



Regulation Z – Notice of Purchase or Transfer of Mortgage Loan

On May 20, 2009, Congress enacted the Helping Families Save Their Homes Act, which included a revision to the Truth in Lending Act requiring purchasers and assignees of mortgage loans to provide a notice of the purchase or transfer to the consumer within 30 days of the transfer. The requirement became effective immediately. The Federal Reserve issued an interim final regulation in November of 2009 to provide guidance on complying with the requirement, and the final rule was issued on August 16, 2010.

Alert Date:	August 26, 2010
Status:	Statute – Rule effective immediately upon enactment of statute – May 20, 2009 Interim Final Rule – Effective November 20, 2009; optional compliance until January 19, 2010 Final Rule – Mandatory January 1, 2011
Links:	FRB – Interim Final Rule – Notice of Purchase or Transfer of Mortgage Loan FRB – Final Rule – Notice of Purchase or Transfer of Mortgage Loan



The final rule requires the purchaser or assignee of a mortgage loan to provide a borrower with a notice within 30 calendar days after the date of transfer of the loan. The notice is designed to provide the consumer with information about the sale or transfer of the loan and the new owner of the loan. Noncompliance with the requirement could subject the purchaser or assignee of the loan to civil liability.

Who provides the notice?

The notice of the purchase or sale of a mortgage loan has to be provided by a “covered person.” A covered person is a person (including a legal entity) who acquires legal title to the loan and acquires more than one loan in a twelve month period. Financial institutions and other persons that acquire a partial interest in the loan, jointly acquire a loan with other parties, or acquire a loan from an affiliate are subject to the rule, though special disclosure requirements apply where there are multiple transfers or multiple covered persons. Financial institutions that acquire loans through mergers or acquisitions of other institutions are also covered if the legal title to the loan is transferred. A loan servicer is not a covered person merely because it obtains title to the loan in order to perform the loan servicing.

What loans are subject to the requirement?

The notice is required where a “mortgage loan” is purchased or transferred. However, “mortgage loan” has a special definition for these purposes. A mortgage loan is defined as any consumer credit transaction that is secured by the principal dwelling of a consumer. As a result, business loans are not covered, even if they are secured by the dwelling of a consumer. However, consumer loans of any kind, including home equity lines of credit, will be covered if they are secured by a consumer’s principal dwelling.

When is the notice required?

The notice is required by the 30th day after the date of transfer. The covered person has the option of using the date of acquisition that is recorded in its books and records or the date that is recorded in the transferor’s books and records as the date of transfer. There are three exceptions where the notice does not have to be provided:

- If the covered person sells, transfers or assigns the loan before the 30th day;
- If the loan is transferred in connection with a repurchase agreement and the transferor repurchases the loan before the 30th day; or
- If the covered person only acquires a partial interest in the loan and the transfer does not affect who is authorized to receive the consumer’s rescission notice and resolve issues concerning loan payments.

Recommendations for Next Steps

1. If you do not typically acquire consumer loans but have received loans due to a merger or acquisition with another institution, verify that you have provided the notice and that it was provided timely.
2. If you discover that you have acquired loans after May 20, 2009, and did not provide the notice, we recommend that you provide the notice as quickly as practicable.
3. When determining if you acquire loans that require the purchaser notice, do not forget to take home equity lines of credit into consideration.
4. When revising policies and procedures to reflect this notice, remember that this notice is not the same as the mortgage servicing transfer notice that is provided with the good faith estimate or the “hello/goodbye” letters that are required when loan servicing is transferred under RESPA.