



CONSUMER FINANCIAL PROTECTION BUREAU

12 CFR Part 1024

[Docket No. CFPB-2025-0014]

RIN 3170-AB42

Protections for Borrowers Affected by the COVID-19 Emergency Under the Real Estate Settlement Procedures Act (RESPA), Regulation X; Rescission

AGENCY: Consumer Financial Protection Bureau.

ACTION: Interim final rule; request for public comment.

SUMMARY: This interim final rule (IFR) rescinds the final rule “Protections for Borrowers Affected by the COVID-19 Emergency Under the Real Estate Settlement Procedures Act (RESPA), Regulation X.”

DATES: This IFR is effective on [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit responsive information and other comments, identified by Docket No. CFPB-2025-0014, by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. A brief summary of this document will be available at <https://www.regulations.gov/docket/CFPB-2025-0014>.
- *Email:* 2025-COVID-Mortgage-Servicing-Rescission@cfpb.gov. Include Docket No. CFPB-2025-0014 in the subject line of the message.
- *Mail/Hand Delivery/Courier:* Comment Intake—Protections for Borrowers Affected by the COVID-19 Emergency Under the Real Estate Settlement Procedures Act (RESPA),

Regulation X, Rescission, c/o Legal Division Docket Manager, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552.

Instructions: The CFPB encourages the early submission of comments. All submissions should include the agency name and docket number. Additionally, where the Bureau has asked for specific comment on a topic, commentors should seek to highlight the topic to which its comment is applicable. Because paper mail is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to <https://www.regulations.gov>. All submissions, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Proprietary information or sensitive personal information, such as account numbers or Social Security numbers, or names of other individuals, should not be included. Submissions will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Dave Gettler, Paralegal Specialist, Office of Regulations, at 202-435-7700. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov.

SUPPLEMENTARY INFORMATION: This IFR rescinds “Protections for Borrowers Affected by the COVID-19 Emergency Under the Real Estate Settlement Procedures Act (RESPA), Regulation X,” 86 FR 34848 (June 30, 2021) (2021 COVID RESPA Rule), for two reasons:

First, the 2021 COVID RESPA Rule adopted temporary procedural safeguards related to mortgage foreclosure, temporarily permitted mortgage servicers to offer certain loan modifications made available to borrowers experiencing a COVID-19 related hardship, and finalized certain temporary amendments to Regulation X related to the COVID-19 pandemic. The rule stated that the temporary procedural safeguards do not apply if a servicer makes the first notice or filing required by applicable law for any judicial or non-judicial foreclosure process on or after January 1, 2022. In addition, the rule stated that the temporary COVID-19 related live

contact requirements would only be required until October 1, 2022. On April 10, 2023, then-President Biden signed a joint resolution of Congress declaring that “the national emergency declared by the finding of the President on March 13, 2020” related to the COVID-19 pandemic “is hereby terminated.” *See* Pub. L. 118-3 (Apr. 10, 2023). The Bureau finds that it has good cause to remove, without prior notice and comment, language relating to the COVID-19 pandemic added by the 2021 COVID RESPA Rule, as prior notice and comment is unnecessary. Both the temporary additional early intervention live contact requirements and the temporary special COVID-19 loss mitigation procedural safeguards have been sunset by their own terms, and the COVID-19 Public Health Emergency expired on May 11, 2023. Thus, borrowers and servicers are no longer utilizing these safeguards. Moreover, the Bureau proposed a rule on July 24, 2024 (89 FR 60204), that would provide additional flexibility to servicers to offer streamlined loss mitigation options when borrowers seek payment assistance. As part of the revised framework, the proposal would have removed the provisions implemented in response to the COVID-19 pandemic, and the Bureau did not receive public comments on the proposed removal of those provisions. As part of any future rulemaking, the Bureau would consider and address comments received in response to the 2024 proposed rule, including comments related to applying the loss mitigation lessons learned from the COVID-19 pandemic.

Second, it is the policy of the Bureau to streamline regulatory requirements to reduce burdens on the American public. The Bureau has determined that, in light of the end of the COVID-19 pandemic, these regulations needlessly complicate Regulation X without commensurate benefits.

Section 1022 Analysis

In developing this rule, the Bureau has considered the potential benefits, costs, and impacts as required by section 1022(b)(2)(A) of the Consumer Financial Protection Act of 2010 (CFPA), 12 U.S.C. 5512(b)(2)(A). This rule does not impose any costs to consumers or covered persons or have any direct impact on consumers’ access to consumer financial products or

services. Further, it has no unique impact on insured depository institutions or insured credit unions with less than \$10 billion in assets, as described in section 1026(a) of the CFPA. Finally, it does not have any unique impact on rural consumers.

Legal Authority

The Bureau is issuing this IFR pursuant to its authority under 12 U.S.C. 2617(a), 2506(j)(3), and 2605(k)(1)(E); 12 U.S.C. 5512(b)(1); and 12 U.S.C. 5532.

List of Subjects in 12 CFR Part 1024

Banks, banking, Condominiums, Consumer protection, Credit unions, Housing, Mortgage insurance, Mortgages, National banks, Reporting and recordkeeping requirements, Savings associations.

Authority and Issuance

For the reasons set forth in the preamble, the Bureau amends Regulation X, 12 CFR part 1024, as set forth below:

PART 1024—REAL ESTATE SETTLEMENT PROCEDURES ACT (REGULATION X)

1. The authority citation for part 1024 continues to read as follows:

Authority: 12 U.S.C. 2603-2605, 2607, 2609, 2617, 5512, 5532, 5581.

Subpart C—Mortgage Servicing

§ 1024.31 [Amended]

2. Amend § 1024.31 by removing the definition of “COVID-19-related hardship.”

3. Amend § 1024.39 by:

- a. Revising paragraph (a); and
- b. Removing paragraph (e).

The revision reads as follows:

§ 1024.39 Early intervention requirements for certain borrowers.

- (a) *Live contact.* Except as otherwise provided in this section, a servicer shall establish or make good faith efforts to establish live contact with a delinquent borrower no later than the 36th

day of a borrower's delinquency and again no later than 36 days after each payment due date so long as the borrower remains delinquent. Promptly after establishing live contact with a borrower, the servicer shall inform the borrower about the availability of loss mitigation options, if appropriate.

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4. Amend § 1024.41 by:

- a. Revising paragraphs (c)(2)(i) and (c)(2)(v)(A)(I); and
- b. Removing paragraphs (c)(2)(vi) and (f)(3).

The revisions read as follows:

§ 1024.41 Loss mitigation procedures.

* * * *

(c) * * *

(2) * * *

(i) *In general.* Except as set forth in paragraphs (c)(2)(ii), (iii), and (v) of this section, a servicer shall not evade the requirement to evaluate a complete loss mitigation application for all loss mitigation options available to the borrower by offering a loss mitigation option based upon an evaluation of any information provided by a borrower in connection with an incomplete loss mitigation application.

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(v) * * *

(A) * * *

(I) The loss mitigation option permits the borrower to delay paying covered amounts until the mortgage loan is refinanced, the mortgaged property is sold, the term of the mortgage loan ends, or, for a mortgage loan insured by the Federal Housing Administration, the mortgage insurance terminates. For purposes of this paragraph (c)(2)(v)(A)(I), "covered amounts" includes, without limitation, all principal and interest payments forborne under a payment

forbearance program made available to borrowers experiencing a COVID-19-related hardship, including a payment forbearance program made pursuant to the Coronavirus Economic Stabilization Act, section 4022 (15 U.S.C. 9056); it also includes, without limitation, all other principal and interest payments that are due and unpaid by a borrower experiencing COVID-19-related hardship. For purposes of this paragraph (c)(2)(v)(A)(I), “the term of the mortgage loan” means the term of the mortgage loan according to the obligation between the parties in effect when the borrower is offered the loss mitigation option.

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5. Amend supplement I by:

- a. Under § 1024.39—*Early Intervention Requirements for Certain Borrowers*, revising 39(a) *Live Contact*; and
- b. Under § 1024.41—*Loss Mitigation Procedures*:
 - i. Revising 41(b)(1) *Complete Loss Mitigation Application*; and
 - ii. Removing 41(f)(3) *Temporary Special COVID-19 Loss Mitigation Procedural Safeguards* and 41(f)(3)(ii)(C) *Unresponsive Borrower*.

The revisions read as follows:

Supplement I to Part 1024—Official Bureau Interpretations

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Subpart C—Mortgage Servicing

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§ 1024.39—Early Intervention Requirements for Certain Borrowers

39(a) Live Contact.

1. *Delinquency*. Section 1024.39 requires a servicer to establish or attempt to establish live contact no later than the 36th day of a borrower's delinquency. This provision is illustrated as follows:

i. Assume a mortgage loan obligation with a monthly billing cycle and monthly payments of \$2,000 representing principal, interest, and escrow due on the first of each month.

A. The borrower fails to make a payment of \$2,000 on, and makes no payment during the 36-day period after, January 1. The servicer must establish or make good faith efforts to establish live contact not later than 36 days after January 1—*i.e.*, on or before February 6.

B. The borrower makes no payments during the period January 1 through April 1, although payments of \$2,000 each on January 1, February 1, and March 1 are due. Assuming it is not a leap year, the borrower is 90 days delinquent as of April 1. The servicer may time its attempts to establish live contact such that a single attempt will meet the requirements of § 1024.39(a) for two missed payments. To illustrate, the servicer complies with § 1024.39(a) if the servicer makes a good faith effort to establish live contact with the borrower, for example, on February 5 and again on March 25. The February 5 attempt meets the requirements of § 1024.39(a) for both the January 1 and February 1 missed payments. The March 25 attempt meets the requirements of § 1024.39(a) for the March 1 missed payment.

ii. A borrower who is performing as agreed under a loss mitigation option designed to bring the borrower current on a previously missed payment is not delinquent for purposes of § 1024.39.

iii. During the 60-day period beginning on the effective date of transfer of the servicing of any mortgage loan, a borrower is not delinquent for purposes of § 1024.39 if the transferee servicer learns that the borrower has made a timely payment that has been misdirected to the transferor servicer and the transferee servicer documents its files accordingly. See § 1024.33(c)(1) and comment 33(c)(1)-2.

iv. A servicer need not establish live contact with a borrower unless the borrower is delinquent during the 36 days after a payment due date. If the borrower satisfies a payment in full before the end of the 36-day period, the servicer need not establish live contact with the borrower. For example, if a borrower misses a January 1 due date but makes that payment on

February 1, a servicer need not establish or make good faith efforts to establish live contact by February 6.

2. Establishing live contact. Live contact provides servicers an opportunity to discuss the circumstances of a borrower's delinquency. Live contact with a borrower includes speaking on the telephone or conducting an in-person meeting with the borrower but not leaving a recorded phone message. A servicer may rely on live contact established at the borrower's initiative to satisfy the live contact requirement in § 1024.39(a). Servicers may also combine contacts made pursuant to § 1024.39(a) with contacts made with borrowers for other reasons, for instance, by telling borrowers on collection calls that loss mitigation options may be available.

3. Good faith efforts. Good faith efforts to establish live contact consist of reasonable steps, under the circumstances, to reach a borrower and may include telephoning the borrower on more than one occasion or sending written or electronic communication encouraging the borrower to establish live contact with the servicer. The length of a borrower's delinquency, as well as a borrower's failure to respond to a servicer's repeated attempts at communication pursuant to § 1024.39(a), are relevant circumstances to consider. For example, whereas "good faith efforts" to establish live contact with regard to a borrower with two consecutive missed payments might require a telephone call, "good faith efforts" to establish live contact with regard to an unresponsive borrower with six or more consecutive missed payments might require no more than including a sentence requesting that the borrower contact the servicer with regard to the delinquencies in the periodic statement or in an electronic communication. Comment 39(a)-6 discusses the relationship between live contact and the loss mitigation procedures set forth in § 1024.41.

4. Promptly inform if appropriate.

i. Servicer's determination. It is within a servicer's reasonable discretion to determine whether informing a borrower about the availability of loss mitigation options is appropriate under the circumstances. The following examples demonstrate when a servicer has made a

reasonable determination regarding the appropriateness of providing information about loss mitigation options.

A. A servicer provides information about the availability of loss mitigation options to a borrower who notifies a servicer during live contact of a material adverse change in the borrower's financial circumstances that is likely to cause the borrower to experience a long-term delinquency for which loss mitigation options may be available.

B. A servicer does not provide information about the availability of loss mitigation options to a borrower who has missed a January 1 payment and notified the servicer that full late payment will be transmitted to the servicer by February 15.

ii. *Promptly inform.* If appropriate, a servicer may inform borrowers about the availability of loss mitigation options orally, in writing, or through electronic communication, but the servicer must provide such information promptly after the servicer establishes live contact. A servicer need not notify a borrower about any particular loss mitigation options at this time; if appropriate, a servicer need only inform borrowers generally that loss mitigation options may be available. If appropriate, a servicer may satisfy the requirement in § 1024.39(a) to inform a borrower about loss mitigation options by providing the written notice required by § 1024.39(b)(1), but the servicer must provide such notice promptly after the servicer establishes live contact.

5. *Borrower's representative.* Section 1024.39 does not prohibit a servicer from satisfying its requirements by establishing live contact with and, if applicable, providing information about loss mitigation options to a person authorized by the borrower to communicate with the servicer on the borrower's behalf. A servicer may undertake reasonable procedures to determine if a person that claims to be an agent of a borrower has authority from the borrower to act on the borrower's behalf, for example, by requiring a person that claims to be an agent of the borrower to provide documentation from the borrower stating that the purported agent is acting on the borrower's behalf.

6. Relationship between live contact and loss mitigation procedures. If the servicer has established and is maintaining ongoing contact with the borrower under the loss mitigation procedures under § 1024.41, including during the borrower's completion of a loss mitigation application or the servicer's evaluation of the borrower's complete loss mitigation application, or if the servicer has sent the borrower a notice pursuant to § 1024.41(c)(1)(ii) that the borrower is not eligible for any loss mitigation options, the servicer complies with § 1024.39(a) and need not otherwise establish or make good faith efforts to establish live contact. A servicer must resume compliance with the requirements of § 1024.39(a) for a borrower who becomes delinquent again after curing a prior delinquency.

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§ 1024.41—Loss Mitigation Procedures

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41(b)(1) Complete loss mitigation application.

1. In general. A servicer has flexibility to establish its own application requirements and to decide the type and amount of information it will require from borrowers applying for loss mitigation options. In the course of gathering documents and information from a borrower to complete a loss mitigation application, a servicer may stop collecting documents and information for a particular loss mitigation option after receiving information confirming that, pursuant to any requirements established by the owner or assignee of the borrower's mortgage loan, the borrower is ineligible for that option. A servicer may not stop collecting documents and information for any loss mitigation option based solely upon the borrower's stated preference but may stop collecting documents and information for any loss mitigation option based on the borrower's stated preference in conjunction with other information, as prescribed by any requirements established by the owner or assignee. A servicer must continue to exercise reasonable diligence to obtain documents and information from the borrower that the servicer

requires to evaluate the borrower as to all other loss mitigation options available to the borrower.

For example:

i. Assume a particular loss mitigation option is only available for borrowers whose mortgage loans were originated before a specific date. Once a servicer receives documents or information confirming that a mortgage loan was originated after that date, the servicer may stop collecting documents or information from the borrower that the servicer would use to evaluate the borrower for that loss mitigation option, but the servicer must continue its efforts to obtain documents and information from the borrower that the servicer requires to evaluate the borrower for all other available loss mitigation options.

ii. Assume applicable requirements established by the owner or assignee of the mortgage loan provide that a borrower is ineligible for home retention loss mitigation options if the borrower states a preference for a short sale and provides evidence of another applicable hardship, such as military Permanent Change of Station orders or an employment transfer more than 50 miles away. If the borrower indicates a preference for a short sale or, more generally, not to retain the property, the servicer may not stop collecting documents and information from the borrower pertaining to available home retention options solely because the borrower has indicated such a preference, but the servicer may stop collecting such documents and information once the servicer receives information confirming that the borrower has an applicable hardship under requirements established by the owner or assignee, such as military Permanent Change of Station orders or employment transfer.

2. When an inquiry or prequalification request becomes an application. A servicer is encouraged to provide borrowers with information about loss mitigation programs. If in giving information to the borrower, the borrower expresses an interest in applying for a loss mitigation option and provides information the servicer would evaluate in connection with a loss mitigation application, the borrower's inquiry or prequalification request has become a loss mitigation application. A loss mitigation application is considered expansively and includes any

“prequalification” for a loss mitigation option. For example, if a borrower requests that a servicer determine if the borrower is “prequalified” for a loss mitigation program by evaluating the borrower against preliminary criteria to determine eligibility for a loss mitigation option, the request constitutes a loss mitigation application.

3. Examples of inquiries that are not applications. The following examples illustrate situations in which only an inquiry has taken place and no loss mitigation application has been submitted:

- i. A borrower calls to ask about loss mitigation options and servicer personnel explain the loss mitigation options available to the borrower and the criteria for determining the borrower's eligibility for any such loss mitigation option. The borrower does not, however, provide any information that a servicer would consider for evaluating a loss mitigation application.
- ii. A borrower calls to ask about the process for applying for a loss mitigation option but the borrower does not provide any information that a servicer would consider for evaluating a loss mitigation application.

4. Although a servicer has flexibility to establish its own requirements regarding the documents and information necessary for a loss mitigation application, the servicer must act with reasonable diligence to collect information needed to complete the application. A servicer must request information necessary to make a loss mitigation application complete promptly after receiving the loss mitigation application. Reasonable diligence for purposes of § 1024.41(b)(1) includes, without limitation, the following actions:

- i. A servicer requires additional information from the applicant, such as an address or a telephone number to verify employment; the servicer contacts the applicant promptly to obtain such information after receiving a loss mitigation application;
- ii. Servicing for a mortgage loan is transferred to a servicer and the borrower makes an incomplete loss mitigation application to the transferee servicer after the transfer; the transferee servicer reviews documents provided by the transferor servicer to determine if information

required to make the loss mitigation application complete is contained within documents transferred by the transferor servicer to the servicer; and

iii. A servicer offers a borrower a short-term payment forbearance program or a short-term repayment plan based on an evaluation of an incomplete loss mitigation application and provides the borrower the written notice pursuant to § 1024.41(c)(2)(iii). If the borrower remains in compliance with the short-term payment forbearance program or short-term repayment plan, and the borrower does not request further assistance, the servicer may suspend reasonable diligence efforts until near the end of the payment forbearance program or repayment plan. However, if the borrower fails to comply with the program or plan or requests further assistance, the servicer must immediately resume reasonable diligence efforts. Near the end of a short-term payment forbearance program offered based on an evaluation of an incomplete loss mitigation application pursuant to § 1024.41(c)(2)(iii), and prior to the end of the forbearance period, if the borrower remains delinquent, a servicer must contact the borrower to determine if the borrower wishes to complete the loss mitigation application and proceed with a full loss mitigation evaluation.

5. Information not in the borrower's control. A loss mitigation application is complete when a borrower provides all information required from the borrower notwithstanding that additional information may be required by a servicer that is not in the control of a borrower. For example, if a servicer requires a consumer report for a loss mitigation evaluation, a loss mitigation application is considered complete if a borrower has submitted all information required from the borrower without regard to whether a servicer has obtained a consumer report that a servicer has requested from a consumer reporting agency.

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Russell Vought,

Acting Director, Consumer Financial Protection Bureau.

