

~~Disaster Protection Act of 1973, all charges related to force-placed insurance assessed to a borrower by or through the servicer must be bona fide and reasonable.~~

~~(2) *Bona fide and reasonable charge.* A bona fide and reasonable charge is a charge for a service actually performed that bears a reasonable relationship to the servicer's cost of providing the service, and is not otherwise prohibited by applicable law.~~

~~(j) *Relationship to Flood Disaster Protection Act of 1973.* If permitted by regulation under section 102(e) of the Flood Disaster Protection Act of 1973, a servicer subject to the requirements of this section may deliver to the borrower or place in the mail any notice required by this section together with the notice required by section 102(e) of the Flood Disaster Protection Act of 1973.~~

1024.38 Reasonable information management policies and procedures.

(a) *In general.* (1) *Reasonable policies and procedures.* A servicer shall establish reasonable policies and procedures for maintaining and managing information and documents related to borrower mortgage loan accounts. A servicer meets this requirement if:

(i) The servicer's policies and procedures are reasonably designed to achieve the objectives set forth in paragraph (b) of this section; and

(ii) The servicer's policies and procedures are reasonably designed to ensure compliance with the standard requirements in paragraph (c) of this section.

(2) *Safe harbor.* A servicer satisfies the requirements in this section if it does not engage in a pattern or practice of failing to achieve any of the objectives set forth in paragraph (b) of this section and does not engage in a pattern or practice of failing to comply with any of the standard requirements in paragraph (c) of this section.

(b) *Objectives.* (1) *Accessing and providing accurate information.*

(i) Provide accurate and timely disclosures to borrowers as required by this subpart or other applicable law;

(ii) Investigate, respond to, and, as appropriate, correct errors asserted by borrowers in accordance with the procedures set forth in § 1024.35, including asserted errors resulting from actions of service providers;

(iii) Provide borrowers with accurate and timely information and documents in response to borrower requests made in accordance with the procedures set forth in § 1024.36;

(iv) Provide owners or assignees of mortgage loans with accurate and current information and documents about any mortgage loans they own; and

(v) Submit documents or filings required for a foreclosure process, including documents or filings required by a court of competent jurisdiction, that reflect accurate and current information and that comply with applicable law.

(2) *Evaluating loss mitigation options.* (i) Provide accurate information regarding loss mitigation options available to borrowers pursuant to §§ 1024.39 and 1024.40;

(ii) Identify all loss mitigation options for which a borrower may be eligible pursuant to any requirements imposed by an owner or assignee of a mortgage loan;

(iii) Provide prompt access to all documents and information submitted by a borrower in

connection with a loss mitigation option to servicer personnel that are assigned to assist the borrower pursuant to § 1024.40;

(iv) Identify documents and information that a borrower is required to submit to make a loss mitigation application complete so that prompt notice of such requirements can be provided to the borrower pursuant to § 1024.41(b)(2); and

(v) Evaluate loss mitigation applications, and any appeals, pursuant to the requirements in § 1024.41.

(3) *Facilitating oversight of, and compliance by, service providers.* (i) Provide appropriate servicer personnel with access to accurate and current documents and information reflecting actions performed by service providers;

(ii) Facilitate periodic reviews of service providers, including by providing appropriate servicer personnel with documents and information necessary to audit compliance by service providers with the servicer's contractual obligations and applicable law; and

(iii) Facilitate the sharing of accurate and current information regarding the status of an evaluation of a borrower's completed loss mitigation application and the status of any foreclosure proceeding among servicer personnel assigned to a borrower pursuant to § 1024.40 and service providers responsible for handling foreclosure proceedings.

(4) *Facilitating servicing transfers.* Timely transfer all information and documents relating to a transferred mortgage loan to a transferee servicer in a form and manner that ensures the accuracy of the information and documents transferred and that enables a transferee servicer to comply with the requirements of this subpart and the terms of the transferee servicer's contractual obligation to the owner or assignee of the mortgage loan. Such information and documents shall include any information reflecting the current status of discussions with a borrower regarding loss mitigation options, any agreements entered into with a borrower on a loss mitigation option, and any analysis by a servicer with respect to potential recovery from a non-performing mortgage loan, as appropriate.

(c) *Standard requirements.* (1) *Record retention.* A servicer shall retain records that document actions taken by the servicer with respect to a borrower's mortgage loan account until one year after the date a mortgage loan is discharged or servicing of a mortgage loan is transferred by the servicer to a transferee servicer.

(2) *Servicing file.* A servicer shall provide a borrower with a servicing file upon request in accordance with the procedures set forth in § 1024.36. The servicing file shall contain:

(i) A schedule of all payments credited or debited to the mortgage loan account, including any escrow account as defined in § 1024.17(b) and any suspense account;

(ii) A copy of the borrower's mortgage note;

(iii) A copy of the borrower's deed of trust;

(iv) Any collection notes created by servicer personnel reflecting communications with borrowers about the mortgage loan account;

(v) A report of any data fields relating to a borrower's mortgage loan account created by a servicer's electronic systems in connection with collection practices, including records of automatically or manually dialed telephonic communications; and

(vi) Copies of any information or documents provided by a borrower to a servicer in accordance with the procedures set forth in §§ 1024.35 or 1024.41.

~~1024.39 Early intervention requirements for certain borrowers.~~

~~(a) Oral notice. If a borrower is late in making a payment sufficient to cover principal, interest, and, if applicable, escrow for a given billing cycle, a servicer shall notify or make good faith efforts to notify the borrower orally not later than 30 days after the payment due date that the borrower is late and that loss mitigation options, if applicable, may be available. If the servicer attempts to notify the borrower by telephone, good faith efforts require calling the borrower on at least three separate days in order to reach the borrower. A servicer is not required to notify or make good faith efforts to notify the borrower under this paragraph if the borrower makes the payment within 30 days after the payment due date.~~

~~(b) Written notice. (1) In general. If a borrower is late in making a payment sufficient to cover principal, interest, and, if applicable, escrow for a given billing cycle, a servicer shall provide to the borrower a written notice that complies with paragraph (b)(2) of this section not later than 40 days after the payment due date. A servicer is not required to provide the written notice if the borrower makes the payment within 40 days after the payment due date. A servicer is not required to provide the written notice more than once during any 180-day period.~~

~~(2) Content of the written notice. The notice required by paragraph (b)(1) of this section shall include:~~

- ~~(i) A statement encouraging the borrower to contact the servicer;~~
- ~~(ii) The servicer's mailing address and telephone number;~~
- ~~(iii) A statement, if applicable, providing a brief description of loss mitigation options that may be available from the servicer;~~
- ~~(iv) A statement, if applicable, informing the borrower how to obtain more information about loss mitigation options from the servicer;~~
- ~~(v) A statement explaining that foreclosure is a legal process to end the borrower's ownership of the property and an estimate, expressed in a number of days from the date of a missed payment, of when the servicer makes the referral to foreclosure; and~~
- ~~(vi) The website address, if applicable, and telephone number to access:~~
 - ~~(A) Any State housing finance authority (as defined in section 1301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989) for the State in which the borrower's property is located; and~~
 - ~~(B) Either the Bureau list of homeownership counselors or counseling organizations or the HUD list of homeownership counselors or counseling organizations.~~

~~(3) Model clauses. Model Clauses MS 4(A), MS 4(B), MS 4(C), MS 4(D), and MS 4(E) in Appendix MS 4 to this part may be used to comply with the requirements of paragraphs (b)(1) and (b)(2) of this section.~~

~~1024.40 Continuity of contact.~~

~~(a) Continuity of contact requirements. (1) In general. No later than five days after a servicer has notified or made a good faith effort to notify a borrower as required by § 1024.39(a),~~