

~~settlement of the new mortgage loan if the new mortgage loan is provided to the borrower by a lender that:~~

- ~~(i) Was also the lender to whom the prior mortgage loan was initially payable;~~
- ~~(ii) Is the owner or assignee of the prior mortgage loan; or~~
- ~~(iii) Uses the same servicer that serviced the prior mortgage loan to service the new mortgage loan.~~

1024.35 Error resolution procedures.

(a) *Notice of error.* A servicer shall comply with the requirements of this section for any oral or written notice from the borrower that asserts a covered error and that includes the name of the borrower, information that enables the servicer to identify the borrower's mortgage loan account, and the error the borrower believes has occurred. A notice on a payment coupon or other payment form supplied by the servicer need not be treated by the servicer as a notice of error. A qualified written request that asserts a covered error relating to the servicing of the mortgage loan is considered a notice of error and must comply with all requirements applicable to a notice of error.

(b) *Scope of error resolution.* For purposes of this section, the term "error" means the following categories of covered errors:

(1) Failure to accept a payment that conforms to the servicer's written requirements for the borrower to follow in making payments;

(2) Failure to apply an accepted payment to principal, interest, escrow, or other charges under the terms of the mortgage loan and applicable law;

(3) Failure to credit a payment to a borrower's mortgage loan account as of the date of receipt, where such failure has resulted in a charge to the consumer or the furnishing of negative information to a consumer reporting agency;

(4) Failure to pay taxes, insurance premiums, or other charges, including charges that the borrower and servicer have voluntarily agreed that the servicer should collect and pay, in a timely manner as required by § 1024.34(a), or to refund an escrow account balanced as required by § 1024.34(b);

(5) Imposition of a fee or charge that the servicer lacks a reasonable basis to impose upon the borrower;

(6) Failure to provide an accurate payoff balance amount upon a borrower's request pursuant to 12 CFR 1026.36(c)(1)(iii);

(7) Failure to provide accurate information to a borrower for loss mitigation options and foreclosure, as required by §§ 1024.39 and 1024.40.

(8) Failure to accurately and timely transfer information relating to the servicing of a borrower's mortgage loan account to a transferee servicer.

(9) Failure to suspend a scheduled foreclosure sale in the circumstances described in § 1024.41(g).

(c) *Contact information for borrowers to assert errors.* A servicer may, by notice provided to a borrower, establish a telephone number and address that a borrower must use to

submit a notice of error in accordance with the procedures in this section. The notice shall include a statement that the borrower may assert an error by contacting the servicer through the telephone number or address established for that purpose. If a servicer designates a specific telephone number and address for receiving errors, a servicer shall designate the same telephone number and address for receiving information requests pursuant to § 1024.36(b) of this part. A servicer shall provide a notice to a borrower before any change in the telephone number or address used for receiving a notice of error.

(d) *Acknowledgment of receipt.* Within five days (excluding legal public holidays, Saturdays, and Sundays) of a servicer receiving a notice of an error from a borrower, the servicer shall provide to the borrower a response acknowledging receipt of the borrower's notice of the asserted error.

(e) *Response to notice of error.* (1) *Investigation and response requirements.* (i) *In general.* A servicer must respond to a notice of error by either:

(A) Correcting the error identified by the borrower and providing the borrower with notification of the correction, the date of the correction, and contact information for further assistance; or

(B) Conducting a reasonable investigation and providing the borrower with a notification that includes a statement that the servicer has determined that no error occurred, a statement of the reason or reasons for this determination, a statement of the borrower's right to request documents relied upon by the servicer in reaching its determination, information regarding how the borrower can request such documents, and contact information for further assistance.

(ii) *Different or additional error.* If during a reasonable investigation of a notice of error, a servicer concludes that an error occurred other than, or in addition to, the error alleged by the borrower, the servicer shall correct the error and provide the borrower with a notification that describes the error the servicer identified, the action taken to correct the error, the applicable date for the correction, and contact information for further assistance.

(2) *Requesting information from borrower.* A servicer may request supporting documentation from a borrower, but may not:

(i) Require a borrower to provide such information as a condition of investigating the alleged error; or

(ii) Determine that no error occurred because the borrower failed to provide any requested information without conducting a reasonable investigation pursuant to paragraph (e)(1)(i)(B) of this section.

(3) *Time limits.* (i) *In general.* A servicer must comply with the requirements of paragraph (e)(1) of this section:

(A) Not later than five days (excluding legal public holidays, Saturdays, and Sundays) after the servicer receives the asserted error, if a notice of error identifies an error in paragraph (b)(6) of this section;

(B) Prior to the date of a scheduled foreclosure sale or within 30 days (excluding legal public holidays, Saturdays, and Sundays) after the servicer receives the asserted error, whichever is earlier, if a notice of error identifies an error in paragraph (b)(9) of this section;

(C) For all other errors, not later than 30 days (excluding legal public holidays, Saturdays, and Sundays) after the servicer receives the asserted error.

(ii) *Extension of time limits.* The servicer may extend the time period for completing its investigation of a notice of error by an additional 15 days (excluding legal public holidays, Saturdays, and Sundays) if, before the end of the 30 day period set forth in paragraph (e)(3)(i)(C) of this section, the servicer notifies the borrower of the extension and the reasons for the extension. A servicer may not extend the time period for completing its investigation of an error identified in paragraphs (b)(6) or (b)(9) of this section.

(4) *Copies of documentation.* A servicer shall provide to the borrower, at no charge, copies of documents and information relied upon by the servicer in making its determination within 15 days (excluding legal public holidays, Saturdays, and Sundays) of receiving the borrower's request for such documents.

(f) *Alternative compliance.* (1) *Early correction.* A servicer is not required to comply with paragraphs (d) and (e) of this section if the servicer corrects the error identified by the borrower within five days (excluding legal public holidays, Saturdays, and Sundays) of receiving the notice of error, and the borrower is notified of that correction in writing.

(2) *Error asserted before foreclosure sale.* A servicer is not required to comply with the requirements of paragraphs (d) and (e) of this section if the servicer receives a notice of an error in paragraph (b)(9) of this section seven days or less before a scheduled foreclosure sale, so long as prior to the scheduled foreclosure sale, the servicer responds to the borrower, orally or in writing, and corrects the error or states the reason the servicer has determined that no error has occurred.

(g) *Requirements not applicable.* (1) *In general.* A servicer is not required to comply with the requirements of paragraphs (d) and (e) of this section if the servicer reasonably determines that any of the following applies:

(i) *Duplicative notice of error.* An asserted error is substantially the same as an error previously asserted by the borrower for which the servicer has previously complied with its obligation to respond pursuant to paragraph (e)(1) of this section, unless the borrower provides new and material information to support the asserted error. New and material information means information that was not reviewed by the servicer in connection with investigating a prior notice of error and is reasonably likely to change a servicer's prior determination about the error.

(ii) *Overbroad or unduly burdensome notice of error.* A notice of error is overbroad or unduly burdensome. A notice of error is overbroad if a servicer cannot reasonably determine from the notice of error the specific covered error that a borrower asserts has occurred on a borrower's account. A notice of error is unduly burdensome if a diligent servicer could not respond to the notice of error without either exceeding the maximum timeframe permitted by paragraph (e)(3)(ii) of this section or incurring costs (or dedicating resources) that would be unreasonable in light of the circumstances. To the extent a servicer can identify a valid assertion of an error in a submission that is otherwise overbroad or unduly burdensome, the servicer shall comply with the requirements of paragraphs (d) and (e) of this section with respect to that asserted error.

(iii) *Untimely notice of error.* An error is untimely if the error is asserted more than one year after:

(A) Servicing for the mortgage loan that is the subject of asserted error was transferred from the servicer receiving the notice of error to a transferee servicer; or

(B) The mortgage loan amount was paid in full.

(2) *Notice to borrower.* A servicer shall notify the borrower of its determination that the servicer is not required to comply with the requirements of paragraphs (d) and (e) of this section in writing not later than five days (excluding legal public holidays, Saturdays, and Sundays) after making its determination. The notice to the borrower shall set forth the basis that is permitted under paragraph (g)(1) of this section upon which the servicer has made such determination.

(h) *Payment requirements prohibited.* A servicer shall 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 investigating and responding to a notice of error.

(i) *Effect on servicer remedies.* (1) *Adverse information.* After receipt of a notice of error, a servicer may not, for 60 days, furnish adverse information to any consumer reporting agency regarding any payment that is the subject of the notice of error.

(2) *Remedies permitted.* Except as set forth in this section with respect to an error identified in paragraph (b)(9) of this section, nothing in this section shall limit or restrict a lender or servicer from pursuing any remedy it has under applicable law, including initiating foreclosure or proceeding with a scheduled foreclosure sale.

1024.36 Requests for information.

(a) *Information request.* A servicer shall comply with the requirements of this section for any oral or written request for information (including a qualified written request for information related to the servicing of the mortgage loan) from a borrower that includes the name of the borrower, information that enables the servicer to identify the borrower's mortgage loan account, and states the information the borrower is requesting with respect to the borrower's mortgage loan. A request on a payment coupon or other payment form supplied by the servicer need not be treated by the servicer as a request for information. A qualified written request that requests information relating to the servicing of the mortgage loan is considered a request for information and must comply with all requirements applicable to a request for information.

(b) *Contact information for borrowers to request information.* A servicer may, by notice provided to a borrower, establish a telephone number and address that a borrower must use to request information in accordance with the procedures in this section. The notice shall include a statement that a borrower should request information by contacting the servicer through the telephone number or address established for that purpose. If a servicer designates a specific telephone number and address for receiving information requests, a servicer shall designate the same telephone number and address for receiving notices of error pursuant to § 1024.35(c) of this part. A servicer shall provide notice to a borrower before any change in the telephone number or address used for receiving an information request.

(c) *Acknowledgment of receipt.* Within five days (excluding legal public holidays, Saturdays, and Sundays) of a servicer receiving an information request from a borrower, the servicer shall provide to the borrower a response acknowledging receipt of the information request.

(d) *Response to information request.* (1) *Investigation and response requirements.* A

servicer must respond to an information request by either:

(i) Providing the borrower with the requested information and contact information for further assistance either orally or in writing; or

(ii) Conducting a reasonable search for the requested information and providing the borrower with a notification that states that the servicer has determined that the requested information is not available to the servicer, provides the basis for the servicer's determination, and provides contact information for further assistance.

(2) *Time limits.* (i) *In general.* A servicer must comply with the requirements of paragraph (d)(1) of this section:

(A) Not later than 10 days (excluding legal public holidays, Saturdays, and Sundays) after the servicer receives an information request for the identity of, and address or other relevant contact information for, the owner or assignee of a mortgage loan; and

(B) For all other information requests, not later than 30 days (excluding legal public holidays, Saturdays, and Sundays) after the servicer receives an information request.

(ii) *Extension of time limit.* For information requests governed by the time limit set forth in paragraph (d)(2)(i)(B) of this section, the servicer may extend the time period for completing its search for information by an additional 15 days (excluding legal public holidays, Saturdays, and Sundays) if, before the end of the 30 day period, the servicer notifies the borrower of the extension and the reasons for the extension.

(e) *Alternative compliance.* A servicer is not required to comply with paragraphs (c) and (d) of this section if the servicer provides the borrower with the information requested and contact information for further assistance within five days (excluding legal public holidays, Saturdays, and Sundays) of receiving an information request. A servicer may provide the borrower such information orally or in writing.

(f) *Requirements not applicable.* (1) *In general.* A servicer is not required to comply with the requirements of paragraphs (c) and (d) of this section if the servicer reasonably determines that any of the following applies:

(i) *Duplicative information.* A borrower requests information that is substantially the same as information previously requested by the borrower for which the servicer has previously complied with its obligation pursuant to paragraph (d)(1) of this section.

(ii) *Confidential, proprietary, or general corporate information.* The borrower requests confidential, proprietary, or general corporate information.

(iii) *Irrelevant information.* The borrower requests information that is not directly related to the borrower's mortgage loan account.

(iv) *Overbroad or unduly burdensome information request.* An information request is overbroad or unduly burdensome. An information request is overbroad if a borrower requests a servicer provide an unreasonable volume of documents or information to a borrower. An information request is unduly burdensome if a diligent servicer could not respond to the information request without either exceeding maximum timeframe permitted by paragraph (d)(2)(ii) of this section or incurring costs (or dedicating resources) that would be unreasonable in light of the circumstances. To the extent a servicer can identify a valid information request in

a submission that is otherwise overbroad or unduly burdensome, the servicer shall comply with the requirements of paragraphs (c) and (d) of this section with respect to that requested information.

(v) *Untimely information request.* An information request is delivered to a servicer more than one year after:

(A) Servicing for the mortgage loan that is the subject of the information request was transferred from the servicer receiving the request for information to a transferee servicer; or

(B) The mortgage loan amount was paid in full.

(2) *Notice to borrower.* A servicer shall notify the borrower of its determination that the servicer is not required to comply with the requirements of paragraphs (c) and (d) of this section in writing not later than five days (excluding legal public holidays, Saturdays, and Sundays) after making its determination. The notice to the borrower shall set forth the basis that is permitted under paragraph (f)(1) upon which the servicer has made such determination.

(g) *Payment requirement limitations.* (1) *Fees prohibited.* Except as set forth in paragraph (g)(2) of this section, a servicer 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 a valid information request.

(2) *Fees permitted.* Nothing in this section shall prohibit a servicer from charging a fee for providing a payoff statement or a beneficiary notice under applicable State law, if such fees are not otherwise prohibited by applicable law.

(h) *Servicer remedies.* Nothing in this section shall prohibit a servicer from furnishing adverse information to any consumer reporting agency or pursuing any of its remedies, including initiating foreclosure or proceeding with a scheduled foreclosure sale, allowed by the underlying mortgage loan instruments, during the time period that response to an information request notice is outstanding.

~~1024.37 Force-placed insurance.~~

~~(a) *Definition of force-placed insurance.* (1) *In general.* For the purposes of this section, the term "force-placed insurance" means hazard insurance obtained by a servicer on behalf of the owner or assignee of a mortgage loan on a property securing such loan.~~

~~(2) *Types of insurance not considered force-placed insurance.* The following insurance does not constitute "force-placed insurance" under this section:~~

~~(i) Hazard insurance to protect against flood loss obtained by a servicer as required by the Flood Disaster Protection Act of 1973.~~

~~(ii) Hazard insurance obtained by a borrower but renewed by the borrower's servicer as required by § 1024.17(k)(1), (k)(2), or (k)(5).~~

~~(iii) Hazard insurance obtained by the borrower but renewed by the servicer at its discretion if the servicer is not required to renew the borrower's hazard insurance as required by § 1024.17(k)(1), (k)(2), or (k)(5).~~