

Chapter 13



Selected Consumer Protection Regulations

Learn  Mortgage

Chapter Objectives

- Identify regulations that prohibit illicit mortgage lending practices
- Recognize federal requirements for anti-money laundering and recordkeeping by financial institutions
- Recognize regulations that address mortgage assistance programs and financial records

RESPA – Mortgage Servicing

- **CFPB Final Rules on Mortgage Servicing**
 - Apply To
 - Entities that service consumer first lien mortgage loans
 - Entities servicing their own portfolios and those servicing loans sold into the secondary market
 - Exemptions
 - Reverse mortgages, bridge loans, construction loans, loans for business purposes, or loans secured by agricultural property by lenders qualified under the Farm Credit Act

<https://www.consumerfinance.gov/policy-compliance/guidance/mortserv/>

RESPA – Mortgage Servicing

- **CFPB Final Rules on Mortgage Servicing**
 - Billing Statement Requirement
 - Provide a monthly billing statement that meets content requirements
 - Interest Rate Adjustment Notice Requirement
 - Send a notice of first rate adjustment to the borrower 210-240 days prior to the first adjustment
 - Send subsequent adjustment notices 60-120 days prior to those adjustment dates

12 CFR § 1026.20 and 1026.41

RESPA – Mortgage Servicing

- **CFPB Final Rules on Mortgage Servicing**
 - Credit Payoff Requirements
 - Give credit for full payment as of the day payment is received
 - Hold the partial payment(s) in a special suspense account and disclose on monthly statement; when have full payment, credit full payment
 - Provide an accurate payoff balance within 7 business days of receipt of the request

12 CFR § 1026.36

RESPA – Mortgage Servicing

- **CFPB Final Rules on Mortgage Servicing**
 - Force-Placed Insurance Requirements
 - Provide a first notice at least 45 days before the lender charges for a force-placed insurance policy
 - Provide a second notice at least 30 days later and at least 15 days prior to charging the borrower
 - Cancel force-placed coverage and refund premiums paid during periods of overlapping coverage
 - Continue to accept existing insurance policy, rather than buy force-placed insurance, if there is an escrow/impound account from which the servicer pays the insurance bill
 - Bill only the bona fide cost of coverage

12 CFR § 1026.37

RESPA – Mortgage Servicing

- **CFPB Final Rules on Mortgage Servicing**

- Required Adoption of Policies and Procedures

1. To provide timely and accurate information about a borrower's loan
2. To properly evaluate loss mitigation applications
3. To facilitate oversight and compliance
4. To facilitate transfer of information during servicing transfers
5. To keep records for at least 1 year after a mortgage loan is discharged or transferred
6. To inform borrowers of written error resolution and information request policies
7. To keep a servicing file for all loans

12 CFR § 1026.38

RESPA – Mortgage Servicing

- **CFPB Final Rules on Mortgage Servicing**
 - Borrower Info Requests/Response Requirements
 1. Information requests from the borrower must be in writing
 2. Servicers must establish and inform borrowers of an address to be used for information requests
 3. Servicers must provide a written response, acknowledging receipt, within 5 business days of receiving an information request
 4. Servicers must provide the requested information or, after conducting a reasonable search, inform the borrower that the information is unavailable; include telephone number

12 CFR § 1026.36

RESPA – Mortgage Servicing

- **CFPB Final Rules on Mortgage Servicing**
 - Borrower Info Request/Response Requirements
 5. Servicer must respond to consumer requests for information in writing within 30 business days; time limit may be extended by an additional 15 business days, when necessary
 6. Servicer must respond to consumer requests for the identity or contact information of the owner or assignee of the mortgage loan within 10 business days with no extensions allowed
 7. Servicers may not charge a fee for responding to requests for information

12 CFR § 1026.36

RESPA – Mortgage Servicing

- **CFPB Final Rules on Mortgage Servicing**
 - Early Intervention Requirements
 - Servicer must try to establish contact with a delinquent borrower no later than 36 days after a missed mortgage payment
 - Servicer must provide delinquent borrowers a written notice within 45 days after a missed payment, which encourages contact with the servicer about loss mitigation options that may be available to the borrower

12 CFR § 1026.36

RESPA – Mortgage Servicing

- **CFPB Final Rules on Mortgage Servicing**
 - Loss Mitigation / Loan Workout Requirements
 1. The borrower is required to submit an application and supporting documentation for help
 2. The lender, upon receipt of the application, has a 5-day window to acknowledge receipt and request additional information from the borrower
 3. The mortgage servicer must inform the borrower if there is an option to save the home within 30 days after submission of a complete loan workout application, received at least 37 days prior to a foreclosure sale

12 CFR § 1026.36

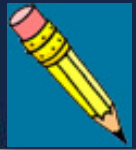
RESPA – Mortgage Servicing

- **CFPB Final Rules on Mortgage Servicing**
 - Loss Mitigation / Loan Workout Decisions
 1. The servicer decides a borrower does not qualify for a loan workout and must provide a written decision including the reason for denial
 2. The borrower rejects the workout options that are offered by the mortgage servicer
 3. The borrower is offered and accepts an option that includes retention of the home (modification) or non-retention of the home (short sale)
 - Loan Workout Agreement
 - If both parties agree to conditions, new terms are implemented; oftentimes with a trial period

RESPA – Mortgage Servicing

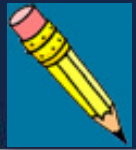
- **Foreclosure Action Limitations**
 - Workout application submitted 90 days prior to a foreclosure sale
 - Borrower may seek an independent review (appeal) of the mortgage servicer's workout decision
 - Servicer may not commence any action during 90-days
 - Workout application submitted 120 days prior to a foreclosure sale
 - Servicer must wait 120 days before filing for foreclosure or trustee's sale
 - A foreclosure is not allowed unless all alternatives to foreclosure have been pursued

12 CFR § 1026.41



13.1 Knowledge Check

- 1. A mortgage servicer must respond to a payoff request within how many days of receipt of the request?**
- A. three
 - B. five
 - C. seven
 - D. ten



13.1 Knowledge Check

2. A mortgage servicer is required to try to establish contact with delinquent borrower Bonita no later than _____ days after she has missed a mortgage payment.

- A. 30
- B. 36
- C. 42
- D. 60

Mortgage Assistance Relief Services

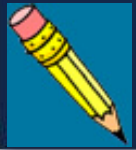
- **Rules to Protect Distressed Homeowners**
 - Prohibition on Fees
 - For mortgage foreclosure rescue and loan modification servicers, prohibited from collecting fees until after homeowner has offer that he decides is acceptable
 - Required Disclosures
 - For mortgage relief companies
 - Must disclose key information to protect consumers from being misled and make better-informed decisions
 - No False or Misleading Claims about Mortgage Relief Services

12 CFR § 1015

Mortgage Assistance Relief Services

- **Rules to Protect Distressed Homeowners**
 - Prohibition Regarding Lender Communication
 - Must not advise consumers to discontinue communication with their lenders
 - Record Requirement
 - Must retain certain records for at least 2 years from the date documents are created, generated, or received

12 CFR § 1015



13.2 Knowledge Check

Which of the following requirements and prohibitions are set forth by the MARS Rule?

- A. mortgage relief companies must disclose key information to consumers to protect consumers from being misled
- B. mortgage relief companies must not make any false or misleading claims about their mortgage relief services
- C. mortgage relief companies must not advise consumers to discontinue communication with their lenders
- D. mortgage relief companies must not collect fees until after homeowners have a written offer from their lender/servicer that is acceptable

FTC Safeguards Rule

- **Rule Purpose**
 - Protect the security, confidentiality, and integrity of customer information by establishing standards for developing, implementing, and maintaining reasonable administrative, technical, and physical safeguards
- **Rule Provisions**
 - Develop, implement, and maintain a comprehensive information security program to meet section 501(b) objectives

16 CFR Part 314

FTC Safeguards Rule

- **Consumer**
 - An individual who obtains or has obtained a financial product or service from a financial institution that is to be used primarily for personal, family, or household purposes, or that individual's legal representative
- **Customer**
 - Consumer who has a continuing relationship with a financial institution

16 CFR Part 314

FTC Safeguards Rule

- **Special Rules for Loans**

- A financial institution establishes a customer relationship with a consumer when it originates a loan
- Customer relationship travels with ownership of the servicing rights
 - If it subsequently sells loan and retains the servicing rights, it continues to have a customer relationship
 - If it subsequently transfers the servicing rights, the entity that acquires servicing has a customer relationship
 - Those with ownership interest in loan without servicing rights have a consumer relationship

16 CFR Part 314

Bank Secrecy Act

- **BSA Purpose**
 - Identify criminal activities, such as money laundering and income tax evasion
 - Assist in investigation of financial transactions related to potential terrorist activities
- **BSA Provisions**
 - Requires financial institutions to maintain appropriate records and file reports for use in criminal, tax, or regulatory investigations or proceedings

31 USC 5311

Bank Secrecy Act

- **BSA Titles**
 - Title I - Financial Recordkeeping
 - Requires insured financial institutions to maintain certain records
 - Title II - Reports of Currency and Foreign Transactions
 - Requires reporting of certain transactions greater than \$10,000 by and through financial institutions into, out of, and within the United States

31 USC 5311

Bank Secrecy Act

- **BSA Suspicious Activity Reporting**
 - Suspicious Activity Report Required
 - Insider abuse involving any amount
 - Transactions aggregating \$5,000 or more where a suspect can be identified
 - Transactions aggregating \$25,000 or more regardless of potential suspects
 - Transactions aggregating \$5,000 or more that involve potential money laundering or violations of the Bank Secrecy Act

12 CFR § 353

Bank Secrecy Act

- **BSA Suspicious Activity Reporting**
 - Suspicious Activity Defined
 - Any conducted or attempted transaction or pattern of transactions that meet any of the following conditions:
 - Involves money from criminal activity
 - Is designed to evade BSA requirements, whether through structuring or other means
 - Appears to serve no business or other legal purpose and for which available facts provide no reasonable explanation
 - Involves use of a money services business to facilitate criminal activity

12 CFR § 353

Bank Secrecy Act

- **BSA Suspicious Activity Reporting**
 - SAR Filing Requirements
 - Must be filed within 30 days of detection of the suspicious transaction
 - Some activity may require an immediate reporting action
 - MSB determines SAR is to be filed, file SAR and maintain copy for 5 years

12 CFR § 353



13.3 Knowledge Check

Per the requirement of the Bank Secrecy Act, financial institutions must report financial transactions greater than

- A. \$10,000.
- B. \$15,000.
- C. \$20,000.
- D. \$25,000.

Anti-Money Laundering Law

- **Money Laundering Definition**
 - Process of concealing illicit sources of money to make it appear to be legitimate money
- **Regulations**
 - Bank Secrecy Act
 - Develop and implement an Anti-Money Laundering Compliance Program
 - USA PATRIOT Act, Section 352; 31 CFR 1022.210
 - MSBs must file BSA reports accurately and timely
 - BSA reports must be retained for a period of 5 years
 - MSB must maintain records for required time period and establish and maintain compliance programs

Anti-Money Laundering Law

- **Money Laundering 3 Steps**

- 1. Placement**

- Illegitimate funds are furtively introduced into legitimate financial system

- 2. Layering**

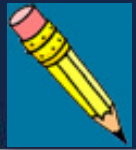
- Money is moved around to create confusion, sometimes by wiring or transferring through numerous accounts

- 3. Integration**

- Money is integrated into the financial system through additional transactions until the “dirty money” appears “clean”

Anti-Money Laundering Law

- **Money Laundering Red Flags**
 - Customer provides false or fraudulent identification
 - Two or more customers use similar identification
 - Customer alters the transaction when learning that he must provide identification
 - Customer alters the spelling or order of his last name to avoid detection



13.4 Knowledge Check

Select the correct step to show that you know the sequential order of the three steps to money laundering.

Integration Layering Placement

Step 1. Placement

Step 2. Layering

Step 3. Integration

Chapter 13



Chapter Quiz

Chapter 13 Quiz

- 1. Mortgage servicers must do all of the following EXCEPT**
 - A. credit mortgage payments promptly when received.
 - B. provide a monthly billing statement with specific information.
 - C. wait 120 days before taking legal action in the event of default.
 - D. waive a late payment penalty fee when requested by the borrower.

Chapter 13 Quiz

2. Force-placed insurance is

- A. coverage for the borrower's furnishings when purchased.
- B. full coverage insurance purchased at closing by the buyer.
- C. insurance to pay the lender for a loss in the event of default.
- D. purchased by a lender when the borrower's insurance lapses.

Chapter 13 Quiz

- 3. If a borrower misses a mortgage payment and applies to the servicer for assistance or modification, the servicer must wait _____ days before taking legal action.**
- A. 30
 - B. 45
 - C. 90
 - D. 120

Chapter 13 Quiz

4. The Mortgage Assistance Relief Services regulation applies to

- A. down payment assistance programs.
- B. loan modification requests.
- C. new borrower loan originations.
- D. providing services for potential homebuyers in obtaining a new mortgage.

Chapter 13 Quiz

- 5. A customer, according to the FTC, is an individual who**
- A. applies for a mortgage loan but does not consummate the mortgage.
 - B. calls and inquires about interest rates offered by a firm.
 - C. has an on-going relationship with a financial institution.
 - D. obtains a service or product from a financial institution.

Chapter 13 Quiz

- 6. BSA/AML regulations are implemented to**
- A. facilitate the opening of a checking or savings account.
 - B. license and regulate mortgage loan originators.
 - C. oversee credit reporting acts.
 - D. prevent money laundering.