

TOPIC	CFPB	HBOR	NMS
Effective date	January 10, 2014.	January 1, 2013.	April 4, 2012.
Entities regulated	<p>All servicers of federally related mortgage loans (nearly all servicers). §1024.2.*</p> <p><u>Exception:</u> small servicers** currently service 5,000 or fewer mortgages they either own or originated. §1026.41(e)(4)(ii). They are exempt from most outreach, SPOC, and dual tracking requirements. §1024.30(b)(1).</p>	<p>Servicers and sub-servicers; not trustees acting under a DOT. §2920.5(a).*</p> <p><u>Exceptions:</u> Small servicers** foreclosed on 175 or fewer residential properties in the previous fiscal year. §2924.18(b). They are subject to fewer restrictions and requirements.</p> <p>NMS-signatories that are NMS-compliant with respect to an individual borrower may escape HBOR liability. §2924.12(g).</p>	<p>Signatories to the NMS:</p> <p>Wells Fargo Bank of America Ally (formerly GMAC) JP Morgan Chase CitiMortgage</p> <p>This includes sub-servicers performing loss mit on a signatory’s behalf. IV, p. A-16.*</p>
Property protected	<p>Typical mortgages on principal residences, including close-ended junior loans. §1024.30(c)(2).</p> <p><u>Exceptions:</u> HELOCs. §1024.31. Rental or vacation homes. §1024, pmb. at 95.</p>	<p>The most senior lien (§2920.5(d)) on owner-occupied, principal residences in California with no more than 4 dwelling units. §2924.15(a).</p>	<p>Mortgages on owner-occupied principal residences serviced by an NMS signatory. Introduction, p. A-1.</p>

*This chart uses short cites. CFPB cites are to Regulations X and Z of the Code of Federal Regulations, 12 C.F.R. § __, which implement the Real Estate Settlement Procedures Act (Reg X) and the Truth in Lending Act (Reg Z). The §1024 cites are to Reg X and the §1026 cites are to Reg Z. Homeowner Bill of Rights cites are to the California Civil Code. Unless otherwise noted, National Mortgage Settlement cites refer to “Exhibit A” of the NMS consent judgments, available at <http://www.nationalmortgagesettlement.com/>. There have been other settlements involving servicers who were not parties to the NMS that may provide similar relief to homeowners. This chart only considers the NMS.

**This chart only covers rules applying to large servicers. Exceptions and separate rules may apply to small servicers and advocates should refer to RESPA and HBOR for specific guidance.

This chart was created by the National Housing Law Project, as part of the Homeowner Bill of Rights Collaborative. This project was made possible by a grant from the Office of the Attorney General of California, from the National Mortgage Fraud Settlement, to assist California consumers.

	Reverse mortgages. §1024.30(b)(2). (See §1026.33 for definition of reverse mortgages.)		
Who can sue?	Borrowers. 12 U.S.C. 2605(f). <u>Exception:</u> borrowers have no private right of action to enforce SPOC or general servicing rules.	Borrowers. §2920.5(c)(1). <u>Exception:</u> borrowers in active bankruptcy. §2920.5(c)(1)(C).	Not borrowers. Only state attorneys general may bring a cause of action under the NMS. Exh. E, J(2), p. E-14-15. <u>Possible exception:</u> contract claims related to servicing transfers may be available (see below).
Preemption: which law trumps?	More protective state laws and regulations are not preempted by the CFPB servicing rules, including more protective provisions of HBOR and the NMS. §1024.5(c); 78 Fed. Reg. 10,706 (Feb. 14, 2013) ; Official Bureau Interpretation, ¶ 1024.5, n.27 . <u>Exception:</u> notices and disclosures related to servicing transfers. §1024.33(d).	More protective HBOR rules are not preempted by CFPB rules (see left); more protective CFPB rules trump HBOR. NMS can only trump HBOR if the servicer is an NMS signatory. If a signatory violated the NMS <i>as applied to the borrower in question</i> , however, servicer is liable under HBOR. §2924.12(g).	More protective NMS rules are not preempted by CFPB rules (see left); more protective CFPB rules trump NMS. (Note the available remedies, however, below). NMS only trumps HBOR if the servicer is an NMS signatory. If a signatory violated the NMS <i>as applied to the borrower in question</i> , however, servicer is liable under HBOR. §2924.12(g).
Earliest servicer can initiate foreclosure	121st day of borrower’s delinquency. §1024.41(f)(1).	30 days after contacting (or diligently attempting to contact) borrower to discuss foreclosure alternatives. §2923.55(a). Only after ensuring the NOD (and NTS, assignments, and substitutions of trustee) are “accurate and complete and supported by competent and reliable evidence” (§2924.17(a)), and after substantiating borrower’s default and servicer’s right to foreclose. §2924.17(b).	15 days after sending borrower written notice including reinstatement amount, servicer’s authority to foreclose, and info for HUD counseling agencies. I-A-18, p. A-4; I-B-10-a, p. A-7. Only after ensuring NOD, NTS, and “similar notices” are “accurate and complete and are supported by competent and reliable evidence” and substantiating borrower’s default and servicer’s right to foreclose. I-A-1, p. A-1.

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<p>Servicer authority to foreclose</p>	<p>Nothing in these rules “should be construed to create a right for a borrower to enforce the terms of any agreement between a servicer and the owner or assignee of a mortgage loan . . . or to eliminate any such right that may exist pursuant to applicable law.” §1024.41(a).</p>	<p>Only the beneficiary under the DOT, the original or properly substituted trustee, or the designated agent of the beneficiary may record an NOD or initiate a foreclosure. §2924(a)(6).</p> <p>Before recording an NOD, a servicer must send borrower written notice that borrower may request a copy of any assignment required to demonstrate servicer’s authority to foreclose. §2923.55(b)(1)(B)(iii). Servicer must also review competent and reliable evidence to substantiate borrower’s default and servicer’s right to foreclose. §2924.17(b).</p>	<p><u>At least 14 days before initiating foreclosure</u>: servicer must send borrower written statement “setting forth facts supporting” servicer’s authority to foreclose. I-A-18, p. A-4.</p> <p>Servicer must “implement processes” ensuring a documented authority to foreclose. I-C, p. A-8.</p>
<p>Required pre-foreclosure contact</p>	<p><u>By day 36 of delinquency</u>: attempt live contact (phone or in-person) and inform borrower of loss mit options, if appropriate. §1024.39(a). This obligation renews each month of delinquency.</p> <p><u>By day 45 of delinquency</u>: contact borrowers in writing. This obligation is only triggered once during any 180-day period. Notice must give servicer contact info, loss mit instructions and examples, and HUD counseling info. §1024.39(b).</p>	<p>Before recording an NOD, servicer’s must:</p> <p>Provide borrower with a written statement outlining docs borrower may request. §2923.55(b)(1)(B).</p> <p>Contact borrower by phone or in person to explore foreclosure alternatives and to offer a subsequent meeting, which must occur within 14 days of meeting request. §2923.55(b)(2).</p> <p>If above contact is unsuccessful: send a first class letter, attempt telephone contact on 3 different days and times, and finally send a certified letter with return receipt requested, giving HUD counseling info. §2923.55(f).</p>	<p>Servicer must make reasonable effort (HAMP handbook v.3.2 standards and timelines) to contact borrowers who are potentially eligible for loss mit. IV-D-1, p. A-23. Must also notify borrowers of available loss mit options. IV-A-1, p. A-16.</p> <p>Servicers may not instruct or encourage borrowers to go into default to qualify for loss mit. IV-H-8, p. A-29.</p> <p>At least 14 days before recording NOD, servicer must send borrower written notice including reinstatement amount, servicer’s authority to foreclose, and info for HUD counseling agencies. I-A-18, p. A-4; I-B-10-a, p. A-7.</p>

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Required contact after referral to foreclosure	None.	<u>Within 5 bus. days of recording NOD:</u> written notice outlining loan mod app process. Only required for borrowers who have <i>not</i> already exhausted loan mod process. §2924.9(a).	<u>Within 5 bus. days of referral:</u> must send a “Post Referral to Foreclosure Solicitation Letter” stating that borrower must submit loan mod app to be considered for loss mit. IV-D-6, p. A-24-25.
Single Point of Contact (SPOC)	By day 45 of delinquency: servicer should assign personnel to borrower, to help them in the loss mit process. §1024.40(a)(1). See §1024.40(b) for a full list of SPOC requirements. No private right of action (see above).	Servicer shall promptly establish a SPOC and provide SPOC’s contact info “upon request from a borrower who requests a foreclosure prevention alternative.” §2923.7(a). May be a “team” of individuals but each team member must comply with SPOC requirements. §2923.7(e). See §2923.6(b)-(d) for a full list of SPOC requirements.	Servicer shall establish a SPOC for every potentially-eligible borrower; servicer shall identify the SPOC to the borrower soon after borrower requests loss mit. IV-C, p. A-21. See IV-C-4-9, p. A-22-23 for a full list of SPOC requirements.
Servicer duty to make information publicly available	None.	To comply with the “due diligence” pre-NOD outreach requirement (§2923.55), servicer must provide a “prominent link” on its homepage, providing borrowers with loss mit descriptions and instructions, documents often required, and servicer contact info. §2923.55(f)(5).	Servicers must make their loss mit qualification processes available to the public. IV-I-1, p. A-29. Must also develop online “loan portals,” allowing borrowers to check the status of their apps. IV-E-1, p. A-25.
Are eligible borrowers guaranteed a mod?	No. §1024.41(a). Servicer evaluation methods are also unregulated. Official Bureau Interpretation, Supp. 1 to Part 1024, ¶ 41(c)(1)-1.	No. § 2923.4(a).	Servicers “shall offer” a loan mod to eligible borrowers if borrowers are NPV positive and meet investor criteria. IV-A-2, p. A-16.
How many mod apps receive dual tracking protections?	Only 1: borrower’s first <i>complete</i> application submitted to a particular servicer, received after Jan. 10, 2014. §1024.41(i). No exceptions for a material change in financial circumstances or for previous non-modification applications (ex:	1+: servicers are not required to evaluate borrowers who were already evaluated, before or after January 1, 2013. Servicers must, however, evaluate subsequent applications if borrower “documents” and “submits” a “material change in financial circumstances” that warrants a fresh	1+: servicers are not required to evaluate borrowers who were already evaluated under any program, before or after April 4, 2012. Servicers must, however, evaluate subsequent applications if borrower “documents” and “submits” a “material change in financial circumstances” that warrants

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	<p>forbearances, short sale apps).</p> <p>Dual tracking protections do apply to subsequent apps submitted to a <i>new</i> servicer after a servicing transfer. Official Bureau Interpretation, Supp. 1 to Part 1024, ¶ 41(i)-1.</p>	<p>look. Dual tracking protections apply to these apps. §2923.6(g).</p>	<p>a fresh look. IV-H-12, p. A-29.</p>
<p>Prohibited fees during loss mit</p>	<p>None.</p>	<p>Servicer may not collect any late fees when a complete loan mod app, other foreclosure alternative, or appeal is pending, or when borrower is compliant with any foreclosure prevention alternative plan. §2924.11(f).</p>	<p>Servicer may not collect late fees when a complete loan mod or short sale app is pending, or when a borrower is TPP compliant. VI-B-4-c, p. A-36.</p>
<p>Types of loan mod applications that receive some level of dual tracking protections</p>	<p><u>Complete application</u>: all info servicer needs (from borrower, not from other sources) to review borrower. §1024.41(b)(1); Official Bureau Interpretation, Supp. 1 to Part 1024, ¶ 41(b)(1)-5.</p> <p><u>Application</u>: at minimum, borrower’s expressed interest in loss mit <i>and</i> at least some information used to determine borrower eligibility. May be verbal. Official Bureau Interpretation, Supp. 1 to Part 1024, ¶ 41(b)(1)-2. If received 45 or more days pre-sale, requires acknowledgment letter. §1024.41(b)(2)(i).</p> <p><u>Facially complete application</u>: borrower provides all information requested by servicer, even if servicer <i>later</i> determines app is not complete. Must be treated as complete for most</p>	<p><u>Complete application</u>: necessary documents and “complete” status are determined by servicer. §2923.6(h); §2924.10(b).</p>	<p><u>Substantially complete application</u>: only missing required documentation of hardship. IV-B-1, p. A-17. May still get dual tracking protection if submitted early enough (see “dual tracking protections due an incomplete application,” below).</p> <p><u>Complete application</u>: undefined, but likely an application that includes all information requested by servicer.</p>

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	dual tracking protections until borrower is given a reasonable opportunity to complete app. §1024.41(c)(2)(iv).		
Acknowledgement upon receipt of incomplete application	<p>When did servicer receive app?</p> <p><u>45+ days pre-sale:</u> servicer must determine if app is complete or incomplete, provide written acknowledgment of receipt, and request missing documents in 5 bus. days. §1024.41(b)(2)(i)(A)-(B).</p> <p><u>Less than 45 days pre-sale:</u> no acknowledgment required.</p>	<p><u>Within 5 bus. days:</u> servicer must provide written acknowledgment of receipt, describe loan mod process, missing docs and deadlines, and expiration dates for submitted documents. §2924.10(a).</p>	<p><u>Within 3 bus. days:</u> servicer must provide written acknowledgment of receipt of any document submitted “in connection with” a loan mod app, describe process, and identify deadlines and expiration dates for any docs. IV-F-1, p. A-25-26.</p> <p><u>Within 5 bus. days:</u> servicer must notify borrower of any missing documents. IV-F-2, p. A-26.</p>
Acknowledgement upon receipt of complete application	<p>When did servicer receive app?</p> <p><u>45+ days pre-sale:</u> servicer must determine if app is complete or incomplete and provide written acknowledgment of receipt and completeness in 5 bus. days. §1024.41(b)(2)(i)(A)-(B).</p> <p><u>Less than 45 days pre-sale:</u> none.</p>	<p><u>Within 5 bus. days:</u> servicer must provide written acknowledgment of receipt, describe loan mod process, estimate of when borrower can expect decision, expiration dates for submitted documents. §2924.10(a).</p>	<p><u>Within 3 bus. days:</u> servicer must provide written acknowledgment of receipt of app, describe process, and identify expiration dates for any docs. IV-F-1, p. A-25-26.</p>
Borrower’s time to submit missing docs	<p>“Reasonable” deadlines determined by servicer. §1024.41(b). Deadlines must be provided to borrower in app acknowledgment letter (only required if app received 45 or more days pre-sale). §1024.41(b)(2)(ii).</p>	<p>“Reasonable timeframes” determined by servicer. §2923.6(h); §2924.10(b).</p>	<p>30 days from the date of servicer’s letter notifying borrower of missing documents. IV-F-3, p. A-26.</p>
When do documents grow stale?	<p>Determined by servicer, but servicer must notify borrower of date in app acknowledgment letter (only required if app received 45 or more days pre-sale). §1024.41(b)(2)(ii)(A).</p>	<p>Determined by servicer. §2923.6(h).</p>	<p>Borrower financials shall be used for 90 days from the date the servicer received the documents. IV-F-6, p. A-26.</p>

<p style="text-align: center;">Dual tracking protections due a complete application</p>	<p>When did servicer receive app?</p> <p><u>Pre-NOD or before 121st day of delinquency</u>: servicer cannot initiate foreclosure process while app or appeal is pending. §1024.41(f)(2). Must provide borrower with written determination within 30 days of app receipt. §1024.41(c)(1)(ii).</p> <p><u>37+ days pre-sale</u>: servicer cannot conduct a foreclosure sale while app or appeal is pending. §1024.41(g). Must provide borrower with written determination within 30 days of app receipt. §1024.41(c)(1)(ii).</p> <p><u>Less than 37 days pre-sale</u>: no dual tracking restrictions; no app review required. §1024.41(g).</p>	<p>Servicer cannot record an NOD, an NTS, or conduct a sale while the application is pending (§2923.6(c)) and, if app is denied, until 31 days after providing borrower with a written denial. §2923.6(e)(1).</p> <p>No deadline for borrower’s application.</p> <p>No deadline for servicer’s app evaluation.</p>	<p>When did servicer receive app?</p> <p><u>Pre-NOD and before 121st day of delinquency</u>: servicer cannot initiate foreclosure process while app is pending. IV-A-1, p. A-16; IV-B-1, p. A-17. Must make determination within 30 days of app receipt (IV-F-4, p. A-26) and provide written notice of a denial within 10 bus. days of decision. IV-F-7, p. A-26.</p> <p><u>Less than 31 days after Post Referral to FC Solicitation Letter or 37+ days pre-sale</u>: servicer cannot conduct a foreclosure sale while app is pending. IV-B-4, p. A-18; IV-B-6, p. A-19. Must make determination within 30 days of app receipt (IV-F-4, p. A-26) and provide written notice of a denial within 10 bus. days of decision. IV-F-7, p. A-26.</p> <p><u>15+ days pre-sale</u>: servicer must give application “expedited review,” but may proceed with sale. IV-B-8, p. A-18-19.</p> <p><u>Less than 15 days pre-sale</u>: before sale date, servicer must notify borrower of determination, or of servicer’s inability to conduct a review (no duty to actually review), but may proceed with sale. IV-B-9, p. A-20.</p>
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<p>Dual tracking protections due an incomplete application</p>	<p><u>Facially complete app</u>: treat as “complete” for dual tracking protections provided in §1024.41(f)(2) and (g). Basically, servicer cannot initiate foreclosure or conduct a sale while app is pending. §1024.41(c)(2)(iv).</p>	<p>None.</p>	<p>When did servicer receive app?</p> <p><u>Pre-NOD and before 121st day of delinquency</u>: upon receipt of a substantially complete app (defined above), and receipt of missing hardship info before 131st of delinquency, servicer cannot initiate foreclosure while app is pending. IV-B-1, p. A-17.</p> <p>Whenever a servicer finally denies <i>any</i> “loan modification request” (not just a complete application) it must notify borrowers of the denial in writing, within 10 bus. days <i>of making that decision</i> (if a decision is required). IV-F-7, p. A-26.</p>
<p>Borrower options after mod is offered</p>	<p>When did servicer receive app?</p> <p><u>90+ days pre-sale</u>: must accept within 14 days of receiving offer, or offer considered rejected. §1024.41(e)(1).</p> <p><u>37+ days pre-sale</u>: must accept within 7 days of receiving offer, or offer considered rejected. §1024.41(e)(1).</p> <p><u>Less than 37 days pre-sale</u>: servicer may establish any deadline for acceptance.</p>	<p>Must accept within 14 days of offer, or offer considered rejected. §2923.6(c)(2).</p>	<p>Must accept within 14 days of offer, or offer considered rejected. Once servicer offers a mod, it must postpone a pending sale until the expiration of borrower’s 14-day decision making period. IV-B-2, p. A-17; IV-B-4, p. A-18; IV-B-6, p. A-19; IV-B-9, p. A-20.</p>
<p>Servicer duties upon receipt of borrower’s executed loss mit agreement</p>	<p>None.</p>	<p>Provide the borrower with a fully executed copy of the agreement “following receipt” of borrower’s copy. §2924.11(c). No exact deadline or timeframe specified.</p>	<p><u>Within 45 days</u>: provide borrower with a fully executed copy of the loan <i>mod</i> agreement. IV-H-7, p. A-28. No requirements for other types of loss mit agreements.</p>

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		If applicable, record a rescission of an NOD or cancel a pending sale. §2924.11(d).	
Requirements for denial letters	Must state appeal rights and deadlines and specific reasons for denial of a <i>mod</i> option (not other loss mit options). §1024.41(d). If applicable, must give the identity of a disallowing investor and state its reasoning, and NPV inputs if NPV test failed. Official Bureau Interpretation, Supp. 1 to Part 1024, ¶ 41(d)-1-2.	Must state appeal rights and deadlines, specific reasons for investor disallowance (if applicable), NPV inputs if NPV test failed, and a description of other loss mit options and how to apply for them. §2923.6(f).	Must state specific reasons and info relied upon, including reasons for investor denial and NPV inputs; must explain appeal process. IV-G-2-a-c, p. A-27.
Appeal rights	When did servicer receive app? <u>90+ days pre-sale:</u> borrower must appeal within 14 days of denial. §1024.41(h)(1)-(2). <u>Less than 90 days pre-sale:</u> none.	All borrowers who submit a complete application and are denied have the opportunity to appeal. Borrower must appeal within 30 days from the date of the denial letter and provide evidence that denial was incorrect. §2923.6(d).	When did servicer receive app? <u>Pre-NOD and before 121st day of delinquency, or less than 31 days after Post Referral to Foreclosure Solicitation Letter:</u> borrower must appeal within 30 days of date of denial letter and provide evidence that denial was incorrect. IV-G-3-a, p. A-27. <u>37+ days pre-sale:</u> if “reasonable to believe” sale date is 90+ days away, borrower may appeal within 30 days of date of denial letter and must provide evidence that denial is incorrect. IV-B-7, p. A-19; IV-G-3-a, p. A-27.
Appeal timelines and requirements	<u>Within 30 days of appeal:</u> servicer must make a determination. §1024.41(h)(4). <u>Within 14 days of offer:</u> borrower must accept, or offer considered	Servicer may not record an NOD, NTS, or conduct a sale until the later of: 1) 15 days after the appeal is denied; or 2) 14 days after mod is offered	<u>Within 30 days of appeal:</u> servicer must “communicate” its appeal decision to borrower. IV-G-3-c, p. A-28. <u>Within 14 days of offer:</u> borrower

	rejected. §1024.41(e)(2)(iii); §1024.41(h)(4).	but rejected by borrower. §2923.6(e)(2). No deadline to process appeal.	must accept, or offer considered rejected. IV-B-3, p. A-17. Servicer cannot conduct sale until the later of: <ol style="list-style-type: none"> 1) 15 days after the appeal is denied; or 2) 14 days after mod is offered but rejected by borrower. IV-B-3, p. A-17. Appeal denial letter must include descriptions of other loss mit alternatives. IV-G-3-d, p. A-28.
Dual tracking protections once loss mit plan is in place	When did servicer receive app? <u>Pre-NOD or before 121st day of delinquency</u> : servicers may not initiate foreclosure while a borrower is compliant with a loss mit agreement. §1024.41(f)(2)(iii). <u>37+ days pre-sale</u> : servicers may not conduct a sale while a borrower is compliant with a loss mit agreement. §1024.41(g)(3).	If foreclosure alternative is approved of in writing, servicer cannot record an NOD, NTS, or conduct a sale while borrower is compliant with agmt or has provided servicer proof of funds/financing. §2924.11(a)-(b).	Servicer may not conduct a foreclosure sale while borrower is compliant with a TPP, perm mod, forbearance, or repayment plan, or if a short sale or deed in lieu has been approved by all parties and borrower has provided servicer with proof of funds/financing. IV-B-11, p. A-20.
Remedies	Borrowers may recover the following relief for <i>each</i> of servicer’s RESPA violations: Actual damages incurred by the borrower directly caused by violation; additional damages if there is a “pattern and practice” of noncompliance, up to \$2,000 for each	<u>Before a trustee’s deed has been recorded</u> : borrowers may obtain injunctive relief for material violations of HBOR’s pre-NOD outreach, dual tracking, SPOC, post-NOD outreach, app acknowledgement, late fees, servicing transfers, or document reliability provisions. §2924.12(a).	None. <u>Possible exception</u> : contract claims related to servicing transfers (see below).

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	<p>violation; attorney’s fees and costs. 12 U.S.C. §2605(f).</p>	<p><u>After a trustee’s deed has been recorded</u>: borrowers may obtain actual economic damages for material violations of the above provisions, if the violation was not remedied before the deed was recorded. Borrowers may obtain the greater of treble actual damages or \$50K in statutory damages for intentional, reckless, or willful violations. §2924.12(b).</p>	
<p>Servicing Transfers</p>	<p><u>At least 15 days before transfer</u>: old servicer must provide notice of transfer including date of transfer, contact info for both new and old servicers, and date borrower should start making payments, to new servicer. §1024.33(b)(1)-(4).</p> <p><u>Within first 15 days after transfer</u>: new servicer must provide notice of transfer with identical info as above. §1024.33(b)(1)-(4).</p> <p><u>For 60 days after transfer date</u>: payments made to old servicer cannot be considered late. §1024.33(c).</p> <p>Old servicer must transfer all docs and info related to borrower’s loan to new servicer; new servicer must identify and request any missing docs. §1024.33(b)(4). Docs may count as loss mit “application.” Official Bureau Interpretation, Supp. 1 to Part 1024, ¶ 41(i)-1.</p>	<p>New servicer must honor any modification or foreclosure prevention alternative approved by the old servicer, if that approval was in writing. §2924.11(g).</p> <p>No specific protections for borrowers who have a pending application during a servicing transfer.</p>	<p>Old servicer must inform new servicer if a loan mod app is pending. IV-M-1-a, p. A-32.</p> <p>Any contract between old and new servicer must obligate the new servicer to continue processing any pending loan mod app, and to honor a TPP or perm mod agmt entered into by old servicer. Any such contract must also “designate that borrowers are third party beneficiaries” of these requirements. IV-M-1-b-d, p. A-32.</p>

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	Most recent CFPB guidance on servicing transfers is available in Bulletin 2014-01 (Aug. 19, 2014).		
“Widows & Orphans” Protection	<p><u>Upon notification of borrower’s death:</u> servicer must promptly “identify and facilitate” communication with the widowed spouse or heir regarding the property. §1024.38(b)(1)(vi).</p> <p>“Successors-in-interest” who acquire title and want to be added as a “borrower” to the mortgage or DOT are not subject to TILA’s “Ability to Repay” Rule under §1026.43. CFPB Interpretive Rule.</p> <p>No private right of action.</p>	None.	None.
Servicer duty to provide payoff statements[†]	<p><u>Within 7 bus. days of receipt of borrower’s written request:</u> must provide an accurate payoff statement (total outstanding balance of loan). Applies to all loans including HELOCs and loans on vacation or rental homes.</p> <p>For loans in foreclosure, statement must be provided in a “reasonable time.” §1026.36(c)(3).</p>	<p><u>Within 21 days of receipt of borrower’s written “payoff demand statement:”</u> must provide borrower a payoff statement, if demand statement is received before NTS is recorded. §2943(c).</p>	<p><u>At least 14 days before initiating foreclosure:</u> must send borrower written statement including borrower’s reinstatement amount. I-B-10-a, p. A-7.</p>
Servicer duty to provide periodic statements[‡]	<p><u>Every billing cycle:</u> must provide borrowers a periodic statement including recent account information, how partial payments are credited,</p>	None.	<p><u>Every billing cycle:</u> must provide borrowers a periodic statement showing total due, payment allocation, unpaid principal, fees, escrow balance,</p>

[†] Servicer liability for TILA violations, as opposed to creditor liability, is still an open question due to complexities in the TILA remedies provision. *See* NCLC, *Truth in Lending*, § 11.6.9 (8th ed. and 2013 Supp.).

[‡] *See id.*

	<p>delinquency information, etc. §1026.41(a)(2); (d)(1)-(8).</p> <p>There is a private right of action to enforce this provision, but borrower must show actual damages. 15 U.S.C. §1640 (not listing §1638(f) violations as leading to statutory damages).</p>		<p>etc. I-B-5, p. A-5-6.</p> <p><u>Exception:</u> borrowers in foreclosure or bankruptcy. I-B-5, p. A-5.</p>
Short Sales	<p>Borrowers receive no appeal rights for a short sale denial.</p> <p>Servicers may not initiate foreclosure or conduct a sale while a borrower is “performing” under a short sale agreement. A borrower is deemed “performing” under a short sale agreement during the listing or marketing period. Official Bureau Interpretation, Supp. 1 to Part 1024, ¶ 41(g)(3)-1.</p>	<p>If a short sale is approved of in writing by all parties, and servicer was provided with proof of funds or financing, servicer must record a rescission of an NOD and/or cancel a pending sale. §2924.11(d).</p>	<p>When did servicer receive borrower’s <i>first</i> short sale app?</p> <p><u>Within 10 bus. days of receipt:</u> servicer must provide a written confirmation of app, including info about the process and requirements. IV-K-4, p. A-30.</p> <p><u>Within 30 days of receipt:</u> servicer must provide written notice of any missing docs. IV-K-5, p. A-31.</p> <p><u>Within 30 days of receipt of <i>complete</i> app:</u> servicer must provide borrower with written decision. IV-K-6, p. A-31. Denials require specific reasoning. IV-K-7, p. A-31.</p>
Borrowers in bankruptcy	<p>Borrowers in active bankruptcies or who have sent an FDCPA “cease communication notice” are not protected by pre-foreclosure contact requirements. §1024.39(d)(1)-(2).</p>	<p>Borrowers who filed for bankruptcy are not considered “borrowers” under HBOR until the bankruptcy court has entered an order closing or dismissing the case, or granted a servicer or trustee relief from a stay of foreclosure. §2920.5(c)(1)(C).</p>	<p>Bankruptcy should not be a reason for denying loss mit. Timelines should be delayed to accommodate bankruptcy court approvals. IV-L, p. A-31.</p>

This chart is a quick reference guide: it is not exhaustive. Please refer to the cited material for a full description of the provisions.