

§ 1026.39

12 CFR Ch. X (1–1–22 Edition)

required disclosure items under this section from fitting in the space provided on form H–25.

(ix) *Customary recitals and information.* An additional page may be attached to the form for the purpose of including customary recitals and information used locally in real estate settlements.

[78 FR 80120, Dec. 31, 2013, as amended at 80 FR 8776, Feb. 19, 2015; 80 FR 43920, July 24, 2015; 82 FR 37770, Aug. 11, 2017]

**§ 1026.39 Mortgage transfer disclosures.**

(a) *Scope.* The disclosure requirements of this section apply to any covered person except as otherwise provided in this section. For purposes of this section:

(1) A “covered person” means any person, as defined in § 1026.2(a)(22), that becomes the owner of an existing mortgage loan by acquiring legal title to the debt obligation, whether through a purchase, assignment or other transfer, and who acquires more than one mortgage loan in any twelve-month period. For purposes of this section, a servicer of a mortgage loan shall not be treated as the owner of the obligation if the servicer holds title to the loan, or title is assigned to the servicer, solely for the administrative convenience of the servicer in servicing the obligation.

(2) A “mortgage loan” means:

(i) An open-end consumer credit transaction that is secured by the principal dwelling of a consumer; and

(ii) A closed-end consumer credit transaction secured by a dwelling or real property.

(b) *Disclosure required.* Except as provided in paragraph (c) of this section, each covered person is subject to the requirements of this section and shall mail or deliver the disclosures required by this section to the consumer on or before the 30th calendar day following the date of transfer.

(1) *Form of disclosures.* The disclosures required by this section shall be provided clearly and conspicuously in writing, in a form that the consumer may keep. The disclosures required by this section may be provided to the consumer in electronic form, subject to compliance with the consumer consent and other applicable provisions of the

Electronic Signatures in Global and National Commerce Act (E-Sign Act) (15 U.S.C. 7001 *et seq.*).

(2) *The date of transfer.* For purposes of this section, the date of transfer to the covered person may, at the covered person’s option, be either the date of acquisition recognized in the books and records of the acquiring party, or the date of transfer recognized in the books and records of the transferring party.

(3) *Multiple consumers.* If more than one consumer is liable on the obligation, a covered person may mail or deliver the disclosures to any consumer who is primarily liable.

(4) *Multiple transfers.* If a mortgage loan is acquired by a covered person and subsequently sold, assigned, or otherwise transferred to another covered person, a single disclosure may be provided on behalf of both covered persons if the disclosure satisfies the timing and content requirements applicable to each covered person.

(5) *Multiple covered persons.* If an acquisition involves multiple covered persons who jointly acquire the loan, a single disclosure must be provided on behalf of all covered persons.

(c) *Exceptions.* Notwithstanding paragraph (b) of this section, a covered person is not subject to the requirements of this section with respect to a particular mortgage loan if:

(1) The covered person sells, or otherwise transfers or assigns legal title to the mortgage loan on or before the 30th calendar day following the date that the covered person acquired the mortgage loan which shall be the date of transfer recognized for purposes of paragraph (b)(2) of this section;

(2) The mortgage loan is transferred to the covered person in connection with a repurchase agreement that obligates the transferor to repurchase the loan. However, if the transferor does not repurchase the loan, the covered person must provide the disclosures required by this section within 30 days after the date that the transaction is recognized as an acquisition on its books and records; or

(3) The covered person acquires only a partial interest in the loan and the party authorized to receive the consumer’s notice of the right to rescind

## Bur. of Consumer Financial Protection

## § 1026.40

and resolve issues concerning the consumer's payments on the loan does not change as a result of the transfer of the partial interest.

(d) *Content of required disclosures.* The disclosures required by this section shall identify the mortgage loan that was sold, assigned or otherwise transferred, and state the following, except that the information required by paragraph (d)(5) of this section shall be stated only for a mortgage loan that is a closed-end consumer credit transaction secured by a dwelling or real property other than a reverse mortgage transaction subject to §1026.33 of this part:

(1) The name, address, and telephone number of the covered person.

(i) If a single disclosure is provided on behalf of more than one covered person, the information required by this paragraph shall be provided for each of them unless paragraph (d)(1)(ii) of this section applies.

(ii) If a single disclosure is provided on behalf of more than one covered person and one of them has been authorized in accordance with paragraph (d)(3) of this section to receive the consumer's notice of the right to rescind and resolve issues concerning the consumer's payments on the loan, the information required by paragraph (d)(1) of this section may be provided only for that covered person.

(2) The date of transfer.

(3) The name, address and telephone number of an agent or party authorized to receive notice of the right to rescind and resolve issues concerning the consumer's payments on the loan. However, no information is required to be provided under this paragraph if the consumer can use the information provided under paragraph (d)(1) of this section for these purposes.

(4) Where transfer of ownership of the debt to the covered person is or may be recorded in public records, or, alternatively, that the transfer of ownership has not been recorded in public records at the time the disclosure is provided.

(5) *Partial payment policy.* Under the subheading "Partial Payment":

(i) If periodic payments that are less than the full amount due are accepted, a statement that the covered person,

using the term "lender," may accept partial payments and apply such payments to the consumer's loan;

(ii) If periodic payments that are less than the full amount due are accepted but not applied to a consumer's loan until the consumer pays the remainder of the full amount due, a statement that the covered person, using the term "lender," may hold partial payments in a separate account until the consumer pays the remainder of the payment and then apply the full periodic payment to the consumer's loan;

(iii) If periodic payments that are less than the full amount due are not accepted, a statement that the covered person, using the term "lender," does not accept any partial payments; and

(iv) A statement that, if the loan is sold, the new covered person, using the term "lender," may have a different policy.

(e) *Optional disclosures.* In addition to the information required to be disclosed under paragraph (d) of this section, a covered person may, at its option, provide any other information regarding the transaction.

(f) *Successor in interest.* If, upon confirmation, a servicer provides a confirmed successor in interest who is not liable on the mortgage loan obligation with a written notice and acknowledgment form in accordance with Regulation X, §1024.32(c)(1) of this chapter, the servicer is not required to provide to the confirmed successor in interest any written disclosure required by paragraph (b) of this section unless and until the confirmed successor in interest either assumes the mortgage loan obligation under State law or has provided the servicer an executed acknowledgment in accordance with Regulation X, §1024.32(c)(1)(iv) of this chapter, that the confirmed successor in interest has not revoked.

[76 FR 79772, Dec. 22, 2011, as amended at 78 FR 80130, Dec. 31, 2013; 81 FR 72388, Oct. 19, 2016]

### § 1026.40 Requirements for home equity plans.

The requirements of this section apply to open-end credit plans secured by the consumer's dwelling. For purposes of this section, an annual percentage rate is the annual percentage