



REGULATION X

PROTECTS CONSUMERS WHO
SEEK OR HAVE A MORTGAGE
LOAN

- Implements the Real Estate Settlement Practices Act
- (12 U.S.C. §§ 2601 et seq.)
- CFPB Administers
- Generally 12 C.F.R. Part 1024

REG X BASICS

- Applies to “federally related mortgage loans.”
 - Basically means **residential** mortgage loans. 12 C.F.R. 1024.2
- Regulates many loan origination and **mortgage servicing** functions, including:
 - Servicing Disclosures
 - Escrow Accounts
 - Force-Placed Insurance
 - **Error Resolution**
 - **Obtaining Mortgage Loan Information**
 - **Loss Mitigation**

REG X BASICS

DODD FRANK RESPA AMENDMENTS: Servicer Obligations

- * **correct errors** asserted by mortgage loan borrowers. 12 C.F.R. § 1024.35.
- * **provide certain information** requested by borrowers. 12 C.F.R. § 1024.36.
- * provide protections to borrowers re: **force-placed insurance**. 12 C.F.R. § 1024.37.
- * **establish reasonable policies and procedures** to achieve specific objectives. 12 C.F.R. § 1024.38.
- * **Early intervention requirements** for assisting delinquent borrowers. 12 C.F.R. § 1024.41.
- * **establish policies and procedures** for providing delinquent borrowers with **continuity of contact** with servicer personnel capable of performing certain functions. 12 C.F.R. § 1024.40.
- * Reg. X also establishes **procedures for the review of borrowers' applications for available loss mitigation options**, and modifies and streamlines certain existing servicing-related provisions of Regulation X.

REG Z Basics

(DODD-FRANK TILA AMENDMENTS)

Servicers must:

- * Provide **periodic billing statements (PBS)** that provide certain specific information. 12 C.F.R. §1026.41.
- * Provide **notice of interest rate adjustments** at least 60 and not more than 120 days before payment change; 12 C.F.R. §1026.20(c)(2).
- * Ensure **prompt payment crediting** 12 C.F.R. §1026.36(c)(1)(i) and **payoff statements** 12 C.F.R. §1026.34(a)(9).

USING RESPA AND TILA IN BANKRUPTCY

Send written “**Notice of Error**” (NOE) or “**Request for Information**” (RFI)

- * to **get information** about the **mortgage accounting** and **ownership** in connection with claim review, analysis, and objection; including using RFIs as:
- * alternative way to get information that debtor would usually get in the **Periodic Billing Statement** (PBS) (but-for the bankruptcy exception to PBS requirement).
 - * PBS are suspended in during the bankruptcy
- * Using RFI to **identify owner and holder** of the loan for purposes of effectuating service, for example, for a lien-stripping AP.
- * Evaluating escrow issues.
- * Resolving claim issues, including establishing basis for fee-shifting and damages for successful claim objections.

Does the QWR Still Exist

- * Not clearly distinguishable from a Request for Information (RFI) or Notice of Error (NOE) (implementing Reg. X adds RFIs and NOEs).
- * Applies to correspondence that contains both NOE and RFI.
- * “Hybrid” correspondence still qualifies for statutory damages remedies. (*But see Spokeo Inc. v. Robins*, No. 13-1339, 2016 WL 2842447 (May 16, 2016)- Held that a mere alleged procedural violation, absent an actual concrete injury, does not confer standing on a plaintiff alleging a statutory violation under the Fair Credit Reporting Act))
- * RESPA Cite: 12 U.S.C. §2605(e)(1)(B).

CFPB OFFICIAL INTERPRETATION:

“A qualified written request is a written notice a borrower provides to request a servicer either correct an error relating to the servicing of a mortgage loan or to request information relating to the servicing of the mortgage loan. A qualified written request is not required to include both types of requests. For example, a qualified written request may request information relating to the servicing of a mortgage loan but not assert that an error relating to the servicing of a loan has occurred.”

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Title search: RESPA's Impact on Chapter 13 and Monthly Escrow Payments

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"RESPA's Impact on Chapter 13 and Monthly Escrow Payments"