



## V. Tips for Complying with the Servicing Rules for Small Servicers / CMS Suggestions Conclusion

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# Compliance Management System

## Basic Elements

- 1. Board and senior management oversight of compliance**
- 2. Board and senior management basic understanding of the Mortgage Servicing Rules**
  - **Small servicer status**
- 3. Designated staff to take ownership of compliance responsibilities**

# CMS Policies and Practices To Ensure You are Doing the Following:

1. Promptly crediting payments and providing payoff statements
2. Providing accurate and timely ARM disclosures
3. Providing timely and accurate information in response to requests for information
4. Investigating, responding to, and, as appropriate, making corrections in response to complaints or errors, and informing borrowers appropriately
5. Providing owners or assignees of mortgage loans with accurate and current information and documents about all mortgage loans that they own
6. Submitting accurate and current documents or filings required for foreclosure process, including those required by a court that comply with applicable law
7. Following the loss mitigation 120-day pause rule
8. Following the new force-placed insurance rules
9. Facilitating transfer of information during servicing transfers
10. Oversight of third party service providers and sub-servicers and ensuring their compliance with the Mortgage Servicing Rules

# Practical Tips I

- 1. Ensure that all written inquiries are logged.**
- 2. Test and monitor processes to ensure that copies of documentation used to make decisions on errors can be provided within 15 business days of request.**
- 3. Treat an error notice or information request submitted by a consumer's agent as though it came directly from the consumer. (Your bank may find it useful to set up a procedure to verify that a consumer has authorized a person to act on his or her behalf as an agent.)**

# Practical Tips II

- 4. If you provided estimated rather than actual rates and payment amounts in the first notice for the reset of interest rates for covered ARMs, be prepared to explain those estimates to the borrower, and the reasons why they may differ from the actual rates and amounts.**
- 5. Test system settings periodically to ensure payment and rate changes are consistent with disclosures.**
- 6. Make sure that your bank's systems record the first date a loan is delinquent and counts 120 days from that date. (Only after the 120th day can your bank make the first notice or filing required for any judicial or non-judicial foreclosure process, with certain limited exceptions.)**

# Practical Tips III

- 7. Know what counts as a “first notice or filing” in the state in which the property is located.**
- 8. Keep in mind who is — and is not — a delinquent borrower. (Consumers who have refinanced or paid off their loan, brought it current by paying all amounts owed in arrears, and those who have transferred title (for example, though a deed in lieu of foreclosure or a short sale) may no longer be delinquent borrowers. )**
- 9. Be sure to flag loans where the borrower is performing pursuant to the terms of a loss mitigation agreement, so your bank does not violate the 120-day pause rule.**

# CMS Training

## Training Should:

- **Cover all relevant personnel**
- **Be appropriate to size and scope of servicing activities**
- **Identify person responsible for training**
- **Train appropriate personnel**
- **Include a timeline for training personnel**
- **Cover not only the applicable regulatory requirements but also the bank's policies and procedures**
- **Focus on the level of knowledge each person or group needs in order to understand and comply with the rules**

# CMS Monitoring

## Monitoring Should:

- **Include a schedule identifying monitoring function, who will conduct the function, and how often it will be performed**
- **Include job aids such as checklists to be completed and verified for each loan file to document adherence to policies and procedures**
- **Include automated weekly “tickler” alerts indicating time-sensitive benchmarks that are approaching and when they are met**
- **Formally track issues that have been identified in order to prevent recurrence, including providing targeted training, amending policies and procedures, or adjusting system parameters**
- **Include a system for documenting and reporting the findings to senior management**

# Possible Issue – Force-Placed Insurance

Force-placed Insurance Procedures to:

- **Timely identify a force-placed insurance issue**
- **Maintain templates for use in communications with borrowers**
- **Accurately code transactions**
- **Properly assess and refund insurance premiums**

# Possible Issue – Accommodation Loans

Be sure:

- **All Rules that apply are followed — everything from initial disclosures to ARM rate change notices must be prepared accurately and timely provided**
- **Compliance staff is involved**
- **If originated out of mortgage division, that:**
  - **Mortgage loans are properly coded**
  - **Benefits of the system are fully utilized**
  - **Bank policies and procedures are observed**

# RECAP

- 1. Introduction to this video and what this video would cover**
- 2. The Small Servicer Exemption, focusing on who is covered by the exemption – including how to accurately determine whether you qualify for the exemption**
- 3. The Mortgage Servicing Rules that apply to Small Servicers, briefly touching on the other Mortgage Servicing Rules**
- 4. Responded to questions we have been hearing from our banks**
- 5. Practical tips and best practices for integrating the Mortgage Servicing Rules into your bank's CMS**

# Resources



## **Small Entities Compliance Guide TILA–RESPA**

[http://files.consumerfinance.gov/f/201401cfpb-small-entity-compliance-guide\\_tila-respa.pdf](http://files.consumerfinance.gov/f/201401cfpb-small-entity-compliance-guide_tila-respa.pdf)

## **CFPB Quick Reference Chart**

[http://files.consumerfinance.gov/f/201407\\_cfpb\\_servicing-applicability-comparison-chart-reg-x-and-z.pdf](http://files.consumerfinance.gov/f/201407_cfpb_servicing-applicability-comparison-chart-reg-x-and-z.pdf)

## **CFPB Dodd-Frank Mortgage Rules Readiness Guide**

[http://files.consumerfinance.gov/f/201409\\_cfpb\\_readiness-guide\\_mortgage-implementation.pdf](http://files.consumerfinance.gov/f/201409_cfpb_readiness-guide_mortgage-implementation.pdf)

## **Transfer of Servicing Guidance**

[http://files.consumerfinance.gov/f/201408\\_cfpb\\_bulletin\\_mortgage-servicing-transfer.pdf](http://files.consumerfinance.gov/f/201408_cfpb_bulletin_mortgage-servicing-transfer.pdf)

# Resources



## **November 20, 2014 Proposed Rule**

[http://files.consumerfinance.gov/f/201411\\_cfpb\\_proposed-rule\\_mortgage-servicing.pdf](http://files.consumerfinance.gov/f/201411_cfpb_proposed-rule_mortgage-servicing.pdf)

## **CFPB Supervision and Examination Manual**

<http://www.consumerfinance.gov/guidance/supervision/manual/>

## **FDIC Compliance Management System**

[https://www.fdic.gov/news/news/financial/2006/2cep\\_compliance.pdf](https://www.fdic.gov/news/news/financial/2006/2cep_compliance.pdf)

## **CFPB Website**

<http://www.consumerfinance.gov/regulations/2013-real-estate-settlement-procedures-act-regulation-x-and-truth-in-lending-act-regulation-z-mortgage-servicing-final-rules/>

**For CFPB email updates submit your email address within the “Email updates” box at: [www.consumerfinance.gov/regulatory-implementation](http://www.consumerfinance.gov/regulatory-implementation)**