



SUCCESSOR IN INTEREST REFERENCE GUIDE



SI: Successor in Interest | CS: Confirmed Successor in Interest | PS: Potential Successor in Interest

Servicing Component	Citation	Small Servicer Applicability	CS but <u>NO</u> Acknowledgement	CS <u>AND</u> Acknowledgement <i>(No other borrower or CS for notices)</i>	CS <u>AND</u> Acknowledgement <i>(Existing borrower or CS for notices)</i>	Can Limit Information to CS <i>(i.e. Privacy)</i>
REGULATION X REAL ESTATE SETTLEMENT PROCEDURES ACT						
Continuity of Contact	1024.4					
Early Intervention	1024.32(c)(2)			✓ ¹		
Error Resolution	1024.35	✓	✓	✓	✓	✓
Escrow Accounts	1024.32(c)(2)	✓		✓		
Escrow Payments & Balances	1024.32(c)(2)	✓		✓		
General Servicing Policies	1024.38					
Force-Placed Hazard Insurance	1024.32(c)(2)	✓		✓		
Mortgage Servicing Transfers	1024.32(c)(2)	✓		✓		
Loss Mitigation ²	1024.41	✓	✓ ³	✓	✓	
Requests for Information ⁴	1024.36	✓	✓	✓	✓	✓
REGULATION Z TRUTH-IN-SAVINGS ACT						
ARM Notices	1026.20(c)	✓		✓		
Escrow Cancellation	1026.20(e)	✓		✓		
Mortgage Transfer	1026.39	✓		✓		
Periodic Statements	1026.41			✓		
Prompt Payment Crediting	1026.36(c)(1)&(2)	✓	✓	✓	✓	
Prompt Payoff Statements	1026.36(c)(3)	✓				

¹ Notices and live contact requirements under 1024.39 are not required if acknowledgement not returned

² Application by PS not reviewed by bank must be preserved and treated as received on date of confirmation; if reviewed by lender, duplicative request rule applies

³ Small servicers subject only to prohibition on making first notice/filing of foreclosure process unless 1 of 3 conditions met

⁴ Response timeframes apply even to a Potential Successor in Interest (PS)



Successor in Interest General Process

To be a potential successor in interest (PS), an ownership interest must be granted via death, divorce, family transfer or inter vivos trust (1026.27(i)).

1. Servicer/lender is to recognize a PS when requests are made by non-borrowers; must acknowledge written requests from PS within 5 business days.
2. Servicer/lender is to request specific documentation to confirm interest of PS within 30 days of request OR may combine with Step 2 within 5 business days.
3. Once PS is confirmed as a successor in interest (CS), servicer must provide notice for CS to acknowledge he/she is eligible to receive certain notifications. (Acknowledgement Notice)
4. If CS does not return the Acknowledgement Notice, servicer has no obligation to send notifications even if there is no remaining borrower or other CS.

Defining Delinquency

Delinquency means a period of time during which a borrower and the 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. Delinquency begins on the date the periodic payment becomes due and unpaid even if the servicer will not assess a late charge if the borrower makes the periodic payment within a certain timeframe after the periodic payment is due.

EXAMPLE: Borrower's mortgage loan requires borrower to make periodic payments of principal, interest and escrow by the 1st of each month. However, borrower will not incur a late fee if the borrower makes the periodic payment by the 15th of the month. If the borrower fails to make the January periodic payment, the period of delinquency for purposes of Regulation X's specified mortgage servicing provisions and Regulation Z's periodic statement provisions begins on January 2nd - not January 16th.

Small Servicer Exemption

A small servicer includes a servicer, together with any affiliates, that services 5,000 or fewer mortgage loans for which the servicer (or an affiliate) is the creditor or assignee. The 2016 Mortgage Servicing Rule excludes certain seller-financed transactions and mortgage loans voluntarily serviced for a non-affiliate, even if the non-affiliate is not a creditor or assignee, from being counted toward the 5,000-loan limit.

Compliance Dates

Rule Issued: **August 4, 2016**

First Round Implementation: **October 19, 2017**

Most provisions take effect

Second Round Implementation: **April 19, 2018**

Effective date for successors in interest and amendments relating to periodic statements for borrowers in bankruptcy