

~~and (4) in Appendix H to this part. For the alternative “payment forbearance,” the disclosure should explain that payment forbearance temporarily gives the consumer more time to pay. ◀~~

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### ***Subpart E – Special Rules for Certain Home Mortgage Transactions***

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#### ***Section 1026.36 – Prohibited Acts or Practices in Connection With Credit Secured by a Dwelling***

##### ***▶ Paragraph 36(c)(1)(ii)***

1. *Handling of Partial Payments.* If a servicer receives a partial payment from a consumer, to the extent not prohibited by applicable law and the legal obligation between the parties, the servicer may take any of the following actions:

- (i) Credit the partial payment upon receipt; or
- (ii) Return the partial payment to the consumer; or

(iii) Hold the payment in a suspense or unapplied funds account. If the payment is held in a suspense or unapplied funds account, this must be reflected on the periodic statement, in accordance with § 1026.41. When sufficient funds accumulate to cover a full contractual payment, they must be applied to the oldest outstanding payment.

##### ***Paragraph 36(c)(1)(iii)***

1. *Payment requirements.* The servicer may specify reasonable requirements for making payments in writing, such as requiring that payments be accompanied by the account number or payment coupon; setting a cut-off hour for payment to be received, or setting different hours for payment by mail and payments made in person; specifying that only checks or money orders should be sent by mail; specifying that payment is to be made in U.S. dollars; or specifying one particular address for receiving payments, such as a post office box. The servicer may be prohibited, however, from requiring payment solely by preauthorized electronic fund transfer. (See Section 913 of the Electronic Fund Transfer Act, 15 U.S.C. 1693k.)

2. *Payment requirements—limitations.* Requirements for making payments must be reasonable; it should not be difficult for most consumers to make conforming payments. For example, it would be reasonable to require a cut-off time of 5 p.m. for receipt of a mailed check at the location specified by the servicer for receipt of such check.

3. *Implied guidelines for payments.* In the absence of specified requirements for making payments, payments may be made at any location where the servicer conducts business; any time during the servicer's normal business hours; and by cash, money order, draft, or other similar instrument in properly negotiable form, or by electronic fund transfer if the servicer and consumer have so agreed. ◀

##### ***[Paragraph 36(c)(1)(ii)]***

##### ***▶ Paragraph 36(c)(2) ◀***

1. *Pyramiding of late fees.* The prohibition on pyramiding of late fees in this subsection should be construed consistently with the “credit practices rule” of the Federal Trade Commission, 16 CFR 444.4.

[Paragraph 36(c)(1)(iii)]

► Paragraph 36(c)(3) ◀

[1. *Reasonable time.* The payoff statement must be provided to the consumer, or person acting on behalf of the consumer, within a reasonable time after the request. For example, it would be reasonable under most circumstances to provide the statement within five business days of receipt of a consumer's request. This time frame might be longer, for example, when the servicer is experiencing an unusually high volume of refinancing requests.]

► 1. *As Applicable.* A creditor who no longer owns the mortgage loan or the mortgage servicing rights is not "applicable" and therefore is not subject to the requirements of this section to provide a periodic statement. ◀

2. *Person acting on behalf of the consumer.* For purposes of § 1026.36(c)[(1)(iii)]►(3)◀, a person acting on behalf of the consumer may include the consumer's representative, such as an attorney representing the individual, a non-profit consumer counseling or similar organization, or a creditor with which the consumer is refinancing and which requires the payoff statement to complete the refinancing. A servicer may take reasonable measures to verify the identity of any person acting on behalf of the consumer and to obtain the consumer's authorization to release information to any such person before the "reasonable time" period begins to run.

3. *Payment requirements.* The servicer may specify reasonable requirements for making payoff requests, such as requiring requests to be [in writing and ]directed to a mailing address, email address, or fax number specified by the servicer [or orally to a telephone number specified by the servicer, ]or any other reasonable requirement or method. If the consumer does not follow these requirements, a longer time frame for responding to the request would be reasonable.

4. *Accuracy of payoff statements.* Payoff statements must be accurate when issued.

[Paragraph 36(c)(2)

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