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**New Servicing Rules Effective April 19th**

There are two components of the 2016 Mortgage Servicing Rule which become effective on April 19<sup>th</sup>. The first of these new requirements relates to handling of requests from, and providing information / documentation to, potential successors in interest. The second new requirement involves providing periodic statements for certain debtors in bankruptcy. The new successors in interest requirements have been set for more than a year and a half, so they should hold no real surprises. The timing requirements for the periodic statement exemption for certain debtors in bankruptcy, however, proved to be both confusing and cumbersome as originally written, and thankfully, were recently revised (and simplified) in the [Final Rule published in the March 12, 2018 Federal Register](#). All other aspects of the periodic statement requirements for certain debtors in bankruptcy remain the same as outlined in the 2016 Rule.

**Successors in Interest**

Successors in interest generally include individuals who acquire an ownership interest in a property securing a mortgage loan through protected transfers; such as certain transfers resulting from the death of the borrower, transfers to the borrower's spouse or children, or transfers resulting from divorce. The provisions of the Rule address how servicers confirm a successor in interest's identity and ownership interest in the property, and how they apply the Rules for providing certain types of documentation and information to these persons.

Successors in interest are specifically mentioned in Regulation X's new requirements regarding [general disclosure requirements \[§1024.32\(c\)\]](#), [error resolution procedures \[§1024.35\(5\)\]](#), [requests for information \[§1024.36\(d\)\(3\)\]](#), and in Regulation Z's new requirements regarding [ARM disclosures and escrow account cancellation notices \[§1026.20\(f\)\]](#), [payment processing \[1026.36\(c\)\(1\)\]](#), and [mortgage transfer disclosures \[§1026.39\(f\)\]](#).

**Initial Communication from a Potential Successor in Interest**

Servicers are required to respond to certain written requests received from a person that indicate they may be a successor in interest on a mortgage loan, providing the name of the transferor borrower from whom the person received an ownership interest, and information that enables the servicer to identify the mortgage loan account. For example, a servicer could (1) receive a written statement from a person other than a borrower indicating that there has been a transfer of ownership, or of an ownership interest, in the property to the person or that a borrower has

been divorced, legally separated, or died; or (2) receive a written loss mitigation application received from a person other than a borrower.

### Initial Response to a Potential Successor in Interest

A servicer's response to such initial requests is to be solely focused on confirming the person's identity and their ownership interest in the property. If the written request does not provide sufficient information for the servicer to identify the documents it needs to do so, the servicer may provide a response that includes examples of documents typically accepted to establish identity and ownership interest in a property; indicate that the person may obtain a more individualized description of required documents by providing additional information; specify what additional information is required for the servicer to identify the required documents; and provides contact information, including a telephone number, for further assistance.

Regardless of whether the initial request provides sufficient information for the servicer to identify the documents it needs to confirm the person's identity and their ownership interest in the property, the servicer is required to formally respond to the request within 10 days of receipt.

If the initial request from a potential successor in interest also includes a request for specific information, the servicer is not required to provide any information other than a written description of the documents it needs to confirm the person's identity and ownership interest in the property and contact information. However, the servicer must indicate in its response that the potential successor in interest may resubmit any request for information once confirmed as a successor in interest.

If a potential successor in interest subsequently provides orally or in writing the required information specified by the servicer, the servicer must treat the new information, together with the original request, as a new, non-duplicative request, received as of the date the required information was received, and must respond accordingly within 10 days.

Upon the receipt of the required requested information / documentation, the servicer must make a confirmation determination and notify the person, as applicable, within 10 days, that it has confirmed the person's status, has determined that additional documents are required (and what those documents are), or has determined that the person is not a successor in interest.

### Confirmed Successor in Interest Notice and Acknowledgement

New paragraph §1024.32(c) states that, upon confirmation, the servicer is to provide a confirmed successor in interest who is not liable on the mortgage loan obligation with a written notice, together with a separate acknowledgment form that does not require acknowledgment of any items other than those identified.

The written notice must clearly and conspicuously explain:

- That the servicer has confirmed the successor in interest's identity and ownership interest in the property;
- That unless the successor in interest assumes the mortgage loan obligation under State law, the successor in interest is not liable for the mortgage debt and cannot be required to use the successor in interest's assets to pay the mortgage debt, except that the lender has a security interest in the property and a right to foreclose on the property, when permitted by law and authorized under the mortgage loan contract;
- That the successor in interest may be entitled to receive certain notices and communications about the mortgage loan, such as periodic statements and mortgage servicing transfer notices, if the servicer is not providing them to another confirmed successor in interest or borrower on the account. Any examples provided should be the types of notices or communications that would be available to a confirmed successor in interest if the confirmed successor in interest executed the acknowledgment and returned it to the servicer; and
- That regardless of whether the successor in interest executes the acknowledgment, they are entitled to submit notices of error under §1024.35, requests for information under §1024.36, and requests for a payoff statement under §1026.36 with respect to the mortgage loan account, along with a brief explanation of those rights and how to exercise them, including appropriate address information.

The Acknowledgement Form that the successor in interest must execute and provide to the servicer to receive all applicable notices and communications must include the following provisions outlined in on §1024.32(c)(1)(iv):

- That the successor in interest requests receipt of the applicable notices and communications, which the servicer is not providing to another confirmed successor in interest or borrower on the account;
- That the successor in interest understands that such notices do not make the successor in interest liable for the mortgage debt, and that they are only liable for the mortgage debt if they assume the mortgage loan obligation under State law; and
- Informs the successor in interest that there is no time limit to return the acknowledgment but that the servicer will not begin sending such notices and communications to the confirmed successor in interest until the acknowledgment is returned.

If a confirmed successor in interest who is not liable on the mortgage loan obligation executes and then later revokes an Acknowledgment, the servicer is no longer required to provide any written disclosure required by §§1024.17, 1024.33, 1024.34, 1024.37, or §1024.39, or to comply with the live contact requirements in §1024.39(a) with respect to the confirmed successor in interest from the date the revocation is received until the confirmed successor in interest either assumes the mortgage loan obligation under State law or executes a new Acknowledgment that complies with §1024.32(c)(1)(iv) and provides it to the servicer.

### Error Resolution Documentation Requests / Requests for Information

In responding to a request from a confirmed successor in interest for documentation relating to an error assertion that was denied, or a general information request, new paragraphs [§1024.35\(5\)](#) and [§1024.36\(d\)\(3\)](#) state that a servicer may omit location and contact information and personal financial information (other than information about the terms, status, and payment history of the mortgage loan) in its response, if:

- (i) The information pertains to a potential or confirmed successor in interest who is not the requester; or
- (ii) The requester is a confirmed successor in interest and the information pertains to any borrower who is not the requester.

### Periodic Statement / Coupon Book Requirements for a Debtor in Bankruptcy

The 2016 Mortgage Servicing Final Rule included provisions to address Regulation Z's periodic statement and coupon book requirements when a person is a debtor in bankruptcy.

### Periodic Statement Exemption

The 2016 Rule included a "single-billing-cycle" exemption from the requirement to provide a periodic statement or coupon book in certain circumstances after one of several specific triggering events occurred, resulting in a servicer needing to transition to / from providing bankruptcy-specific disclosures. This exemption would have applied only if the payment due date for that billing cycle was no more than 14 days after the triggering event. The 2016 Mortgage Servicing Final Rule also included specific timing requirements for servicers to provide the next modified or unmodified statement or coupon book after the single-billing-cycle exemption ended.

However, prompted by concerns expressed by the industry regarding these timing requirements, the CFPB issued a proposed rule on October 4, 2017, published in the [Federal Register on October 18, 2017](#), to modify the nature of the exemption along with its timing provisions, which resulted in the Final Rule published in the March 12, 2018 Federal Register. The Final Rule revises §1026.41(e)(5)(iv)(B) and (C) and related commentary by replacing the "single-billing-cycle" exemption with a "single-statement" exemption, which will apply to the next periodic statement or coupon book that a servicer would otherwise have to provide, regardless of when in the billing cycle the triggering event occurs. Specifically, the Final Rule [adds new comments 41\(e\)\(5\)\(iv\)\(B\)-1 through -3](#) to clarify the operation of the single-statement exemption, and

[removes §1026.41\(e\)\(5\)\(iv\)\(C\) and its related commentary](#), as the original timing provisions are no longer necessary in light of the changes to §1026.41(e)(5)(iv)(B) and its related commentary.

The CFPB believes that this Final Rule provides a clearer and more straightforward standard than the timing requirement adopted in the 2016 Mortgage Servicing Final Rule, offering greater certainty for implementation and compliance, without unnecessarily disadvantaging consumers.

### Periodic Statement Modifications - Chapter 7 or 11 Bankruptcy (or Discharge of Personal Liability)

The 2016 Mortgage Servicing Final Rule allows for certain periodic statement disclosures required by §1026.41(d) to be removed or modified for borrowers in Chapter 7 or 11 Bankruptcy, or for whom personal liability has been discharged. Specifically:

- Disclosures that may be modified [§1026.41(f)(1)]: Amount Due need not be shown more prominently than other disclosures on the page.
- Disclosures that may be omitted [§1026.41(f)(1)]: Late Payment Fee; Length of Delinquency; Notification of Possible Risks if Delinquency is Not Cured; First Notice or Filing for Any Foreclosure Process Information, if applicable.

Further, §1026.41(f)(2) requires an additional Notice for Chapters 7, 11, 12, and 13 Borrowers. Specifically, the periodic statement must include:

- (i) A statement identifying the consumer's status as a debtor in bankruptcy or the discharged status of the mortgage loan; and
- (ii) A statement that the periodic statement is for informational purposes only.

### Periodic Statement Modifications - Chapter 12 or 13 Bankruptcy

The 2016 Mortgage Servicing Final Rule allows for certain periodic statement disclosures required by §1026.41(d) to be removed or modified for borrowers in Chapter 12 or 13 Bankruptcy. Specifically:

- Disclosures that may be modified [§1026.41(f)(3)(ii)]: Amount Due, Explanation of Amount Due.
  - The Amount Due need not be shown more prominently than other disclosures on the page. In addition, the Amount Due information may be limited to the date and amount of the post-petition payments due and any post-petition fees and charges imposed by the servicer.
  - The Explanation of Amount Due information may be limited to:
    - (A) The monthly post-petition payment amount, including a breakdown showing how much, if any, will be applied to principal, interest, and escrow;
    - (B) The total sum of any post-petition fees or charges imposed since the last statement; and
    - (C) Any post-petition payment amount past due.
- Disclosures that may be modified [§1026.41(f)(3)(iv)]: Transaction Activity - The transaction activity information must include all payments the servicer has received since the last statement, including all post-petition and pre-petition payments and payments of post-petition fees and charges, and all post-petition fees and charges the servicer has imposed since the last statement. The brief description of the activity need not identify the source of any payments.
- Disclosures that may be omitted [§1026.41(f)(1)]: Late Payment Fee; Length of Delinquency; Notification of Possible Risks if Delinquency is Not Cured; First Notice or Filing for Any Foreclosure Process Information, if applicable.
- Disclosures that may be omitted [§1026.41(f)(3)(i)]: Account History; Loss Mitigation Program Information, if applicable; Total Payment Amount Needed to Bring the Account Current; Homeownership Counselor Information.

Further, §1026.41(f)(2), §1026.41(f)(3)(v), and [§1026.41(f)(3)(vi)] require additional Notices for Chapters 12 and 13 Borrowers. Specifically, the periodic statement must include:

- §1026.41(f)(2): Bankruptcy Notice Statements for Chapters 7, 11, 12, and 13 Borrowers - As described in previous section.
- §1026.41(f)(3)(v): Pre-petition Arrearage Disclosures - If applicable, a servicer must disclose, grouped in close proximity to each other, and located on the first page of the statement or, alternatively, on a separate page enclosed with the periodic statement or in a separate letter:
  - (A) The total of all pre-petition payments received since the last statement;
  - (B) The total of all pre-petition payments received since the beginning of the consumer's bankruptcy case; and
  - (C) The current balance of the consumer's pre-petition arrearage.
- §1026.41(f)(3)(vi): Additional Disclosures for Chapters 12 and 13 Borrowers - The periodic statement must include, as applicable:
  - (A) A statement that the amount due includes only post-petition payments and does not include other payments that may be due under the terms of the consumer's bankruptcy plan;
  - (B) If the consumer's bankruptcy plan requires the consumer to make the post-petition mortgage payments directly to a bankruptcy trustee, a statement that the consumer should send the payment to the trustee and not to the servicer;
  - (C) A statement that the information disclosed on the periodic statement may not include payments the consumer has made to the trustee and may not be consistent with the trustee's records;
  - (D) A statement that encourages the consumer to contact the consumer's attorney or the trustee with questions regarding the application of payments; and
  - (E) If the consumer is more than 45 days delinquent on post-petition payments, a statement that the servicer has not received all the payments that became due since the consumer filed for bankruptcy.

### Multiple Obligors

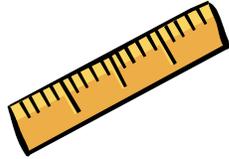
For loans in bankruptcy requiring modified disclosures with more than one primary obligor, the servicer may provide the modified statement to any or all of the primary obligors, even if a primary obligor to whom the servicer provides the modified statement is not a debtor in bankruptcy.

### Coupon Books

A servicer that provides a coupon book instead of a periodic statement must include in the coupon book the disclosures set forth in paragraphs (f)(2) and (f)(3)(vi) detailed above, to the extent applicable. The servicer may include these disclosures anywhere in the coupon book provided to the consumer or on a separate page enclosed with the coupon book. The servicer must make available upon request to the consumer by telephone, in writing, in person, or electronically, if the consumer consents, the information listed in paragraph (f)(3)(v) detailed above, to the extent applicable.

The modifications set forth in paragraphs (f)(1) and (f)(3)(i) through (iv) and (vi) detailed above apply to a coupon book and other information a servicer provides to the consumer in lieu of a periodic statement.

## Short Clips



### FINCEN ISSUES BENEFICIAL OWNERSHIP FAQs

On 04/03/18, the Financial Crime Enforcement Network (FinCEN) issued a set of [Frequently Asked Questions](#) on the expanded customer due diligence requirements under the BSA, including the new requirement, for which compliance is mandatory on May 11, 2018, that financial institutions identify and verify legal entities' "beneficial owners" when accounts are opened.

### REGULATORS INCREASE COMMERCIAL REAL ESTATE APPRAISAL THRESHOLD

On 04/02/18, the Federal Reserve (Fed), the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) approved the [Final Rule](#) raising the required appraisal thresholds for commercial real estate transactions from \$250,000 to \$500,000. Under the final rule, the threshold for loans secured by one-to-four family residential properties will remain at \$250,000.

However, residential construction loans secured by multiple one-to-four residential properties would be considered CRE transactions.

### MORTGAGE SERVICING RULE SMALL ENTITY COMPLIANCE GUIDE UPDATED

On 03/29/18, the Consumer Financial Protection Bureau (CFPB) updated the [Mortgage Servicing Rule Small Entity Compliance Guide](#) to incorporate the changes made by the March 8, 2018, Mortgage Servicing Final Rule. The Bureau has also created a [Mortgage Servicing Coverage Chart](#).

### CFPB ISSUES MORTGAGE SERVICING FAQs

On 03/20/18, the CFPB updated its [Mortgage Servicing FAQs](#). The updates address certain bankruptcy-related topics (e.g., when servicers are exempt from sending periodic statements to certain borrowers in bankruptcy, when servicers are required to send modified periodic statements, and when servicers may be required to resume sending unmodified periodic

statements after a borrower's bankruptcy case has completed.

### FED PROPOSES CHANGES TO REGULATION J TO MIRROR RECENT REGULATION CC CHANGES

On 03/15/18, the Federal Reserve's (Fed) proposed amendments to Regulation J were published in the [Federal Register](#). The proposal would align Regulation J with recent amendments to Regulation CC, which updated the check collection framework to reflect the now largely electronic system. Comments are due by May 14, 2018.

### PREPAID RULE SMALL ENTITY COMPLIANCE GUIDE UPDATED

On 03/13/18, the CFPB updated its [Prepaid Rule Small Entity Compliance Guide](#) to reflect the recently finalized amendments to the rule. The rule is effective April 1, 2019. In addition to updating the Compliance Guide, the bureau also updated its [Guide to Preparing the Short Form Disclosure for Prepaid Accounts](#).

### CFPB FINALIZES CHANGES TO SERVICING RULE

On 03/12/18, the CFPB's [Final Rule](#) related to the timing for servicers sending periodic statements to borrowers in bankruptcy was published in the [Federal Register](#). The effective date for the Rule is April 19, 2018.

### 2018 LISTS OF RURAL, UNDERSERVED COUNTIES

On 03/06/18, the CFPB released the Final 2018 lists of [Rural Counties and Rural or Underserved Counties](#) that institutions can use to determine whether they are exempt from certain regulatory requirements under the CFPB's Ability-to-Repay, escrow, HOEPA and appraisal rules. The lists are available for download as Excel, CSV or PDF files.

In addition to the lists, the CFPB also provided a link to its [Rural or Underserved Areas Tool](#), that can be used to help determine whether a property is in a rural or underserved area.

### NEW YORK FED BEGINS PUBLISHING NEW REFERENCE RATE ON APRIL 3, 2018

On 02/28/18, the [Federal Reserve Bank of New York announced](#) that it will begin publishing the Secured Overnight Financing Rate (SOFR) on April

3, 2018. SOFR is a broad measure of overnight Treasury financing transactions recommended by the Alternative Reference Rate Committee last year as an alternative to U.S. dollar Libor in certain new derivative and other financial contracts. The New York Fed will also publish other rates reflecting repo transactions, including the Broad General Collateral Rate and the Tri-Party General Collateral Rate. All rates will be published each day at 8 a.m.

### **2018 GUIDE TO HMDA REPORTING PUBLISHED**

On 02/21/18, the Federal Financial Institutions Examination Council (FFIEC) published its 2018 [A Guide to HMDA Reporting: Getting It Right!](#), and made it available for download.

The 2018 Guide focuses on HMDA data submissions due March 1, 2019, and offers the most official resource for assisting institutions in their HMDA reporting. The Guide reflects the changes to Regulation C that took effect on 01/01/18, and includes: overviews of the new requirements; instructions on collection of data on ethnicity, race, and sex; directions for assembling the necessary tools; and instructions for reporting HMDA data.

### **2018 HMDA LAR FORMATTING TOOL AVAILABLE**

On 02/01/18, the CFPB launched the [2018 HMDA LAR Formatting Tool](#) to help banks create a data file that can be submitted electronically. The tool should be used for data collected in 2018 and reported in 2019. The CFPB has also made minor updates to the [2018 Filing Instructions Guide](#).

## Good to Know

Send your questions to the [answerperson@mandm.consulting](mailto:answerperson@mandm.consulting)

*Sending requests to the above address gets you a written response to your questions. Emails sent to the answer person are received and responded to five days a week.*

**Q:** I am looking for clarification on when our bank needs to return a check to the depository institution for nonpayment. The rule currently says the check must be returned by 4PM (soon to be 2PM) on the 2nd business day following the day of presentment to the paying bank. I'm just not certain how to determine the 2nd business day. Can you tell me which of the following examples correctly reflects this determination?

1. Check presented to the bank for payment on Tuesday: Check needs to be returned by Thursday at 4PM.
2. Check presented to the bank for payment on Tuesday: Check needs to be returned by Wednesday at 4PM.
3. Check presented to the bank for payment on Tuesday: Check needs to be returned by Tuesday at 4PM. (This assumes the 1<sup>st</sup> day starts the day the check was presented to the depository bank, not the payable bank).

**A:** In my opinion, the first example you provided correctly reflects the 2<sup>nd</sup> business day determination. You'll find similar illustrative examples on pages 149-150 of the [May 31, 2017 Availability of Funds and Collection of Checks Final Rule](#).

**Q:** If an existing loan has a MIRE event, do we pull a flood determination for each property securing the loan, or just for those that we know are in a flood zone?

**A:** For a loan secured by one or more structures, any time you have a MIRE event, you are required to obtain a new flood cert on all properties / structures securing the loan (unless you have a recent one that meets the requirements for still being relied upon); not just those previously identified as being in a flood zone.

**Q:** For covered transactions that have zero Lender Credits or Discount points do you report 0 or NA

to CFPB?

**A:** For originated loans, the Reportable HMDA DATA: A Regulatory and Reporting Overview Reference Chart indicates that you would leave these fields blank; and that you would use "NA" for non-originated applications, loans not subject to Reg. Z, and purchased loans for which applications were received by the selling entity prior to 10/01/15.

Please refer to [Pages 24 - 25 of the Reference Chart](#) for additional clarification on these points.

**Q:** We have to file a CTR for a transaction where cash was deposited into a business account by the owner/signer of the account. The business is an incorporated entity. Do we complete the CTR to reflect both a Person conducting transaction on own behalf (owner of business) and the Person on whose behalf transaction was conducted (business), or do we just file for the business? We question this as both the business and the owner would probably also benefit from the funds?

**A:** For this specific customer, you would just file on the business. I base this opinion on [FIN-2012-G001, Guidance Subject: Currency Transaction Report Aggregation for Businesses with Common Ownership](#). The Guidance includes an example of deposits made to multiple corporate entities owned by the same individual. In addressing the question "On Whose Behalf Were the Transactions Conducted?", the Guidance states:

*"Although multiple businesses may share a common owner, the presumption is that separately incorporated entities are independent persons. Therefore, the currency transactions of separately incorporated businesses should not automatically be aggregated as being on behalf of any one person simply because those businesses are owned by the same person".*

The above guidance indicates that not only are incorporated entities independent persons, but also that the deposits to incorporated entities are not deemed to be for the benefit of the owner of the entities. If the transaction involved a DBA account and the account owner, I'd be inclined to utilize the first approach you mentioned.

**Q:** I'd like to confirm the escrow requirements on force placed insurance. We have a few home

equity loans where we need to purchase force placed insurance. These loan balances are small and in turn have small force placed insurance premiums (i.e., \$26, \$98, etc.)

Are we required to provide an initial escrow analysis on these loans? Or would creating a one-time escrow relationship to recuperate the funds with proper documentation be satisfactory?

**A:** After reviewing RESPA Sections §1024.17 (escrow accounts) and §1024.37 (force-placed insurance), it appears that the requirements outlined in [§1024.17\(c\)\(2\)](#) rule, and that an initial escrow analysis must be performed before establishing the escrow account. I found no reference to any exceptions to this requirement based on the reason the escrow account is being established.

**Q:** We have a question regarding the data field - Initially Payable Institution. If the application is denied, withdrawn or incomplete do you use Code 3 (NA) even if the loan was intended to be initially payable to us?

**A:** You would use Code 1 for a denied, withdrawn or incomplete application for a loan, that if originated, was intended to be initially payable to you.

If you have not determined whether the loan involved would have been initially payable to you, you would then use Code 3 (NA).

Please see Data Point 43 on Page 30 of the [Reportable HMDA Data: A Regulatory and Reporting Overview Reference Chart](#) for additional information.

**Q:** We have a couple who would like to get a mobile home loan. They come from Mexico, only have a passport, but have been working in the country for 9 years. Would we have to take the application and deny them if they cannot provide an authorization card or permanent resident card for CIP purposes or could we just not take the application if they are unable to provide this documentation.

**A:** You must take the application. From a fair lending perspective, you cannot discourage someone from applying or not accept an application. You can then deny the loan request if the applicants cannot provide sufficient documentation as to their continued legal /

employment status.

**Q:** We do Construction-to-Permanent loans, in which we have a 12-month interest only payment period, followed by the P&I payment period. For such a loan with 12-months interest only, followed by 240 monthly P&I payments, would we report the loan term as 240 or 252 on the 2018 HMDA LAR?

**A:** Comment 3.4(a)(25)-1 indicates that for a fully amortizing covered loan, the number of months after which the legal obligation matures is the number of months in the amortization schedule, ending with the final payment. Thus, in your example you would report a loan term of 240. The interest-only component of the loan would get reported under “Non-amortizing Features” , as outlined in [§1003.4\(a\)\(27\)](#), and [Comment 3.4\(a\)\(27\)-1](#).

**Q:** The Credit Union is currently in the process of imaging all of our consumer loans. Is it necessary to still maintain the original signed note?

**A:** As you are regulated by the State of Maine, I also researched any applicable State regulations on the subject. I found that [BFI Regulation #1, Retention of Records - Financial Institutions](#), effective 01/01/93 (updated 11/16/17) and [Joint Advisory Ruling #105](#) dated 11/01/96, both indicate that imaged loan documents are considered valid. The only type of documentation cited where the original documents (paper) must be retained are those which require permanent retention. Signed notes do not fall under this permanent retention category.

As a practical matter, the Credit Union should retain the hard copy note for what it determines to be a reasonable period to enable it to detect / remedy any issues that may have occurred with the original imaging of the note.

**Q:** We recognized from the M&M training last fall that the loan purpose hierarchy has changed. It was confirmed that Refinance now trumps Home Improvement. Can you confirm that the Cash-Out Refinance also trumps Home Improvement? We are thinking that the “purpose hierarchy” is as follows:

1. Purchase (code 1)
2. Refinance (code 31)
3. Cash-out Refinance (code 32)

4. Home Improvement (code 2)
5. Other purpose (code 4)
6. Not applicable (code 5)

**A:** Your hierarchy of loan purpose codes is correct. With respect to your question on cash-out refinance / home improvement transactions, [Comment 4\(a\)\(3\)-3](#) supports your interpretation, as it includes the following statement:

*“If a covered loan is a home improvement loan as well as a refinancing or cash-out refinancing, but the covered loan is not a home purchase loan, an institution complies with § 1003.4(a)(3) by reporting the covered loan as a refinancing or a cash-out refinancing, as appropriate.”*

**Q:** I recently attended a webinar with regards to the updates with the Military Lending Act. The guidance that was given stated that we should be including a payment example on the standard disclosure. If this is correct, are we to use worst case scenario using all possible ancillary products when calculating the payment and include the MAPR % on the disclosure?

**A:** I'd like to respond to the two parts of your question separately:

- *Are we to use worst case scenario using all possible ancillary products when calculating the payment?*

Yes, I believe this is consistent with the requirement outlined in §232.6 of the MLA, *Mandatory Loan Disclosures*, which states that: *“A creditor may satisfy the requirement to provide a statement of the MAPR by describing the charges the creditor may impose, in accordance with the regulation and subject to the terms and conditions of the agreement, relating to the consumer credit to calculate the MAPR”.*

- *Are we to include the MAPR % on the disclosure?*

No, you do not need to provide the MAPR% on the disclosure. This is also outlined in §232.6 of the MLA, *Mandatory Loan Disclosures*, which states (*emphasis added*) that *“A creditor is not required to describe the MAPR as a numerical value or to describe the total dollar amount of all charges in the MAPR that apply to the extension of consumer. A creditor may include a statement of the MAPR applicable to the*

*consumer credit in the agreement with the covered borrower involving the consumer credit transaction.*

The following is the full text of § 232.6 of the MLA, *Mandatory Loan Disclosures*, with (*emphasis added*) in applicable sections:

*“If a creditor extends consumer credit (including any consumer credit originated or extended through the internet) to a covered borrower, the creditor must provide the covered borrower with certain information before or at the time the borrower becomes obligated on the transaction or establishes an account for the consumer credit:*

- *A statement of the MAPR applicable to the extension of consumer credit;*
- *Any disclosure required by Regulation Z, which shall be provided only in accordance with the requirements of Regulation Z that apply to that disclosure; and*
- *A clear description of the payment obligation of the covered borrower, as applicable. Note that a payment schedule (in the case of closed-end credit) or account-opening disclosure (in the case of open-end credit) provided pursuant to Regulation Z satisfies this requirement.*

*A creditor may satisfy the requirement to provide a statement of the MAPR by describing the charges the creditor may impose, in accordance with the regulation and subject to the terms and conditions of the agreement, relating to the consumer credit to calculate the MAPR. A creditor is not required to describe the MAPR as a numerical value or to describe the total dollar amount of all charges in the MAPR that apply to the extension of consumer. A creditor may include a statement of the MAPR applicable to the consumer credit in the agreement with the covered borrower involving the consumer credit transaction”.*

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## Important Dates– Don't Forget!

*Generally, we retain the prior month, and go forward for at least a year as known. Dates are either effective dates of Final Rules, or end of the comment period for proposed rules.)*

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- 04/19/2018 [CFPB, 2016 Mortgage Servicing Rules](#). Mandatory compliance date for sections of the Final Rule relating to Successors in Interest, and Periodic Statements.
  - 05/11/2018 [FinCEN, CDD / Beneficial Ownership Rules](#). Mandatory compliance date.
  - 05/14/2018 [Federal Reserve, Regulation J](#). End of comment period for proposed changes to make the Regulation consistent with the upcoming changes to Regulation CC.
  - 07/01/2018 [Federal Reserve, Regulation CC](#). Effective date of Final Rule reflecting a virtually all-electronic check collection and return environment.
  - 10/01/2018 [CFPB, Amendments to the TRID Rules](#). Mandatory compliance date.
  - 12/31/2018 [FHFA, HARP Extension](#). Program extended beyond original September 2017 end-date.
  - 01/01/2019 [HMDA, Regulation C](#). Effective date for changes to enforcement and reporting provisions.
  - 04/01/2019 [CFPB, Prepaid Accounts Rule](#). New mandatory compliance date for most Reg. E & Reg. Z changes, electronic transaction histories, and for submitting prepaid account agreements to the CFPB.
  - 04/01/2020 [CFPB, Prepaid Accounts Rule](#). Revised mandatory compliance date for providing the full 24 months of written account transaction history upon request.
  - 01/01/2020 [HMDA, Regulation C](#). Quarterly reporting for high volume reporters starts.
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### SAVE THE DATES... 2018 M&M COMPLIANCE SCHOOL

We have officially secured September 18 and 19<sup>th</sup> for this year's compliance school, which will be held at the *Doubletree by Hilton* in Milford, Massachusetts (Exit 19 off I-495). We have not yet finished the agenda, but stay tuned for the brochure and registration information.