation X's mortgage servicing provisions. Confirmed successor in interest means a successor in interest once a servicer has confirmed the successor in interest's identity and ownership interest in a property that secures a mortgage loan subject to Subpart C of Regulation X. The 2016 Servicing Rule also addresses compliance with certain servicing requirements when a person is a debtor in bankruptcy or sends a cease communication request under the Fair Debt Collection Practices Act (FDCPA).

Additionally, the 2016 Servicing Rule clarifies, revises, or amends provisions regarding force-placed insurance notices, policy and procedure requirements, early intervention, and loss mitigation requirements under Regulation X's mortgage servicing provisions; and which loans are considered in determining whether a servicer qualifies as a small servicer, certain periodic statement requirements relating to bankruptcy and charge-off, and prompt crediting requirements under Regulation Z's mortgage servicing provisions. The 2016 Servicing Rule was effective October 19, 2017, except for the provisions related to successors in interest and periodic statements for borrowers in bankruptcy, which take effect on April 19, 2018.

The CFPB concurrently issued an interpretive rule under the FDCPA to clarify the interaction of the FDCPA and specified mortgage servicing rules in Regulations X and Z. (81 Fed. Reg. 71977) (October 19, 2016). [4] This interpretive rule constitutes an advisory opinion for purposes of the FDCPA and provides safe harbors from liability for servicers acting in compliance with it.

On October 4, 2017, the CFPB issued an interim final rule amending a provision of the 2016 Servicing Rule relating to the timing for servicers to provide modified written early intervention notices under Regulation X to borrowers who have invoked their cease communication rights under the FDCPA. (82 FR 47953) (October 16, 2017). The interim final rule was effective October 19, 2017.

Subpart A – General Provisions

Coverage – 12 CFR 1024.5(a)

RESPA is applicable to all "federally related mortgage loans," except as provided under 12 CFR 1024.5(b) and 1024.5(d), discussed below. "Federally related mortgage loans" are defined as:

Loans (other than temporary loans), including refinancings that satisfy the following two criteria:

- *First*, the loan is secured by a first or subordinate lien on residential real property, located within a state, upon which either:
  - A one-to-four family structure is located or is to be constructed using proceeds of the loan (including individual units of condominiums and cooperatives); or
  - A manufactured home is located or is to be constructed using proceeds of the loan.
- *Second*, the loan falls within one of the following categories:
  - Loans made by a lender,[5] creditor,[6] dealer;[7]
  - Loans made or insured by an agency of the federal government;
  - Loans made in connection with a housing or urban development program administered by an agency of the federal government;

[4] *See* Safe Harbors from Liability under the Fair Debt Collection Practices Act for Certain Actions Taken in Compliance with Mortgage Servicing Rules under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z) (81 Fed. Reg. 71977) (Oct. 19, 2016) (hereinafter 2016 FDCPA Interpretive Rule). The interpretations contained in this interpretive rule are included in Regulation X comments 30(d)-1 and 39(d)-2; Regulation Z comment 2(a)(11)-4.ii.

[5] A lender includes financial institutions either regulated by, or whose deposits or accounts are insured by, any agency of the federal government.

[6] A creditor is defined in Section 103(g) of the Consumer Credit Protection Act (15 U.S.C. 1602(g)). RESPA covers any creditor that makes or invests in residential real estate loans aggregating more than $1,000,000 per year.

[7] "Dealer" is defined in Regulation X to mean a seller, contractor, or supplier of goods or services. Dealer loans are covered by RESPA if the obligations are to be assigned before the first payment is due to any lender or creditor otherwise subject to the regulation.

- The "important dates" section requires the loan originator to state the expiration date for the interest rate for the loan provided in the GFE as well as the expiration date for the estimate of other settlement charges and the loan terms not dependent upon the interest rate.

- While the interest rate stated on the GFE is not required to be honored for any specific period of time, the estimate for the other settlement charges and other loan terms must be honored for at least 10 business days from when the GFE is provided.

- In addition, the form must state how many calendar days within which the borrower must go to settlement once the interest rate is locked (rate lock period). The form also requires disclosure of how many days prior to settlement the interest rate would have to be locked, if applicable.

- The "summary of your loan" section requires disclosure of the initial loan amount; loan term; initial interest rate; initial monthly payment for principal, interest and any mortgage insurance; whether the interest rate can rise, and if so, the maximum rate to which it can rise over the life of the loan, and the period of time after which the interest rate can first change; whether the loan balance can rise if the payments are made on time and if so, the maximum amount to which it can rise over the life of the loan; whether the monthly amount owed for principal, interest and any mortgage insurance can rise even if payments are made on time, and if so, the maximum amount to which the monthly amount owed can ever rise over the life of the loan; whether the loan has a prepayment penalty, and if so, the maximum amount it could be; and whether the loan has a balloon payment, and if so, the amount of such payment and in how many years it will be due. Specific instructions are provided with respect to closed-end reverse mortgages.

- The "escrow account information" section requires the loan originator to indicate whether the loan does or does not have an escrow account to pay property taxes or other property related charges. In addition, this section also requires the disclosure of the monthly amount owed for principal, interest and any mortgage insurance. Specific instructions are provided with respect to closed-end reverse mortgages.

- The bottom of the first page includes subtotals for the adjusted origination charges and charges for all other settlement charges listed on page two, along with the total estimated settlement charges.

Second Page of GFE

The second page of the GFE requires disclosure of all settlement costs in eleven categories discussed below. The adjusted origination charges are disclosed in "Block A" and all other settlement charges are disclosed in "Block B." The amounts in the blocks are to be added to arrive at the "total estimated settlement charges" which is required to be listed at the bottom of the page.

Disclosure of Adjusted Origination Charge (Block A)

Block A addresses disclosure of origination charges, which include all lender and mortgage broker charges. The "adjusted origination charge" results from the subtraction of a "credit" from the "origination charge" or the addition of a "charge" to the origination charge.

- Block 1 – the origination charges, which include lender processing and underwriting fees and any fees paid to a mortgage broker.

  Origination Charge Note: This block requires the disclosure of all charges that all loan originators involved in the transaction will receive for originating the loan (excluding any charges for points). A loan originator may not separately charge any additional fees for getting the loan such as application, processing or underwriting fees. The amount in Block 1 is subject to zero tolerance, i.e., the amount cannot change at settlement.

- Block 2 – a "credit" or "charge" for the interest rate chosen.

Credit or Charge for the Interest Rate Chosen Note:

Transaction Involving a Mortgage Broker. For a transaction involving a mortgage broker,[12] Block 2 requires disclosure of a "credit" or charge (points) for the specific interest rate chosen. The credit or charge for the specific interest rate chosen is the net payment to the mortgage broker (i.e., the sum of all payments to the mortgage broker from the lender, including payments based on the loan amount, a flat rate or any other compensation, and in a table funded transaction, the loan amount less the price paid for the loan by the lender.)

[12] The 2008 RESPA Reform Rule changed the definition of "mortgage broker" to mean a person or entity (not an employee of a lender) that renders origination services and serves as an intermediary between a lender and a borrower in a transaction involving a federally related mortgage loan, including such person or entity that closes the loan in its own name and table funds the transaction. The definition will also apply to a loan correspondent approved under 24 CFR 202.8 for Federal Housing Administration (FHA programs). The definition would also include an "exclusive agent" who is not an employee of the lender.

When the net payment to the mortgage broker from the lender is positive, there is a "credit" to the borrower and it is entered as a negative amount. For example, if the lender pays a yield spread premium to a mortgage broker for the loan set forth in the GFE, the payment must be disclosed as a "credit" to the borrower for the particular interest rate listed on the GFE (reflected on the GFE at Block 2, checkbox 2). The term "yield spread premium" is not featured on the GFE or the HUD-1 Settlement Statement.

Points paid by the borrower for the interest rate chosen must be disclosed as a "charge" (reflected on the GFE at Block 2, third checkbox). A loan cannot include both a charge (points) and a credit (yield spread premium).

Transaction Not Involving a Mortgage Broker. For a transaction without a mortgage broker, a lender may choose not to separately disclose any credit or charge for the interest rate chosen for the loan in the GFE. If the lender does not include any credit or charge in Block 2, it must check the first checkbox in Block 2 indicating that "The credit or charge for the interest rate you have chosen is included in 'our origination charge' above." Only one of the boxes in Block 2 may be checked, as a credit and charge cannot occur together in the same transaction.

Disclosure of Charges for All Other Settlement Services (Block B)

Block B is the sum of charges for all settlement services other than the origination charges.

- Block 3 – required services by providers selected by the lender such as appraisal and flood certification fees.
- Block 4 – title service fees and the cost of lender's title insurance.
- Block 5 – owner's title insurance.
- Block 6 – other required services for which the consumer may shop.
- Block 7 – government recording charges.
- Block 8 – transfer tax charges.
- Block 9 – initial deposit for escrow account.
- Block 10 – daily interest charges.
- Block 11 – homeowner's insurance charges.

Third Page of GFE

The third page of the GFE includes the following information:

- A tolerance chart identifying the charges that can change at settlement (*see* discussion on tolerances below);
- A trade-off table that requires the loan originator to provide information on the loan described in the GFE and at the loan originator's option, information about alternative loans (one with lower settlement charges but a higher interest rate and one with a lower interest rate but higher settlement charges);
- A shopping chart that allows the consumer to fill in loan terms and settlement charges from other lenders or brokers to use to compare loans; and
- Language indicating that some lenders may sell the loan after settlement, but that any fees the lender receives in the future cannot change the borrower's loan or the settlement charges.

Tolerances on Settlement Costs – 12 CFR 1024.7(e) and (i)

The 2008 RESPA Reform Rule established "tolerances" or limits on the amount actual settlement charges can vary at closing from the amounts stated on the GFE. The rule established three categories of settlement charges and each category has different tolerances. If, at settlement, the charges exceed the charges listed on the GFE by more than the permitted tolerances, the loan originator may cure the tolerance violation by reimbursing to the borrower the amount by which the tolerance was exceeded, at settlement or within 30 calendar days after settlement.

Tolerance Categories

- ***Zero tolerance category.*** This category of fees is subject to a zero tolerance standard. The fees estimated on the GFE may not be exceeded at closing. These fees include:
  - The loan originator's own origination charge, including processing and underwriting fees;
  - The credit or charge for the interest rate chosen (i.e., yield spread premium or discount points) while the interest rate is locked;
  - The adjusted origination charge while the interest rate is locked; and
  - State/local property transfer taxes.
- ***Ten percent tolerance category.*** For this category of fees, while each individual fee may increase or decrease, the sum of the charges at settlement may not be greater than10

percent above the sum of the amounts included on the GFE. This category includes fees for:

- Loan originator required settlement services, where the loan originator selects the third-party settlement service provider;
- Loan originator required services, title services, required title insurance and owner's title insurance when the borrower selects a third-party provider identified by the loan originator; and
- Government recording charges.

- ***No tolerance category***. The final category of fees is not subject to any tolerance restriction. The amounts charged for the following settlement services included on the GFE can change at settlement and the amount of the change is not limited:
  - Loan originator required services where the borrower selects his or her own third-party provider;
  - Title services, lender's title insurance, and owner's title insurance when the borrower selects his or her own provider;
  - Initial escrow deposit;
  - Daily interest charges; and
  - Homeowner's insurance.

Identification of Third-Party Settlement Service Providers

When the loan originator permits a borrower to shop for one or more required third-party settlement services and select the settlement service provider for such required services, the loan originator must list in the relevant block on page two of the GFE the settlement service and the estimated charge to be paid to the provider of each required service. In addition, the loan originator must provide the borrower with a written list of settlement service providers for those required services on a separate sheet of paper at the time the GFE is provided.

Binding GFE – 12 CFR 1024.7(f)

The loan originator is bound, within the tolerances provided, to the settlement charges and terms listed on the GFE provided to the borrower, unless a new GFE is provided prior to settlement (see discussion below on changed circumstances). This also means that if a lender accepts a GFE issued by a mortgage broker, the lender is subject to the loan terms and settlement charges listed in the GFE, unless a new GFE is issued prior to settlement.

Changed Circumstances – 12 CFR 1024.2(b), 1024.7(f)(1) and (f)(2)

Changed circumstances are defined as:

- Acts of God, war, disaster, or other emergency;
- Information particular to the borrower or transaction that was relied on in providing the GFE that changes or is found to be inaccurate after the GFE has been provided;
- New information particular to the borrower or transaction that was not relied on in providing the GFE; or
- Other circumstances that are particular to the borrower or transaction, including boundary disputes, the need for flood insurance, or environmental problems.

Changed circumstances do not include the borrower's name, the borrower's monthly income, the property address, an estimate of the value of the property, the mortgage loan amount sought, and any information contained in any credit report obtained by the loan originator prior to providing the GFE, unless the information changes or is found to be inaccurate after the GFE has been provided. In addition, market price fluctuations by themselves do not constitute changed circumstances.

Changed circumstances affecting ***settlement costs*** are those circumstances that result in increased costs for settlement services such that the charges at settlement would exceed the tolerances or limits on those charges established by the regulations.

Changed circumstances affecting the ***loan*** are those circumstances that affect the borrower's eligibility for the loan. For example, if underwriting and verification indicate that the borrower is ineligible for the loan provided in the GFE, the loan originator would no longer be bound by the original GFE. In such cases, if a new GFE is to be provided, the loan originator must do so within three business days of receiving information sufficient to establish changed circumstances. The loan originator must document the reason that a new GFE was provided and must retain documentation of any reasons for providing a new GFE for no less than three years after settlement.

None of the information collected by the loan originator prior to issuing the GFE may later become the basis for a "changed circumstance" upon which it may offer a revised GFE, unless: it can demonstrate 1) that there was a change in the particular information; 2) that the information was inaccurate; or 3) that it did not rely on that particular

information in issuing the GFE. A loan originator has the burden of demonstrating nonreliance on the collected information, but may do so through various means including through a documented record in the underwriting file or an established policy of relying on a more limited set of information in providing GFEs.

If a loan originator issues a revised GFE based on information previously collected in issuing the original GFE and "changed circumstances," it must document the reasons for issuing the revised GFE, such as its nonreliance on such information or the inaccuracy of such information.

Borrower Requested Changes – 12 CFR 1024.7(f)(3)

If a borrower requests changes to the mortgage loan identified in the GFE that change the settlement charges or the terms of the loan, the loan originator may provide a revised GFE to the borrower. If a revised GFE is provided, the loan originator must do so within three business days of the borrower's request.

Expiration of Original GFE – 12 CFR 1024.7(f)(4)

If a borrower does not express an intent to continue with an application within 10 business days after the GFE is provided, or such longer time provided by the loan originator, the loan originator is no longer bound by the GFE.

Interest Rate Dependent Charges and Terms – 12 CFR 1024.7(f)(5)

If the interest rate has not been locked by the borrower, or a locked interest rate has expired, all interest rate-dependent charges on the GFE are subject to change. The charges that may change include the charge or credit for the interest rate chosen, the adjusted origination charges, per diem interest, and loan terms related to the interest rate. However, the loan originator's origination charge (listed in Block 1 of page 2 of the GFE) is not subject to change, even if the interest rate floats, unless there is another changed circumstance or borrower-requested change.

If the borrower later locks the interest rate, a new GFE must be provided showing the revised interest rate dependent charges and terms. All other charges and terms must remain the same as on the original GFE, unless changed circumstances or borrower-requested changes result in increased costs for settlement services or affect the borrower's eligibility for the specific loan terms identified in the original GFE.

New Home Purchases – 12 CFR 1024.7(f)(6)

In transactions involving new home purchases, where settlement is expected to occur more than 60 calendar days from the time a GFE is provided, the loan originator may provide the GFE to the borrower with a clear and conspicuous disclosure stating that at any time up until 60 calendar days prior to closing, the loan originator may issue a revised GFE. If the loan originator does not provide such a disclosure, it cannot issue a revised GFE except as otherwise provided in Regulation X.

Volume-Based Discounts

The 2008 RESPA Reform Rule did not formally address the legality of volume-based discounts. However, HUD indicated in the preamble to the rule that discounts negotiated between loan originators and other settlement service providers, where the discount is ultimately passed on to the borrower in full, is not, depending on the circumstances of a particular transaction, a violation of Section 8 of RESPA.[13]

Uniform Settlement Statement (HUD-1 OR HUD-1A) – 12 CFR 1024.8

For closed-end reverse mortgages, the person conducting the settlement (settlement agent) must provide the borrower with a HUD-1 Settlement Statement at or before settlement that clearly itemizes all charges imposed on the buyer and the seller in connection with the settlement. The 2008 RESPA Reform rule included a revised HUD-1/1A Settlement Statement form that is required as of January 1, 2010. The HUD-1 is used for transactions in which there is a borrower and seller. For transactions in which there is a borrower and no seller (refinancings and subordinate lien loans), the HUD-1 may be completed by using the borrower's side of the settlement statement. Alternatively, the HUD-1A may be used.

However, no settlement statement is required for home equity plans subject to TILA and Regulation Z, Appendix A to 12 CFR 1024 contains the instructions for completing the forms.

[13] 73 Fed. Reg. 68204, 68232 (November 17, 2008).

Key 2008 RESPA Reform Enhancements to the HUD-1/1A Settlement Statement

While the 2008 RESPA Reform Rule did not include any substantive changes to the first page of the HUD-1/1A form, there were changes to the second page of the form to facilitate comparison between the HUD-1/1A and the GFE. Each designated line on the second page of the revised HUD-1/1A includes a reference to the relevant line from the GFE.

With respect to disclosure of "no cost" loans where "no cost" refers only to the loan originator's fees (*see* Section L, subsection 800 of the HUD-1 form), the amounts shown for the "origination charge" and the "credit or charge for the interest rate chosen" should offset, so that the "adjusted origination charge" is zero.

In the case of a "no cost" loan where "no cost" encompasses loan originator and third-party fees, all third-party fees must be itemized and listed in the borrower's column on the HUD-1/1A. These itemized charges must be offset with a negative adjusted origination charge (Line 803) and recorded in the columns.

To further facilitate comparability between the forms, the revised HUD-1 includes a third page (second page of the HUD-1A) that allows borrowers to compare the loan terms and settlement charges listed on the GFE with the terms and charges listed on the closing statement. The first half of the third page includes a comparison chart that sets forth the settlement charges from the GFE and the settlement charges from the HUD-1 to allow the borrower to easily determine whether the settlement charges exceed the charges stated on the GFE. If any charges at settlement exceed the charges listed on the GFE by more than the permitted tolerances, the loan originator may cure the tolerance violation by reimbursing to the borrower the amount by which the tolerance was exceeded. A borrower will be deemed to have received timely reimbursement if the financial institution delivers or places the payment in the mail within 30 calendar days after settlement.

Inadvertent or technical errors on the settlement statement are not deemed to be a violation of Section 4 of RESPA if a revised HUD-1/1A is provided to the borrower within 30 calendar days after settlement.

The second half of the third page sets forth the loan terms for the loan received at settlement in a format that reflects the summary of loan terms on the first page of the GFE, but with additional loan related information that would be available at closing. The note at the bottom of the page indicates that the borrower should contact the lender if the borrower has questions about the settlement charges or loan terms listed on the form.

12 CFR 1024.8(b) and the instructions for completing the HUD-1/1A Settlement Statement provide that the loan originator shall transmit sufficient information to the settlement agent to allow the settlement agent to complete the "loan terms" section. The loan originator must provide the information in a format that permits the settlement agent to enter the information in the appropriate spaces on the HUD-1/1A, without having to refer to the loan documents.

Average Charge Permitted

As of January 16, 2009, an average charge may be stated on the HUD-1/1A if such average charge is computed in accordance with 12 CFR 1024.8(b)(2). All settlement service providers, including loan originators, are permitted to list the average charge for a settlement service on the HUD-1/1A Settlement Statement (and on the GFE) rather than the exact cost for that service.

The method of determining the average charge is left up to the settlement service provider. The average charge may be used as the charge for any third-party vendor charge, not for the provider's own internal charges. The average charge also cannot be used where the charge is based on the loan amount or the value of the property.

The average charge may be used for any third-party settlement service, provided that the total amounts received from borrowers for that service for a particular class of transactions do not exceed the total amounts paid to providers of that service for that class of transactions. A class of transactions may be defined based on the period of time, type of loan and geographic area. If an average charge is used in any class of transactions defined by the loan originator, then the loan originator must use the same average charge for every transaction within that class. The average charge must be recalculated at least every six months.

A settlement service provider that uses an average charge for a particular service must maintain all documents that were used to calculate the average charge for at least three years after any settlement in which the average charge was used.

Printing and Duplication of the Settlement Statement – 12 CFR 1024.9

Financial institutions have numerous options for layout and format in reproducing the HUD-1 and HUD-1A that do not require prior CFPB approval such as size of pages; tint or

color of pages; size and style of type or print; spacing; printing on separate pages, front and back of a single page or on one continuous page; use of multi-copy tear-out sets; printing on rolls for computer purposes; addition of signature lines; and translation into any language. Other changes may be made only with the approval of the CFPB.

One-Day Advance Inspection of the Settlement Statement – 12 CFR 1024.10

For closed-end reverse mortgages, and upon request by the borrower, the HUD-1 or HUD-1A must be completed and made available for inspection during the business day immediately proceeding the day of settlement, setting forth those items known at that time by the person conducting the closing.

Delivery – 12 CFR 1024.10(a) and (b)

The completed HUD-1 or HUD-1A must be mailed or delivered to the borrower, the seller (if there is one), the lender (if the lender is not the settlement agent), and/or their agents at or before settlement. However, the borrower may waive the right of delivery by executing a written waiver at or before settlement. The HUD-1 or HUD-1A shall be mailed or delivered as soon as practicable after settlement if the borrower or borrower's agent does not attend the settlement.

Retention – 12 CFR 1024.10(e)

A lender must retain each completed HUD-1 or HUD-1A and related documents for five years after settlement, unless the lender disposes of its interest in the mortgage and does not service the mortgage. If the loan is transferred, the lender shall provide a copy of the HUD-1 or HUD-1A to the owner or servicer of the mortgage as part of the transfer. The owner or servicer shall retain the HUD-1 or HUD-1A for the remainder of the five-year period.

Prohibition of Fees for Preparing Federal Disclosures – 12 CFR 1024.12

For loans subject to RESPA, no fee may be charged for preparing the Settlement Statement or the Escrow Account statement or any disclosures required by TILA.

Prohibition Against Kickbacks and Unearned Fees – 12 CFR 1024.14

Any person who gives or accepts a fee, kickback, or thing of value (payments, commissions, gifts, tangible item or special privileges) for the referral of settlement business is in violation of Section 8(a) of RESPA. Any person who gives or accepts any portion, split, or percentage of a charge for real estate settlement services, other than for services actually performed, is in violation of Section 8(b) of RESPA. Appendix B of Regulation X provides guidance on the meaning and coverage of the prohibition against kickbacks and unearned fees.

RESPA Section 8(b) is not violated when a single party charges and retains a settlement service fee, and that fee is unearned or excessive.

Penalties and Liabilities

Civil and criminal liability is provided for violating the prohibition against kickbacks and unearned fees including:

- Civil liability to the parties affected, equal to three times the amount of any charge paid for such settlement service.
- The possibility that the costs associated with any court proceeding together with reasonable attorney's fees could be recovered.
- A fine of not more than $10,000 or imprisonment for not more than one year or both.

Affiliated Business Arrangements – 12 CFR 1024.15

If a loan originator (or an associate)[14] has either an affiliate relationship or a direct or beneficial ownership interest of more than one percent in a provider of settlement services and the loan originator directly or indirectly refers business to the provider it is an affiliated business arrangement. An affiliated business arrangement is not a violation of Section 8 of RESPA and of 12 CFR 1024.14 of Regulation X if the following conditions are satisfied.

Prior to the referral, the person making each referral has provided to each person whose business is referred an Affiliated Business Arrangement Disclosure Statement (Appendix D of Regulation X). This disclosure shall specify the following:

- The nature of the relationship (explaining the ownership and financial interest) between the provider and the loan originator; and

[14] An associate includes a corporation or business entity that controls, is controlled by, or is under common control with the institution; an employer, officer, director, partner, franchisor, or franchisee of the institution; or anyone with an arrangement with the institution that enables the person to refer settlement business and benefit financially from the referrals. 12 U.S.C. 2602(8).

- The estimated charge or range of charges generally made by such provider.

This disclosure must be provided on a separate piece of paper either at the time of loan application, or with the GFE, or at the time of the referral.

The loan originator may not require the use of such a provider, with the following exceptions: the institution may require a buyer, borrower, or seller to pay for the services of an attorney, credit reporting agency, or real estate appraiser chosen by the institution to represent its interest. The loan originator may only receive a return on ownership or franchise interest or payment otherwise permitted by RESPA.

Title Insurance Companies – 12 CFR 1024.16

Sellers that hold legal title to the property being sold are prohibited from requiring borrowers, either directly or indirectly, as a condition to selling the property, to use a particular title insurance company.

Escrow Accounts – 12 CFR 1024.17

On October 26, 1994, HUD issued its final rule changing the accounting method for escrow accounts, which was originally effective April 24, 1995. The final rule established a national standard accounting method, known as aggregate accounting. The final rule also established formats and procedures for initial and annual escrow account statements.

The amount of escrow funds that can be collected at settlement or upon creation of an escrow account is restricted to an amount sufficient to pay charges, such as taxes and insurance, that are attributable to the period from the date such payments were last paid until the initial payment date. Throughout the life of an escrow account, the servicer may charge the borrower a monthly sum equal to one-twelfth of the total annual escrow payments that the servicer reasonably anticipates paying from the account. In addition, the servicer may add an amount to maintain a cushion no greater than one-sixth of the estimated total annual payments from the account.

Starting April 19, 2018, a servicer must treat a confirmed successor in interest as a borrower for purposes of 12 CFR 1024.17 and for Subpart C's provisions.

Escrow Account Analysis – 12 CFR 1024.17(c)(2) and (3) and 12 CFR 1024.17(k)

Before establishing an escrow account, a servicer must conduct an analysis to determine the periodic payments and the amount to be deposited. The servicer shall use an escrow disbursement date that is on or before the deadline to avoid a penalty and may make annual lump sum payments to take advantage of a discount.

Transfer of Servicing – 12 CFR 1024.17(e)

If the new servicer changes either the monthly payment amount or the accounting method used by the old servicer, then it must provide the borrower with an initial escrow account statement within 60 days of the date of transfer. When the new servicer provides an initial escrow account statement, it shall use the effective date of the transfer of servicing to establish the new escrow account computation year. In addition, if the new servicer retains the monthly payments and accounting method used by the old servicer, then the new servicer may continue to use the same computation year established by the old servicer or it may choose a different one, using a short year statement.

Shortages, Surpluses, and Deficiency Requirements – 12 CFR 1024.17(f)

The servicer shall conduct an annual escrow account analysis to determine whether a surplus, shortage, or deficiency exists as defined under 12 CFR 1024.17(b).

If the escrow account analysis discloses a surplus, the servicer shall, within 30 days from the date of the analysis, refund the surplus to the borrower if the surplus is greater than or equal to $50. If the surplus is less than $50, the servicer may refund such amount to the borrower, or credit such amount against the next year's escrow payments. These provisions apply as long as the borrower's mortgage payment is current at the time of the escrow account analysis.

If the escrow account analysis discloses a shortage of less than one month's escrow payments, then the servicer has three possible courses of action:

- The servicer may allow the shortage to exist and do nothing to change it,
- The servicer may require the borrower to repay the shortage amount within 30 days, or
- The servicer may require the borrower to repay the shortage amount in equal monthly payments over at least a 12-month period.

If the shortage is more than or equal to one month's escrow payment, then the servicer has two possible courses of action:

- The servicer may allow the shortage to exist and do nothing to change it, or
- The servicer may require the borrower to repay the shortage in equal monthly payments over at least a 12-month period.

If the escrow account analysis discloses a deficiency, then the servicer may require the borrower to pay additional monthly deposits to the account to eliminate the deficiency.

If the deficiency is less than one month's escrow account payment, then the servicer;

- May allow the deficiency to exist and do nothing to change it,
- May require the borrower to repay the deficiency within 30 days, or
- May require the borrower to repay the deficiency in two or more equal monthly payments.

If the deficiency is greater than or equal to one month's escrow payment, the servicer may allow the deficiency to exist and do nothing to change it, or require the borrower to repay the deficiency in two or more equal monthly payments.

These provisions apply as long as the borrower's mortgage payment is current at the time of the escrow account analysis.

A servicer must notify the borrower at least once during the escrow account computation year if a shortage or deficiency exists in the account.

Initial Escrow Account Statement – 12 CFR 1024.17(g)

After analyzing each escrow account, the servicer must submit an initial escrow account statement to the borrower at settlement or within 45 calendar days of settlement for escrow accounts that are established as a condition of the loan.

The initial escrow account statement must include the monthly mortgage payment; the portion going to escrow; itemize estimated taxes, insurance premiums, and other charges; the anticipated disbursement dates of those charges; the amount of the cushion; and a trial running balance.

Annual Escrow Account Statement – 12 CFR 1024.17(i)

A servicer shall submit to the borrower an annual statement for each escrow account within 30 days of the completion of the computation year. The servicer must conduct an escrow account analysis before submitting an annual escrow account statement to the borrower.

The annual escrow account statements must contain the account history; projections for the next year; current mortgage payment and portion going to escrow; amount of past year's monthly mortgage payment and portion that went into the escrow account; total amount paid into the escrow account during the past year; amount paid from the account for taxes, insurance premiums, and other charges; balance at the end of the period; explanation of how the surplus, shortage, or deficiency is being handled; and, if applicable, the reasons why the estimated low monthly balance was not reached.

Short-Year Statements – 12 CFR 1024.17(i)(4)

Short-year statements can be issued to end the escrow account computation year and establish the beginning date of the new computation year. Short-year statements may be provided upon the transfer of servicing and are required upon loan payoff. The statement is due to the borrower within 60 days after receiving the pay-off funds.

Timely Payments – 12 CFR 1024.17(k)

The servicer must pay escrow disbursements by the disbursement date. In calculating the disbursement date, the servicer must use a date on or before the deadline to avoid a penalty and may make annual lump sum payments to take advantage of a discount. A servicer may not purchase force-placed insurance unless it is unable to disburse funds from the borrower's escrow account to maintain the borrower's hazard insurance. A servicer is unable to disburse funds only if the servicer has a reasonable basis to believe that either the borrower's property is vacant or the borrower's hazard insurance has terminated for reasons other than non-payment. A servicer is not unable to disburse funds from the borrower's escrow account solely because the account is deficient. If a servicer advances funds to an escrow account to ensure that the borrower's hazard insurance premium charges are paid in a timely manner, a servicer may seek repayment from the borrower for the funds the servicer advanced, unless otherwise prohibited by applicable law.

Regulation X includes a limited exemption from the restriction on force-placed insurance purchases for small servicers. Subject to the requirements of 12 CFR 1024.37, small servicers may purchase force-placed insurance and charge the borrower for the cost of that insurance if the cost to the borrower is less than the amount the small servicer would need to disburse from the borrower's escrow account to ensure timely payment of the borrower's hazard insurance

premium charges.

An institution qualifies as a small servicer under 12 CFR 1026.41(e)(4)(ii) if:

- The institution services, together with any affiliates, 5,000 or fewer mortgage loans, for all of which the institution (or an affiliate) is the creditor or assignee;
- The institution is a Housing Finance Agency, as defined in 24 CFR 266.5 (12 CFR 1026.41(e)(4)(ii)); or
- The institution is a nonprofit entity (defined in 12 CFR 1026.41(e)(4)(ii)(C)(*1*)) that services 5,000 or fewer mortgage loans, including any mortgage loans serviced on behalf of associated nonprofit entities (defined in 12 CFR 1026.41(e)(4)(ii)(C)(*2*)), for all of which the servicer or an associated nonprofit entity is the creditor.

The determination as to whether a servicer qualifies as a small servicer is generally made based on the mortgage loans, as that term is used in 12 CFR 1026.41(a)(1), serviced by the servicer and any affiliates as of January 1 for the remainder of that calendar year. However, to determine small servicer status under the nonprofit small servicer definition, a nonprofit servicer should be evaluated based on the mortgage loans serviced by the servicer (and not those serviced by associated nonprofit entities) as of January 1 for the remainder of the calendar year. A servicer that ceases to qualify as a small servicer will have six months from the time it ceases to qualify or until the next January 1, whichever is later, to comply with any requirements from which the servicer is no longer exempt as a small servicer.

Under 12 CFR 1026.41(e)(4)(iii), the following mortgage loans are not considered in determining whether a servicer qualifies as a small servicer: (a) mortgage loans voluntarily serviced by the servicer for a non-affiliate of the servicer and for which the servicer does not receive any compensation or fees; (b) reverse mortgage transactions; and (c) mortgage loans secured by consumers' interests in timeshare plans; and (d) certain seller-financed transactions that meet the criteria identified in 12 CFR 1026.36(a)(5).

List of Homeownership Counseling Organizations – 12 CFR 1024.20

For any application for a federally related mortgage loan, as that term is defined in 12 CFR 1024.2 subject to the exemptions in 12 CFR 1024.5(b) (except for applications for reverse mortgages or timeshare loans), the lender must provide a loan applicant with a clear and conspicuous written list of homeownership counseling services in the loan applicant's location, no later than three business days after a lender, mortgage broker, or dealer receives an application or information sufficient to complete an application. The list is available on a website maintained by the CFPB, or from data made available by the CFPB or HUD. Lenders must make sure that the list of homeownership counseling services was obtained no earlier than 30 days before they provide it to the applicant. This list may be combined with other disclosures (unless otherwise prohibited by Regulation X or Regulation Z). A mortgage broker or dealer that receives a loan application, or for whom it prepares an application, may provide the list, in which case the lender is not required to provide an additional list, though in all cases the lender remains responsible for ensuring that the list is provided to the applicant. The list may be provided in person, by mail or other means. The list may be provided in electronic form, subject to compliance with the consumer consent and other applicable provisions of E-Sign.

If, before the three-day period ends, the lender denies the application or the applicant withdraws it, the lender does not have to provide the list. If the transaction involves more than one lender, the lenders should agree on which of them will provide the list. If there is more than one applicant, the list can go to any one of them that has primary liability on the loan.

Subpart C – Mortgage Servicing

Scope – 12 CFR 1024.30

Except as otherwise noted below, the provisions of Subpart C – Mortgage Servicing, 12 CFR 1024.30-41, apply to any mortgage loan, as that term is defined in 12 CFR 1024.31. The procedures set forth in 12 CFR 1024.39 through 1024.41 regarding early intervention, continuity of contact, and loss mitigation only apply to a mortgage loan secured by a property that is the borrower's principal residence. If a property ceases to be a borrower's principal residence, the procedures set forth in the early intervention provisions (12 CFR 1024.39), the continuity of contact provisions (12 CFR 1024.40), and the loss mitigation provisions (12 CFR 1024.41) do not apply to the mortgage loan secured by the property. (Comment 30(c)(2)-1). The determination of principal residence status will depend on the specific facts and circumstances regarding the property and applicable state law. For example, a vacant property may still be a borrower's principal residence. (Comment 30(c)(2)-1).

Starting April 19, 2018, a servicer must treat a confirmed successor in interest as a borrower under Subpart C's provisions and under the escrow account requirements in 12 CFR 1024.17. Further, a servicer that is a debt collector

under the FDCPA with respect to a mortgage loan does not violate the FDCPA Section 805(b)'s prohibition on communicating with third parties by communicating with a confirmed successor in interest in compliance with the mortgage servicing rules because "consumer" for purposes of FDCPA Section 805 includes any person who meets the definition in this part of confirmed successor in interest. (Comment 30(d)-1).[15]

Definitions – 12 CFR 1024.31

Regulation X, 12 CFR 1024.31 contains definitions that are applicable to Subpart C – Mortgage Servicing, 12 CFR 1024.30-41. Among other definitions, Regulation X provides that "mortgage loan" means "any federally related mortgage loan, as that term is defined in 12 CFR 1024.2 subject to the exemptions in 12 CFR 1024.5(b), but does not include open-end lines of credit (home equity plans)." Thus, the term "mortgage loan" includes (but is not limited to) refinancing transactions, whether secured by a senior or subordinate lien.

The 2016 Servicing Rule establishes definitions of "successor in interest" and "confirmed successors in interest," and provides that the latter are considered "borrowers" for the purposes of Regulation X's mortgage servicing provisions. The 2016 Servicing Rule also adds a new definition of "delinquency."

Successors in Interest (Effective April 19, 2018)

"Successor in interest" means a person to whom an ownership interest in a property securing a mortgage loan if the transfer is:

(1) A transfer by devise, descent, or operation of law on the death of a joint tenant or tenant by the entirety;

(2) A transfer to a relative resulting from the death of a borrower;

(3) A transfer where the spouse or children of the borrower become an owner of the property;

(4) A transfer resulting from a decree of a dissolution of marriage, legal separation agreement, or from an incidental property settlement agreement, by which the spouse of the borrower becomes an owner of the property; or

(5) A transfer into an *inter vivos* trust in which the borrower is and remains a beneficiary and which does not relate to a transfer of rights of occupancy in the property.

"Confirmed successor in interest" means a successor in interest once a servicer has confirmed the successor in interest's identity and ownership interest in a property that secures a mortgage loan subject to Subpart C of Regulation X.

Delinquency

The definition of "delinquency" applies to the servicing provisions in Subpart C of Regulation X and the provisions regarding periodic statements for mortgage loans in Regulation Z.[16] Under the definition, a borrower and a borrower's mortgage loan obligation are delinquent beginning on the date a payment sufficient to cover principal, interest, and, if applicable, escrow, becomes due and unpaid, and the borrower remains delinquent until such time as no periodic payment is due and unpaid (even if the borrower is afforded a period after the due date to pay before the servicer assesses a late fee).

If a servicer applies payments to the oldest outstanding payment, a payment by a delinquent borrower advances the date the borrower's delinquency began. For example, assume a borrower's mortgage loan requires borrower to make periodic payments of principal, interest, and escrow by the first of each month. The borrower fails to make a payment on January 1 or on any day in January, and on January 31 the borrower is 30 days delinquent. On February 3, the borrower makes a periodic payment. The servicer applies the payment it received on February 3 to the outstanding January payment. On February 4, the borrower is three days delinquent. (Comment 31-2).

Further, if a servicer chooses to accept a payment that is less than the periodic payment due without considering the borrower delinquent for purposes of any provisions in Subpart C, the borrower is not delinquent for any other provisions in the Subpart. (Comment 31-3).[17]

[15] *See also* the 2016 FDCPA Interpretive Rule (81 Fed. Reg. 71977, 71979).

[16] For purposes of periodic statements for residential mortgage loans under Regulation Z, 12 CFR 1026.41(d)(8), the length of a consumer's delinquency is measured as of the date of the periodic statement or the date of the written notice provided under 12 CFR 1026.41(e)(3)(iv). A consumer's delinquency begins on the date an amount sufficient to cover a periodic payment of principal, interest, and escrow, if applicable, becomes due and unpaid, even if the consumer is afforded a period after the due date to pay before the servicer assesses a late fee. A consumer is delinquent if one or more periodic payments of principal, interest, and escrow, if applicable, are due and unpaid. (Comment 1026.41(d)(8)-1).

[17] A creditor is not prevented from exercising a right provided by a mortgage

General Disclosure Requirements – 12 CFR 1024.32

Disclosure Requirements – 12 CFR 1024.32(a)

Disclosures required under 12 CFR 1024.30-.41 must be clear and conspicuous, in writing, and in a form that a recipient may keep. The disclosures may be provided in electronic form, subject to consumer consent and the provisions of E-Sign,[18] and a servicer may use commonly accepted or readily understandable abbreviations. Disclosures may be made in a language other than English, provided that they are made in English upon a recipient's request.

Additional Information, Disclosures Required by Other Laws – 12 CFR 1024.32(b)

Servicers may include additional information in disclosures required under 12 CFR 1024.30-41 or combine these disclosures with any disclosure required by other law unless doing so is expressly prohibited by 12 CFR 1024.30-41, by other applicable law (such as TILA or the Truth in Savings Act), or by the terms of an agreement with a federal or state regulatory agency.

Successors in Interest – 12 CFR 1024.32(c) (*Effective April 19, 2018*)

Under 12 CFR 1024.32(c), servicers have the option to provide a written notice and acknowledgment form to confirmed successors in interest who have not assumed the mortgage loan and are not otherwise liable on it. Among other things, the written notice must explain that the confirmed successor in interest may be entitled to receive certain notices and communications about the mortgage loan if the servicer is not providing them to another confirmed successor in interest or borrower on the account. The notice also must explain that in order to receive such notices and communications, the successor in interest must execute and provide to the servicer the acknowledgment form.

Servicers that send this type of notice and acknowledgement form are not required to provide to the confirmed successor in interest any written disclosure required by 12 CFR 1024.17, 1024.33, 1024.34, 1024.37, or 1024.39, or to comply with the live contact requirements in 12 CFR 1024.39(a) with respect to the confirmed successor in interest until the confirmed successor in interest either assumes the mortgage loan or executes the acknowledgment form.

Regardless of whether the confirmed successor in interest executes the acknowledgment form, the written notice must state the successor in interest is entitled to submit notices of error under 12 CFR 1024.35, requests for information under 12 CFR 1024.36, and requests for a payoff statement under 12 CFR 1026.36 with respect to the mortgage loan account, and the notice must include a brief explanation of those rights and how to exercise them, including appropriate address information.

Furthermore, except as required by 12 CFR 1024.36, a servicer is not required to provide to a confirmed successor in interest any written disclosure required by 12 CFR 1024.17, 1024.33, 1024.34, 1024.37, or 1024.39(b) if the servicer is providing the same specific disclosure to another borrower on the account. A servicer is also not required to comply with the live contact requirements in 12 CFR 1024.39(a) with respect to a confirmed successor in interest if the servicer is complying with those requirements with respect to another borrower on the account. A confirmed successor in interest who does not receive servicing communications because the servicer is providing them to another borrower on the account can request additional information as needed through the request for information process under Regulation X.

Mortgage Servicing Transfer Disclosures – 12 CFR 1024.33

The disclosures related to the transfer of mortgage servicing generally are required for any mortgage loan, as that term is defined in 12 CFR 1024.31, except that the servicing disclosure statement required under 12 CFR 1024.33(a) is required only for reverse mortgage transactions.

Servicing Disclosure Statement – 12 CFR 1024.33(a)

A lender, mortgage broker who anticipates using table funding, or dealer in a first-lien dealer loan that receives an application for a reverse mortgage transaction is required to provide the servicing disclosure statement to the borrower within three days (excluding legal public holidays, Saturdays, and Sundays) after receipt of the application. The disclosure statement must advise whether the servicing of the mortgage loan may be assigned, sold, or transferred to any other person at any time. A model disclosure statement is set forth in Appendix MS-1.

If the institution denies the borrower's application within the

loan contract to accelerate payment for a breach of that contract. Failure to pay the amount due after the creditor accelerates the mortgage loan obligation in accordance with the mortgage loan contract would begin or continue delinquency. (Comment 31-4).

[18] 15 U.S.C. 7001 *et seq.*

three-day period, it is not required to provide the disclosure statement.

Notices of Transfer of Loan Servicing – 12 CFR 1024.33(b)

When any mortgage loan, as that term is defined in 12 CFR 1024.31, is assigned, sold or transferred, the transferor (former servicer) generally must provide a disclosure at least 15 days before the effective date of the transfer. Generally, a transfer of servicing notice from the transferee (new servicer) must be provided not more than 15 days after the effective date of the transfer. Generally, both notices may be combined into one notice if delivered to the borrower at least 15 days before the effective date of the transfer. Notices provided at the time of settlement satisfy the timing requirements.

The disclosure must include:

- The effective date of the transfer;
- The name, address, and toll-free or collect-call telephone number for an employee or department of the transferee servicer that can be contacted by the borrower to obtain answers to servicing transfer inquiries;
- The name, address, and toll-free or collect-call telephone number for an employee or department of the transferor servicer that can be contacted by the borrower to obtain answers to servicing transfer inquiries;
- The date on which the transferor servicer will cease accepting payments relating to the loan, and the date on which the transferee servicer will begin to accept such payments. The dates must be either the same or consecutive dates;
- Whether the transfer will affect the terms or the availability of optional insurance and any action the borrower must take to maintain such coverage; and
- A statement that the transfer does not affect the terms or conditions of the mortgage (except as directly related to servicing).

Servicers may use the disclosure in Appendix MS-2 to comply with the mortgage servicing transfer disclosure.

The following transfers are not considered an assignment, sale, or transfer of mortgage loan servicing for purposes of this requirement if there is no change in the payee, address to which payment must be delivered, account number, or amount of payment due:

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

Additionally, the Federal Housing Administration (FHA) is not required to provide a notice of transfer to the borrower where a mortgage insured under the National Housing Act is assigned to FHA.

Borrower Payments During Transfer of Servicing – 12 CFR 1024.33(c)

During the 60-day period beginning on the date of transfer, no late fee or other penalty can be imposed on a borrower who has made a timely payment to the transferor servicer (former servicer). Additionally, if the transferor servicer (former servicer) receives any incorrect payments on or after the effective date of the transfer, the transferor servicer must either transfer the payment to the transferee servicer (new servicer) or return the payment and inform the payor of the proper recipient of the payment.

Timely Escrow Payments and Treatment of Escrow Account Balances – 12 CFR 1024.34

Servicers must comply with requirements concerning the treatment of escrow funds, which apply to any mortgage loan, as that term is defined in 12 CFR 1024.31.

If the terms of a mortgage loan require the borrower to make payments to the servicer for deposit into an escrow account to pay taxes, insurance premiums, and other charges, the servicer shall make payments from the escrow account in a timely manner. A payment is made in a timely manner if it is made on or before the deadline to avoid a penalty.

Generally, the servicer must return any amounts remaining in escrow within the servicer's control within 20 days (excluding legal public holidays, Saturdays, and Sundays) after the borrower pays the mortgage loan in full, unless the borrower and servicer agree to credit the remaining funds towards an escrow account for certain new mortgage loans. The rule does not prohibit servicers from netting any funds remaining in an escrow account against the outstanding balance of the borrower's mortgage loan.

Error Resolution Procedures – 12 CFR 1024.35

Servicers must comply with error resolution procedures that are triggered when a borrower submits an error notice to the servicer. The requirements set forth in 12 CFR 1024.35 apply to any mortgage loan, as that term is defined in 12 CFR 1024.31.

The CFPB has issued an advisory opinion clarifying that, because borrowers initiate the error resolution process, a servicer's communications with a borrower regarding an error notice are not subject to the "cease communication" provision of the Fair Debt Collection Practices Act (FDCPA) unless the borrower specifically withdraws the request for action regarding the error.[19]

Notice of Error – 12 CFR 1024.35(a)

An error notice must be in writing and identify the borrower's name, information that allows the servicer to identify the borrower's account, and the alleged error. A qualified written request that asserts an error relating to the servicing of a mortgage loan is an error notice, and the servicer must comply with all of the error notice requirements with respect to such qualified written request.

The commentary clarifies that a servicer should not rely solely on the borrower's description of a submission to determine whether it is an error notice, an information request, or both. For example, a borrower may submit a letter titled "Notice of Error" that indicates that the borrower wants to receive the information set forth in an annual escrow account statement and asserts an error for the servicer's failure to provide that statement. Such a letter could be both an error notice and an information request, and the servicer must evaluate whether the letter fulfills the substantive requirements of an error notice, information request, or both.

Scope of Error Resolution – 12 CFR 1024.35(b)

The error resolution procedures apply to the following alleged errors:

- Failure to accept a payment that complies with the servicer's written requirements;
- Failure to apply an accepted payment to principal, interest, escrow, or other charges as required by the mortgage loan and applicable law;
- Failure to credit a payment to the borrower's account as of the date the servicer received it, as required by 12 CFR 1026.36(c)(1);
- Failure to pay taxes, insurance premiums, or other charges by the due date, as required by 12 CFR 1024.34(a);
- Failure to refund an escrow account balance within 20 days (excluding legal public holidays, Saturdays, and Sundays) after the borrower pays the mortgage loan in full, as required by 12 CFR 1024.34(b);
- Imposition of a fee or charge without a reasonable basis to do so;
- Failure to provide an accurate payoff balance amount upon the borrower's request, as required by 12 CFR 1026.36(c)(3);
- Failure to provide accurate information to a borrower regarding loss mitigation options and foreclosure, as required by 12 CFR 1024.39;
- Failure to transfer accurate and timely information relating to servicing to a transferee servicer;
- Making the first notice or filing for a judicial or non-judicial foreclosure process before the time periods allowed by 12 CFR 1024.41(f) and (j);
- Moving for foreclosure judgment or order of sale or conducting a foreclosure sale in violation of 12 CFR 1024.41(g) or (j); and
- Any other error relating to the servicing of a borrower's mortgage loan.

The commentary gives examples of errors not covered by 12 CFR 1024.35(b), such as errors relating to: (i) the origination of a mortgage loan; (ii) the underwriting of a mortgage loan; (iii) a subsequent sale or securitization of a mortgage loan; and (iv) a determination to sell, assign, or transfer the servicing of a mortgage loan (unless it concerns the failure to transfer accurate and timely information relating to the servicing of the borrower's mortgage loan account to a transferee servicer).

Contact Information – 12 CFR 1024.35(c)

If the servicer establishes an address to which borrowers must send error notices, the servicer must provide written notice of the address to the borrower with specified content. The commentary states that the servicer must also include this address on the following communications: (i) any periodic statement or coupon book required under 12 CFR 1026.41; (ii) any website the servicer maintains in connection with the servicing of the loan; and (iii) any notice required pursuant to 12 CFR 1024.39 (early intervention) or 12 CFR 1024.41 (loss mitigation) that includes contact information for assistance. The servicer must use the same address for receiving information requests under 12 CFR 1024.36(b), and provide written notice to the borrower before changing the address to which the borrower must send error notices.

[19] CFPB Bulletin 2013-12.

Acknowledgement of Receipt – 12 CFR 1024.35(d)

The servicer generally must provide a written acknowledgment to the borrower within five days (excluding legal public holidays, Saturdays, and Sundays) after receiving the error notice.

Response to an Error Notice – 12 CFR 1024.35(e)

A servicer generally has 30 days (excluding legal public holidays, Saturdays, and Sundays) from receipt of the error notice to investigate and respond to the notice, except that a servicer may extend this period by an additional 15 days (excluding legal public holidays, Saturdays, and Sundays) if, prior to the expiration of the original 30-day period, it notifies the borrower in writing of the extension and the reasons for it.

A servicer must respond within seven days (excluding legal public holidays, Saturdays, and Sundays) if the alleged error is a failure to provide an accurate payoff balance amount, and a servicer must respond by the earlier of 30 days (excluding legal public holidays, Saturdays, and Sundays) or the date of a foreclosure sale if the error involves either (i) making the first notice or filing for a judicial or non-judicial foreclosure process before the time periods allowed by 12 CFR 1024.41(f) or (j), or (ii) moving for foreclosure judgment or order of sale or conducting a foreclosure sale in violation of 12 CFR 1024.41(g) or (j).

In response to the notice of error, the servicer must either correct the error or conduct a reasonable investigation and determine that no error occurred. The servicer must also send a written response to the borrower that accomplishes one of the following:

- *If the servicer corrects the alleged error*. The servicer must advise the borrower of the correction and when the correction took effect, and provide contact information, including phone number, for further assistance;

- *If the servicer determines that it committed an error or errors different than or in addition to those identified by the borrower*. The servicer must correct the error and advise the borrower of the correction and when the correction took effect, and provide contact information, including phone number, for further assistance; or

- *If the servicer determines after a reasonable investigation that no error occurred*. The servicer must state that it determined that no error occurred, the reasons for its determination, and the borrower's right to request documents relied upon by the servicer in reaching its determination and how the borrower can make such a request, and provide contact information, including phone number, for further assistance. If the borrower requests those documents, the servicer generally must provide them within 15 days (excluding legal public holidays, Saturdays, and Sundays) at no cost to the borrower. The servicer need not provide documents that constitute confidential, proprietary, or privileged information.

Furthermore, servicers responding to a notice of error request for documentation may omit location, contact, and personal financial information (other than information about the terms, status, and payment history of the mortgage loan) if: (i) the information pertains to a potential or confirmed successor in interest who is not the requester; or (ii) the requester is a confirmed successor in interest and the information pertains to any borrower who is not the requester. (*Effective April 19, 2018*).

As a part of its investigation of the asserted error, the servicer may request supporting documentation from the borrower, but the servicer must conduct a reasonable investigation even if the borrower does not provide supporting documentation.

Early Correction or Error Asserted Before Foreclosure Sale – 12 CFR 1024.35(f)

A servicer is not required to provide the five-day acknowledgement notice (12 CFR 1024.35(d)) or the response notice (12 CFR 1024.35(e)) if either:

- The servicer corrects the asserted errors and notifies the borrower of the correction within five days (excluding legal public holidays, Saturdays, and Sundays) after receiving the error notice; or

- The servicer receives the error notice seven or fewer days before a foreclosure sale and the asserted error concerns the timing of the foreclosure process under 12 CFR 1024.35(b)(9) or (10). In this instance, the servicer must make a good faith attempt to respond to the borrower, either orally or in writing, and either correct the error or state the reason the servicer has determined that no error occurred.

Requirements Not Applicable – 12 CFR 1024.35(g)

A servicer does not need to provide the five-day acknowledgement notice (12 CFR 1024.35(d)), provide the response notice (12 CFR 1024.35(e)), or refrain from providing adverse information to credit reporting agencies for 60 days (12 CFR 1024.35(i)), if the servicer reasonably determines any of the following apply:

- *Duplicative notice of error*. The asserted error is substantially the same as a previously-asserted error for which the servicer complied with the obligation to

respond, unless the borrower provides new and material information to support the asserted error. New and material information is information that is reasonably likely to change the servicer's prior determination about the error;

- *Overbroad notice of error*. The error notice is overbroad if the servicer cannot reasonably determine the specific alleged error. The commentary provides examples of overbroad notices, including those that assert errors regarding substantially all aspects of the mortgage loan (including origination, servicing, and foreclosure), notices that resemble legal pleadings and demand a response to each numbered paragraph, or notices that are not reasonably understandable or contain voluminous tangential information such that a servicer cannot reasonably identify from the notice any error that requires a response. Note that if a servicer concludes an error notice as submitted is overbroad, the servicer must still provide a five-day acknowledgment notice and a subsequent response to the extent the servicer can identify an appropriate error notice within the submission; or

- *Untimely notice of error*. The error notice is sent more than one year after either the mortgage loan was discharged or the servicer receiving the notice of error transferred the mortgage loan to another servicer. For purposes of this provision, a mortgage loan is discharged when both the debt and all corresponding liens have been extinguished or released, as applicable.

If a servicer determines that any of these three exceptions apply, it must provide written notice to the borrower within five days (excluding legal public holidays, Saturdays, and Sundays) after making that determination, including the basis relied upon.

Payment Requirements Prohibited – 12 CFR 1024.35(h)

A servicer may not charge a fee or require a borrower to make any payments as a condition to responding to an error notice.

Effect on Servicer Remedies – 12 CFR 1024.35(i)

In the 60-day period after receiving an error notice, a servicer may not furnish adverse information to any consumer reporting agency regarding any payment that is the subject of the error notice.

Requests for Information – 12 CFR 1024.36

Servicers must follow certain procedures in response to a borrower's written request for information with respect to the borrower's mortgage loan. The request must include the borrower's name, information that allows the servicer to identify the borrower's account, and the requested information related to the borrower's mortgage loan. The request can be from the borrower or the borrower's agent; a servicer may undertake reasonable procedures to determine if an alleged agent has authority from the borrower to act as the borrower's agent. A qualified written request that requests information relating to the servicing of a mortgage loan is an information request, and the servicer must comply with all of the information request requirements with respect to such a qualified written request.

The requirements set forth in 12 CFR 1024.36 apply to any mortgage loan, as that term is defined in 12 CFR 1024.31.

The CFPB has issued an advisory opinion clarifying that, because borrowers initiate requests for information, a servicer's communications with a borrower regarding such a request for information are not subject to the FDCPA's "cease communication" provision, unless the borrower specifically withdraws the information request.[20]

Contact Information – 12 CFR 1024.36(b)

If the servicer establishes an address to which borrowers must send information requests, the servicer must provide written notice of the address to the borrower with specified information. The commentary states that the servicer must also include this address on the following communications: (i) any periodic statement or coupon book required under 12 CFR 1026.41; (ii) any website the servicer maintains in connection with the servicing of the loan; and (iii) any notice required pursuant to 12 CFR 1024.39 (early intervention) or 12 CFR 1024.41 (loss mitigation) that includes contact information for assistance. The servicer must use the same address for receiving error notices under 12 CFR 1024.35(b), and provide written notice to the borrower before changing the address to which the borrower must send information requests.

Acknowledgement of Receipt – 12 CFR 1024.36(c)

The servicer generally must provide a written acknowledgment to the borrower within five days (excluding legal public holidays, Saturdays, and Sundays) after receiving the information request.

Response to Information Request – 12 CFR 1024.36(d)

A servicer generally must respond in writing to an

[20] CFPB Bulletin 2013-12.

information request within 30 days (excluding legal public holidays, Saturdays, and Sundays) of receipt, except that a servicer may extend this period by an additional 15 days (excluding legal public holidays, Saturdays, and Sundays) if, prior to the expiration of the original 30-day period, it notifies the borrower in writing of the extension and the reasons for it. A servicer must respond within 10 days (excluding legal public holidays, Saturdays, and Sundays) after receiving the request, if the borrower requested the identity or contact information for the owner or assignee of a mortgage loan.

The servicer must respond in writing by either:

- Providing the requested information and contact information, including phone number, for further assistance; or
- Conducting a reasonable search for the information and advising the borrower that the servicer has determined that the requested information is not available to it, the basis for the servicer's determination, and contact information, including phone number, for further assistance.

Information is not available if it is not in the servicer's control or possession, or the servicer cannot retrieve it in the ordinary course of business through reasonable efforts. The commentary gives examples of when information is or is not available.

In its response to a request for information, a servicer may omit location, contact, and personal financial information (other than information about the terms, status, and payment history of the mortgage loan) if: (i) the information pertains to a potential or confirmed successor in interest who is not the requester; or (ii) the requester is a confirmed successor in interest and the information pertains to any borrower who is not the requester. (12 CFR 1024.36(d)(3)). (*Effective April 19, 2018*).

Early Response – 12 CFR 1024.36(e)

The five-day receipt acknowledgement (12 CFR 1024.36(c)) and the response (12 CFR 1024.36(d)) requirements do not apply if the servicer provides the requested information and contact information, including phone number, for further assistance within five days (excluding legal public holidays, Saturdays, and Sundays) after receiving the information request.

Requirement Not Applicable – 12 CFR 1024.36(f)

The five-day receipt acknowledgement (12 CFR 1024.36(c)) and the response notice (12 CFR 1024.36(d)) requirements also do not apply if the servicer reasonably determines any of the following exceptions apply:

- The information requested is substantially the same information that the borrower previously requested.
- The information requested is confidential, proprietary, or privileged.
- The information requested is not directly related to the borrower's mortgage loan account. The commentary provides examples of irrelevant information, including information related to the servicing of mortgage loans other than the borrower's loan and investor instructions or requirements for servicers regarding the negotiation or approval of loss mitigation options.
- The information request is overbroad or unduly burdensome. A request is overbroad if the borrower requests that the servicer provide an unreasonable volume of documents or information. A request is unduly burdensome if a diligent servicer could not respond within the time periods set forth in 12 CFR 1024.36(d)(2) or would incur costs (or have to dedicate resources) that would be unreasonable in light of the circumstances. The commentary provides examples of overbroad or unduly burdensome requests, such as requests that seek documents relating to substantially all aspects of mortgage origination, mortgage servicing, mortgage sale or securitization, and foreclosure, as well as requests that require servicers to provide information in a specific format or seek information that is not reasonably likely to assist the borrower. If an information request as submitted is overbroad or unduly burdensome, the servicer must still provide the five-day acknowledgment of receipt and subsequent response if the servicer can reasonably identify an appropriate information request within the submission.
- The information request is sent more than one year after either the mortgage loan was discharged or the servicer receiving the information request transferred the mortgage loan to another servicer. For purposes of this provision, a mortgage loan is discharged when both the debt and all corresponding liens have been extinguished or released, as applicable.

If a servicer determines that any of these five exceptions apply, it must provide written notice to the borrower within five days (excluding legal public holidays, Saturdays, and Sundays) after making that determination, including the basis relied on.

Payment Requirement Limitations – 12 CFR 1024.36(g)

A servicer generally may not charge a fee, or require a borrower to make any payment that may be owed on a borrower's account, as a condition of responding to an information request. A servicer may charge for providing a beneficiary notice under applicable state law, if such a fee is not otherwise prohibited by applicable law.

Potential Successors in Interest – 12 CFR 1024.36(i) (*Effective April 19, 2018*)

A servicer must respond to a written request from a person indicating that the person may be a successor in interest if the request includes the name of the transferor borrower from whom the person received an ownership interest and information that enables the servicer to identify the mortgage loan. The response must generally provide a written description of the documents the servicer reasonably requires to confirm the person's identity and ownership interest in the property as well as contact information, including a telephone number, for further assistance. With respect to the written request, a servicer must treat the potential successor in interest as a borrower for the purposes of 12 CFR1024.36(c) through 1024.36(g).

A servicer must respond to such a request not later than the time limits set forth in 12 CFR 1024.36(d)(2) for information requests. Depending on the facts and circumstances of the request, responding promptly may require a servicer to respond more quickly than the time limits established in 12 CFR 1024.36(d)(2). (Comment 36(i)-2).

Under 12 CFR 1024.38(b)(1)(vi)(B), a servicer, other than a small servicer, must maintain policies and procedures that are reasonably designed to promptly facilitate communication with potential successors in interest and promptly confirm a potential successor in interest's identity and ownership interest in the property securing the mortgage loan.

Force-Placed Insurance – 12 CFR 1024.37

Servicers must comply with restrictions on obtaining and assessing charges and fees for force-placed insurance, defined as hazard insurance that a servicer obtains on behalf of the owner or assignee to insure the property securing the mortgage loan (but does not include (i) flood insurance required by the Flood Disaster Protection Act of 1973, (ii) hazard insurance obtained by a borrower but renewed by the borrower's servicer in accordance with 12 CFR 1024.17(k)(1), (2), or (5), or (iii) hazard insurance obtained by a borrower but renewed by the borrower's servicer with the borrower's agreement). The requirements set forth in 12 CFR 1024.37 apply to any mortgage loan, as that term is defined in 12 CFR 1024.31.

The CFPB has issued an advisory opinion clarifying that, because the Dodd-Frank Act specifically mandates certain disclosures regarding force-placed insurance without any mention of the FDCPA's "cease communication" provisions, a servicer acting as a debt collector does not violate the FDCPA's "cease communication" provision by providing the notices required under 12 CFR 1024.37.[21]

Requirements Before Charging For Force-placed Insurance – 12 CFR 1024.37(b), (c), (d)

Servicers may not assess charges or fees for force-placed insurance unless the servicer satisfies four requirements.

First, the servicer must have a reasonable basis to believe that the borrower has failed to maintain required hazard insurance. The commentary states that information about a borrower's hazard insurance received by the servicer from the borrower, the borrower's insurance provider, or the borrower's insurance agent, may provide a servicer with a reasonable basis. If a servicer receives no such information, the servicer may satisfy the reasonable basis standard if the servicer acts with reasonable diligence to ascertain the borrower's hazard insurance status and does not receive evidence of hazard insurance.

Second, the servicer must mail or deliver an initial written notice to the borrower at least 45 days before assessing a charge or fee related to force-placed insurance. The servicer's notice must identify the following:

- The date of the notice;
- The servicer's name and mailing address;

[21] CFPB Bulletin 2013-12.

- The borrower's name and mailing address;
- A statement requesting that the borrower provide hazard insurance information for the borrower's property and identifying the property by its physical address;
- A statement that the borrower's hazard insurance has expired, is expiring, or provides insufficient coverage, as applicable; that the servicer lacks evidence that the borrower has hazard insurance coverage past the expiration date or lacks evidence of sufficient coverage, as applicable; and if applicable, identifies the type of hazard insurance lacking;
- A statement that hazard insurance is required on the borrower's property and that the servicer has purchased or will purchase insurance at the borrower's expense;
- A request that the borrower promptly provide the servicer with insurance information;
- A description of the requested insurance information and how the borrower may provide such information, and if applicable, that the requested information must be in writing;
- A statement that the insurance coverage the servicer has purchased or will purchase may cost significantly more than, and provide less coverage than, hazard insurance purchased by the borrower;
- The servicer's phone number for borrower inquiries; and
- A statement advising that the borrower review additional information provided in the same transmittal (if applicable).

The servicer cannot provide any information on the initial notice other than the specific statements listed above and, at the servicer's option, the loan account number. The servicer, however, can provide additional information on separate pages of paper contained in the same mailing. Certain information must be provided in bold text. Appendix MS-3(A) contains a form notice that servicers may use.

Third, the servicer must send a reminder notice at least 30 days after the initial notice is mailed or delivered and at least 15 days before the servicer assesses charges or fees. If the servicer has received no hazard insurance information in response to the initial notice described above, the reminder notice must contain the date of the reminder notice and all of the other information provided in the initial notice, as well as (i) advise that it is a second and final notice, and (ii) identify the annual cost of force-placed insurance, or if unknown, a reasonable estimate of that cost.

If the servicer has received hazard insurance information but not evidence that sufficient coverage has been in place continuously, the reminder notice must identify the following:

- The date of the notice;
- The servicer's name and mailing address;
- The borrower's name and mailing address;
- A statement requesting that the borrower provide hazard insurance information for the borrower's property and that identifies the property by its physical address;
- A statement that the insurance coverage the servicer has purchased or will purchase may cost significantly more than, and provide less coverage than, hazard insurance purchased by the borrower;
- The servicer's phone number for borrower inquiries;
- A statement advising that the borrower review additional information provided in the same transmittal (if applicable);
- A statement that it is the second and final notice;
- The annual cost of force-placed insurance, or if unknown, a reasonable estimate of that cost;
- A statement that the servicer has received the hazard insurance information that the borrower provided;
- A request that the borrower provide the missing information; and
- A statement that the borrower will be charged for insurance the servicer purchases during the time period in which the servicer cannot verify coverage.

The servicer cannot provide any additional information on the reminder notice other than specific statements listed above and, at the servicer's option, the loan account number. The servicer, however, can provide additional information on separate pages of paper contained in the same transmittal. Certain information must be provided in bold text. Appendix MS-3 contains sample reminder notices at forms MS-3(B) and MS-3(C). If a servicer receives new information about a borrower's hazard insurance after the required written notice has been put into production, the servicer is not required to update the notice if the written notice was put into production a reasonable time prior to the servicer delivering the notice to the borrower or placing the notice in the mail. For purposes of 12 CFR 1024.37(d)(5), five days (excluding legal holidays, Saturdays, and Sundays) is a reasonable time.

(Comment 37(d)(5)-1).

Fourth, by the end of the 15-day period beginning on the date the servicer delivers the reminder notice or places it in the mail, the servicer must not have received evidence that the borrower has had required hazard insurance continuously in place. As evidence, the servicer may require a copy of the borrower's hazard insurance policy declaration page, the borrower's insurance certificate, the borrower's insurance policy, or other similar forms of written confirmation.

Renewing Force-Placed Insurance – 12 CFR 1024.37(e)

A servicer must comply with two requirements before assessing charges or fees on a borrower to renew or replace existing force-placed insurance.

First, the servicer must provide written notice at least 45 days before assessing a premium charge or fee. This renewal notice must provide the following information:

- The date of the renewal notice;
- The servicer's name and mailing address;
- The borrower's name and mailing address;
- A request that the borrower update the hazard insurance information and that identifies the property by its physical address;
- A statement that the servicer previously purchased force-placed insurance at the borrower's expense because the servicer did not have evidence that the borrower had hazard insurance coverage;
- A statement that the force-placed insurance is expiring or has expired and that the servicer intends to renew or replace it because hazard insurance is required on the property;
- A statement that the insurance coverage the servicer has purchased or will purchase may cost significantly more than, and provide less coverage than, hazard insurance purchased by the borrower, and identifying the annual cost (or if unknown, a reasonable estimate) of force-placed insurance;
- A statement that if the borrower purchases hazard insurance, the borrower should promptly advise the servicer;
- A description of the requested insurance information and how the borrower may provide such information, and if applicable, that the requested information must be in writing;
- The servicer's telephone number for borrower inquiries; and
- A statement advising the borrower to review additional information provided in the same transmittal (if applicable).

The servicer cannot provide any additional information on the renewal notice other than the specific statements listed above, and, at the servicer's option, the loan account number. The servicer, however, can provide additional information on separate pages of paper contained in the same transmittal. Certain information must be provided in bold text. Appendix MS-3(D) contains a form notice that servicers may use.

Second, by the end of the 45-day period beginning on the date the written notice was delivered or placed in the mail, the servicer must not have received evidence demonstrating that the borrower has purchased required hazard insurance coverage.

Notwithstanding these two requirements, if not prohibited by state or other applicable law, if the servicer receives evidence that the borrower lacked insurance for some period of time after the existing force-placed insurance expired, the servicer may promptly assess a premium charge or fee related to renewing or replacing the existing force-placed insurance for that period of time.

The servicer must mail or deliver the renewal notice before each anniversary of purchasing force-placed insurance, though the servicer need not send the renewal notice more than once per year.

Mailing the Notices – 12 CFR 1024.37(f)

If the servicer mails the initial notice, the reminder notice, or the renewal notice, the servicer must use at least first-class mail.

Canceling Force-Placed Insurance – 12 CFR 1024.37(g)

If the servicer receives evidence that the borrower has had required hazard insurance coverage in place, then the servicer has 15 days to cancel the force-placed insurance, refund force-placed insurance premium charges and fees for the period of overlapping insurance coverage, and remove all force-placed charges and fees from the borrower's account for that period.

Limitations on Force-Placed Insurance – 12 CFR 1024.37(h)

All charges that a servicer assesses on a borrower related to force-placed insurance must be bona fide and reasonable,

except for charges subject to state regulation and charges authorized by the Flood Disaster Protection Act of 1973. A bona fide and reasonable charge is one that is reasonably related to the servicer's cost of providing the service and is not otherwise prohibited by law.

General Servicing Policies, Procedures, and Requirements – 12 CFR 1024.38

Servicers must maintain policies and procedures reasonably designed to achieve certain servicing-related objectives, and are subject to requirements regarding record retention and the ability to create servicing files.

These requirements apply to any mortgage loan, as that term is defined in 12 CFR 1024.31, except that they do not apply to (i) small servicers, (ii) reverse mortgage transactions, as that term is defined in 12 CFR 1024.31, or (iii) mortgage loans for which the servicer is a qualified lender.

As noted above, an institution qualifies as a small servicer under 12 CFR 1026.41(e)(4)(ii) if it (a) services, together with any affiliates, 5,000 or fewer mortgage loans, for all of which the institution (or an affiliate) is the creditor or assignee, (b) is a Housing Finance Agency, as defined in 24 CFR 266.5, or (c) is a nonprofit entity (defined in 12 CFR 1026.41(e)(4)(ii)(C)(*1*)) that services 5,000 or fewer mortgage loans, including any mortgage loans serviced on behalf of associated nonprofit entities (defined in 12 CFR 1026.41(e)(4)(ii)(C)(*2*)), for all of which the servicer or an associated nonprofit entity is the creditor.[22]

The determination as to whether a servicer qualifies as a small servicer is generally made based on the mortgage loans, as that term is used in 12 CFR 1026.41(a)(1), serviced by the servicer and any affiliates as of January 1 for the remainder of that calendar year. However, to determine small servicer status under the nonprofit small servicer definition, a nonprofit servicer should be evaluated based on the mortgage loans serviced by the servicer (and not those serviced by associated nonprofit entities) as of January 1 for the remainder of the calendar year. A servicer that ceases to qualify as a small servicer will have six months from the time it ceases to qualify or until the next January 1, whichever is later, to comply with any requirements from which the servicer is no longer exempt as a small servicer.

As specified in 12 CFR 1026.41(e)(4)(iii), the following mortgage loans are not considered in determining whether a servicer qualifies as a small servicer: (a) mortgage loans voluntarily serviced by the servicer for a non-affiliate of the servicer and for which the servicer does not receive any compensation or fees; (b) reverse mortgage transactions; and (c) mortgage loans secured by consumers' interests in timeshare plans; and (d) certain seller-financed transactions that meet the criteria identified in 12 CFR 1026.36(a)(5).

Qualified lenders are those defined to be qualified lenders under the Farm Credit Act of 1971 and the Farm Credit Administration's accompanying regulations set forth at 12 CFR 617.7000 *et seq.*[23]

Reasonable Policies and Procedures – 12 CFR 1024.38(a)

Servicers must maintain policies and procedures reasonably designed to meet the objectives identified in 12 CFR 1024.38(b). Servicers may determine the specific policies and procedures they will adopt and the methods for implementing them in light of the size, nature, and scope of the servicers' operations, including, for example, the volume and aggregate unpaid principal balance of mortgage loans serviced, the credit quality (including the default risk) of the mortgage loans serviced, and the servicer's history of consumer complaints. "Procedures" refer to the servicer's actual practices for achieving the objective.

Objectives – 12 CFR 1024.38(b)

Servicers are required to maintain policies and procedures that are reasonably designed to achieve the following objectives.

I. *Accessing and providing timely and accurate information*. The servicer's policies and procedures must be reasonably designed to ensure that the servicer can:

   a. Provide accurate and timely disclosures to the borrower.

   b. Investigate, respond to, and make corrections in response to borrowers' complaints. These policies and procedures must be reasonably designed to ensure that the servicer can promptly obtain information from service providers to facilitate investigation and correction of errors resulting from actions of service providers.

[22] The definition of small servicer is set forth at 12 CFR 1026.41(e)(4)(ii).

[23] 12 CFR 617.7000 defines a qualified lender as (i) a system institution (except a bank for cooperatives) that extends credit to a farmer, rancher, or producer or harvester of aquatic products for any agricultural or aquatic purpose and other credit needs of the borrower, and (ii) other financing institutions with respect to loans discounted or pledged under section 1.7(b)(1)(B) of the Farm Credit Act.