



May, 2017

Dear CU PolicyPro Client,

Almost a year ago, the CFPB finalized additional changes to Regulation X (Real Estate Settlement Procedures Act – RESPA) and Regulation Z (Truth in Lending Act – TILA) related to the servicing of certain residential mortgage loans. Several of these changes become effective on **October 19, 2017**, with additional changes becoming effective on **April 19, 2018**.

We are working to have our impacted CU PolicyPro policies updated for our next quarterly update so that credit unions can suggest the associated changes and provide them to their Board of Directors for the proper pre-approval. In addition to policies, credit unions should also be reviewing their existing procedures, processes and documentation. The [CFPB's Small Entity Compliance Guide](#) is a great resource to get credit unions started.

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**Monthly OPS Notes Release: CFPB Mortgage Servicing Changes – 2017**

[Mortgage Servicing Changes](#) – Effective October 19, 2017

**Definitions (1024.31)**

A **delinquency** definition was added and means a period of time during which a borrower and a borrower's mortgage loan obligation are delinquent. A borrower and a borrower's mortgage loan obligation are delinquent beginning on the date a periodic payment sufficient to cover principal, interest, and, if applicable, escrow becomes due and unpaid, until such time as no periodic payment is due and unpaid.

**Force Placed Insurance Notices (1024.37)**

Before charging a borrower for force-placed insurance, the credit union must provide written notices to the borrower with certain content specified within the regulation. The content requirements have been revised to

include notification that the borrower's hazard insurance is expiring, has expired, or **provides insufficient coverage** (as applicable). Credit unions should utilize the model forms in appendix MS-3 to comply with these new requirements.

#### **Policies and Procedures (1024.38)**

Credit unions should maintain policies and procedures to properly evaluate loss mitigation applications. A new provision was added, effective in October, 2017, for the credit union to **promptly identify and obtain documents or information not in the borrower's control** that the servicer requires to determine which loss mitigation options (if any) to offer the borrower. Credit union's policies and procedures should be updated accordingly to comply with this new requirement.

#### **Early Intervention (1024.39)**

Credit unions must establish or make good faith efforts to establish **live contact** with a delinquent borrower no later than the 36<sup>th</sup> day of a borrower's delinquency and **again no later than 36 days after each payment due date, as long as the borrower remains delinquent.**

Credit unions are also required to provide **written notice** to a delinquent borrower no later than the 45<sup>th</sup> day of the borrower's delinquency **and again no later than 45 days after each payment due date, so long as the borrower remains delinquent.** The credit union is not required to provide the written notice more than once during any 180-day period. **If a borrower is less than 45 days delinquent at the end of any 180-day period after the servicer has provided the written notice, a servicer must provide the written notice again no later than 45 days after the payment due date for which the borrower remains delinquent.**

There were also changes made that allow for certain exemptions from the early intervention requirements for borrowers in bankruptcy or who have invoked their protections under the Fair Debt Collection Practices Act (FDCPA), in addition to modifications to the written notice requirements.

#### **Loss Mitigation Procedures (1024.41)**

New provisions were added that allow for the **credit union to offer a short-term payment forbearance program or a short-term repayment plan to a borrower based upon an evaluation of an incomplete loss mitigation application.**

There were also changes made to the notice that is required to be provided to the borrower within 5 days after receiving the borrower's complete loss mitigation application.

For credit unions that **purchase servicing rights**, there were some additional provisions added related to mortgage loans that have loss mitigation applications pending as of the transfer date.

#### **Periodic Statements (1026.41)**

As of October, 2017, periodic statements must also include **the length of the consumer's delinquency.**

In addition, for **charged-off loans** a credit union **does not have to provide a periodic statement** if the loan was charged off in accordance with loan loss provisions and the credit union will not charge any additional fees or interest on the account, **and** within 30 days of charge-off or on the most recent periodic statement the credit union includes the following language: “Suspension of Statements & Notice of Charge Off – Retain This Copy for Your Records” clearly and conspicuously, along with other required disclosures.

## Content FAQ

**Question: Can you please provide an example of how the new “live contact” requirement will work?**

**Answer:** Let’s say the borrower has a payment due date of January 1<sup>st</sup>. The borrower fails to make a periodic payment of principal, interest and escrow by that date. Credit unions have to make good faith efforts to make live contact (in person or by phone) with the borrower within 36 days of January 1<sup>st</sup>. If the borrower fails to make the payment on February 1<sup>st</sup>, the credit union has to make live contact again within 36 days of February 1<sup>st</sup>.

**Question: Is the credit union permitted to deny a loss mitigation application if it doesn’t receive requested documentation that is not in the borrower’s control?**

**Answer:** Generally a credit union is prohibited from denying a complete loss mitigation application solely because it lacks the required documents or information not in the borrower’s control, **unless** the following three conditions are met:

- The credit union exercised **reasonable diligence** to obtain the required documentation or information from the third-party.
- The credit union must have been unable to obtain such documents or information for a significant period of time following the 30-day period allowed (1024.41(c)(1)) to evaluate a loss mitigation application.
- In accordance with applicable requirements established by the owner or assignee of the borrower’s mortgage loan, the credit union is unable to determine which loss mitigation options, if any, it will offer the borrower without the missing documents or information.

Keep in mind, the credit union is permitted to offer a borrower a loss mitigation option even if it does not obtain the requested documents or information!

## Technical FAQs

**Q: Where can I find the sample/model policies?**

A: All of our model policies are included in the “Model Policies” manual which is found in the **Policies** area. The Model Policies are read only. Any policy can be moved from the Model Policies manual to the CU Policies manual (policies can be edited only in the CU Policies manual). [Click here for the Quick Start Guide](#) which can help you find and work with the model policies.

The [Alphabetical Policy listing](#) can also assist with finding specific policies.

If you have any additional questions or need further assistance, you can contact us at [polycysupport@cusolutionsgroup.com](mailto:polycysupport@cusolutionsgroup.com)

### Questions?

If this information was forwarded to you, and you'd like to be on the distribution list to receive information and updates related to CU PolicyPro, or if you have any questions regarding the CU PolicyPro content, or questions on how to use the system, please contact [polycysupport@cusolutionsgroup.com](mailto:polycysupport@cusolutionsgroup.com).

Thanks and have a great week!