

Real Estate Settlement Procedures Act¹

- 1. Are written loan policies in connection with federally related mortgage loans in compliance with Regulation X?
- 2. Does the institution have established operating procedures that address the requirements of Regulation X?
- 3. Are mortgage lending personnel knowledgeable of the requirements of RESPA and Regulation X?

Special Information Booklet – 12 CFR 1024.6

- 4. For applicable transactions, is the Special Information Booklet provided within three business days after the financial institution or broker receives or prepares a written application for a loan?

Good Faith Estimate – 12 CFR 1024.7

- 5. Does the financial institution use the standard/required Good Faith Estimate form (GFE)?
- 6. Is a GFE of charges for settlement services, if required, provided within three business days after an application is received or prepared?
- 7. Does the GFE appear in the exact form as in Appendix C to Regulation X?
 - a. Does the GFE contain the following required elements?
 - i. Interest rate expiration date?
 - ii. Settlement charges expiration date?
 - iii. Rate lock period?
 - iv. Number of days before settlement the interest rate must be locked, if applicable?
 - v. Summary of loan information?
 - vi. Escrow account information?
 - vii. Estimates for settlement charges?
 - viii. Left hand column on trade-off table completed for loan in the GFE?

¹ These reflect FFIEC-approved procedures.

Examination Checklist

RESPA

Yes No

- b. For all loans, are all third-party fees, including those paid by the financial institution in the case of no cost loans, itemized and listed in the appropriate blocks on the second page of the GFE?
- c. Did the financial institution provide a separate sheet that identifies the settlement service providers for the services listed?

Affiliated Business Arrangements – 12 CFR 1024.15

8. Does the financial institution refer borrowers to settlement service providers?
9. If the institution refers borrowers to affiliated settlement service providers, is the Affiliated Business Disclosure statement provided to each borrower as set forth in Appendix D to Part 1024?
10. Other than an attorney, credit reporting agency, or appraiser representing the lender, does the financial institution require the use of an affiliate?

Uniform Settlement Statement Form (HUD-1 and HUD-1A) – 12 CFR 1024.8

11. Does the financial institution use the current Uniform Settlement Statement (HUD-1 or HUD-1A) as appropriate?
12. Does the HUD-1 or HUD-1A contain the following:
- a. Charges properly itemized for both borrower and seller in accordance with the instructions for completion of the HUD-1 or HUD-1A?
 - b. All charges paid to one other than the lender itemized and the recipient named?
 - c. Charges required by the financial institution but paid outside of closing, itemized on the settlement statement, marked as “paid outside of closing” or “P.O.C.,” but not included in totals?
 - d. Where an average charge was listed for a settlement service, was the charge calculated in accordance with requirements set forth in 12 CFR Section 1024.8(b)(2)?
13. From a review of the HUD-1 or HUD-1/A prepared in connection with each GFE reviewed, are amounts shown on the GFE the same as the fees actually paid by the borrower?
14. If a charge stated on the HUD-1/1A exceeds the charges stated on the GFE by more than the permitted tolerance, does the financial institution cure the tolerance violation by reimbursing the borrower the amount by which the tolerance was exceeded at settlement, or by delivering

or placing the payment in the mail within 30 calendar days after settlement?

Examination Checklist

RESPA

Yes No

15. If the financial institution conducts settlement:
- a. Is the borrower, upon request, allowed to inspect the HUD-1 or HUD-1A at least one day prior to settlement? Yes No
 - b. Is the HUD-1 or HUD-1A provided to the borrower and seller at settlement? Yes No
 - c. In cases where the right to delivery is waived or the transaction is exempt, is the statement mailed as soon as possible after settlement? Yes No
16. In the case of an inadvertent or technical error on the HUD-1/1A, does the institution provide a revised HUD-1/1A to the borrower within 30 calendar days after settlement? Yes No
17. If the financial institution retains its interest in the mortgage and/or services, is the HUD-1 or HUD-1A form retained for five years? Yes No
18. If the financial institution disposes of its interest in the mortgage and does not service the loan, is the HUD-1/1A transferred to the new asset owner with the loan file? Yes No

Mortgage Servicing Transfer Disclosure

19. Does the mortgage servicing transfer disclosure form language substantially conform to the model disclosure in Appendix MS-1 to Part 1024? Yes No
20. Does the lender provide the mortgage servicing transfer disclosure within three business days after receipt of the application? Yes No
21. Does the disclosure state whether the loan may be assigned or transferred while outstanding? Yes No

Notice to Borrower of Transfer of Mortgage Servicing – 12 CFR 1024.21

22. If the institution has transferred servicing rights, was notice to the borrower given at least 15 days prior to the transfer? Yes No
23. If the institution has received servicing rights, was notice given the borrower within 15 days after the transfer? 24. Does the notice by transferor and transferee include the following information as contained in Appendix MS-2 to Part 1024: Yes No

- | | | |
|---|--------------------------|--------------------------|
| a. The effective date of the transfer? | <input type="checkbox"/> | <input type="checkbox"/> |
| b. The new servicer's name, address, and toll-free or collect call telephone number of the transferor servicer? | <input type="checkbox"/> | <input type="checkbox"/> |

Examination Checklist

RESPA

- | | Yes | No |
|---|--------------------------|--------------------------|
| c. A toll-free or collect call telephone number of the present servicer to answer inquiries relating to the transfer? | <input type="checkbox"/> | <input type="checkbox"/> |
| d. The date on which the present servicer will cease accepting payments and the date the new servicer will begin accepting payments relating to the transferred loan? | <input type="checkbox"/> | <input type="checkbox"/> |
| e. Any information concerning the effect of the transfer on the availability of terms of optional insurance and any action the borrower must take to maintain coverage? | <input type="checkbox"/> | <input type="checkbox"/> |
| f. A statement that the transfer does not affect the terms or conditions of the mortgage, other than terms directly related to its servicing? | <input type="checkbox"/> | <input type="checkbox"/> |
| g. A statement of the borrower's rights in connection with complaint resolution? | <input type="checkbox"/> | <input type="checkbox"/> |

Responding to Borrower Inquiries – 12 CFR 1024.21

- | | | |
|---|--------------------------|--------------------------|
| 24. Have late fees been imposed within 60 days following a transfer of servicing or were payments treated as late when received by transferor rather than transferee? | <input type="checkbox"/> | <input type="checkbox"/> |
| 25. Does the institution respond to borrower inquiries relating to servicing of RESPA covered mortgage loans and refinancing as prescribed in the regulation? Specifically, does the institution: | | |
| a. Provide a written response acknowledging receipt of a qualified written request from a borrower for information relating to the servicing of the loan within 20 business days? | <input type="checkbox"/> | <input type="checkbox"/> |
| b. If not, has the action requested by the borrower been taken within the 20- business day period? | <input type="checkbox"/> | <input type="checkbox"/> |
| c. Within 60 business days after the receipt of a qualified written request, does the institution make appropriate corrections in the account of the borrower and provide a written notification of the correction (including in the notice the name and the telephone number of a representative of the institution who can provide assistance)? | <input type="checkbox"/> | <input type="checkbox"/> |

Examination Checklist

RESPA

Yes No

or

Provide the borrower with a written explanation:

- i. Stating the reasons the account is correct (including the name and telephone number of a representative of the institution who can provide assistance)?
- ii. Explaining why the information requested is unavailable or cannot be obtained by the institution (including the name and telephone number of a representative of the institution who can provide assistance)?

26. Does the institution provide information regarding an overdue payment to any consumer reporting agency during the 60-day period beginning on the date the institution received any qualified written request relating to a dispute regarding the borrower's payments?

Escrow Accounts – 12 CFR 1024.17 see changes

27. Does the institution perform an escrow analysis at the creation of the escrow account?

28. Is the initial escrow statement given to the borrower at settlement or within 45 days after the escrow account is established?

29. For continuing escrow arrangements, is an annual escrow statement provided to the Borrower at least once every 12 months?

30. Does the initial escrow statement itemize:

- a. Amount of monthly mortgage payment?
- b. Portion of the monthly payment being placed in escrow?
- c. Charges to be paid from the escrow account during the first 12 months?
- d. Disbursement date?
- e. Amount of cushion?

31. Is the annual escrow statement provided within 30 days of the completion of the escrow account computation year?

32. Does the annual escrow statement itemize:

- a. Current mortgage payment and portion going to escrow?
- b. Amount of last year's mortgage payment and portion that went to escrow?
- c. Total amount paid into the escrow account during the past computation year?
- d. Total amount paid from the escrow account during the year for taxes, insurance premiums, and other charges?
- e. Balance in the escrow account at the end of the period?

	Yes	No
f. Explanation of how any surplus is being handled?	<input type="checkbox"/>	<input type="checkbox"/>
g. Explanation of how any shortage or deficiency is to be paid by the borrower?	<input type="checkbox"/>	<input type="checkbox"/>
h. If applicable, the reason(s) why the estimated low monthly balance was not reached?	<input type="checkbox"/>	<input type="checkbox"/>
33. Are monthly escrow payments following settlement no larger than 1/12 of the amount expected to be paid for taxes, insurance premiums, and other charges in the following 12 months, plus 1/6 of that amount?	<input type="checkbox"/>	<input type="checkbox"/>
34. Does the servicer notify the borrower at least annually of any shortage or deficiency in the escrow account?	<input type="checkbox"/>	<input type="checkbox"/>
35. Does the institution make payments from the escrow account for taxes, insurance premiums and other charges in a timely manner as they become due?	<input type="checkbox"/>	<input type="checkbox"/>

No Fees for RESPA Disclosures – 12 CFR 1024.12

36. Does the financial institution charge a fee specifically for preparing and distributing the HUD-1 forms, escrow statements or documents required under the Truth in Lending Act?
- a. If a fee is charged for a GFE, is the fee limited to the cost of a credit report (12 CFR 1024.7(a)(4))?
-

Purchase of Title Insurance – 12 CFR 1024.16

37. When the financial institution owns the property being sold, does it require that title insurance is required from a particular company?
-

Payment or Receipt of Referral or Unearned Fees – 12 CFR 1024.14

38. Is institution management aware of the prohibitions against payment or receipt of kickbacks and unearned fees?
39. Are federally related mortgage loan transactions referred by brokers, affiliates, or other parties?
or Does the institution refer settlement services business to brokers, affiliates, or other parties?
40. If a referral occurred as described in Item 40 above, did any party give and did any party receive a fee, kickback, or thing of value (payment, commission, gift, tangible item, or special privilege) in return for that referral?
41. Is institution management aware of the prohibition against unearned fees where a charge for settlement services is divided between two or more parties?
42. Did the institution split a settlement service fee with another party?

Examination Checklist

RESPA

43. If the institution split a settlement service fee with one or more other parties, did all parties actually perform settlement services for that fee?

44. In any settlement transaction, did the institution mislead the consumer about or misrepresent the nature, purpose, or amount of a fee charged to the consumer, or fail to properly disclose a fee?

Comments