Compliance by the numbers

Six CFPB rules that impact borrower communication.

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New year. New rules. Are you ready?

Mortgage servicers will be playing by a new set of rules this year. Despite more stringent lending practices and lower delinquency, the Consumer Financial Protection Bureau (CFPB) believes these modifications are needed to protect consumers from harm when they apply for or repay a mortgage loan.

Changes to the rules implementing the Real Estate Settlement Procedures Act (RESPA), known as Regulation X, and the Truth In Lending Act (Regulation Z) are set to go into effect January 10, 2014. At the top of the list: better borrower communications. The CFPB has said they want to put "the service back into mortgage servicing." And JD Power surveys continually tout proactive, effective communication as key to improving customer satisfaction.

But, contrary to popular belief, talk isn't cheap. According to a recent study by Strategic Contact, a leading call center consultancy, the average customer contact costs companies between $4 and $7. With budgets already tight, servicers may struggle to find the right balance between regulatory compliance, efficient borrower engagement and better business results.

Automation and self-serve can help servicers advance these efforts. Proactively communicating with borrowers across multiple channels has proven to cost-effectively improve reach while establishing the quality and continuity of contact required by the CFPB.

To make it easier to adapt your contact strategy, we've focused on the top six rules that will most impact borrower communication as a result of the new CFPB regulations.

Rule 1: Notify borrowers of mortgage servicing transfers

Where to find it
Regulation X - Section 1024.33

What it means
Borrowers must be notified when there is a change in their mortgage servicer. This notification must be in writing within 15 days of the transfer of service.

While a single written notice is sufficient to meet this mandate, the CFPB will be closely monitoring what new servicers are doing to provide consumers with timely and accurate information about their loans. They'd like borrowers to receive communication about the amount they owe, the standing of any loss mitigation application or plan and, if relevant, their delinquency status.

As CFPB director Richard Cordray put it, "Consumers should not be collateral damage in the mortgage servicing transfer process."

Why it matters
This ruling aims to protect consumers in situations where they have no control. In instances where consumers lack choice, like the transfer of servicing, the CFPB wants to ensure borrowers are apprised of what's happening. They will be looking for servicers to onboard acquired borrowers in a way that:

– Makes it clear that a new servicer has been assigned to their loan
– Indicates that future payments should be made to the new servicer
– Offers an easy way for borrowers to reach an agent should they have questions

What you can do
A Welcome Call is a smart way for servicers to establish a relationship with newly acquired borrowers. Unfortunately, many servicers have placed Welcome Calls in the "nice to do" category because of the staff time and costs associated with agent outreach from the call center.

Given the CFPB's heightened scrutiny, it would be wise to reprioritize this outreach and consider leveraging automated voice and text messages to cost-effectively incorporate Welcome Calls into your onboarding strategy.

Real World Example: The Welcome Call

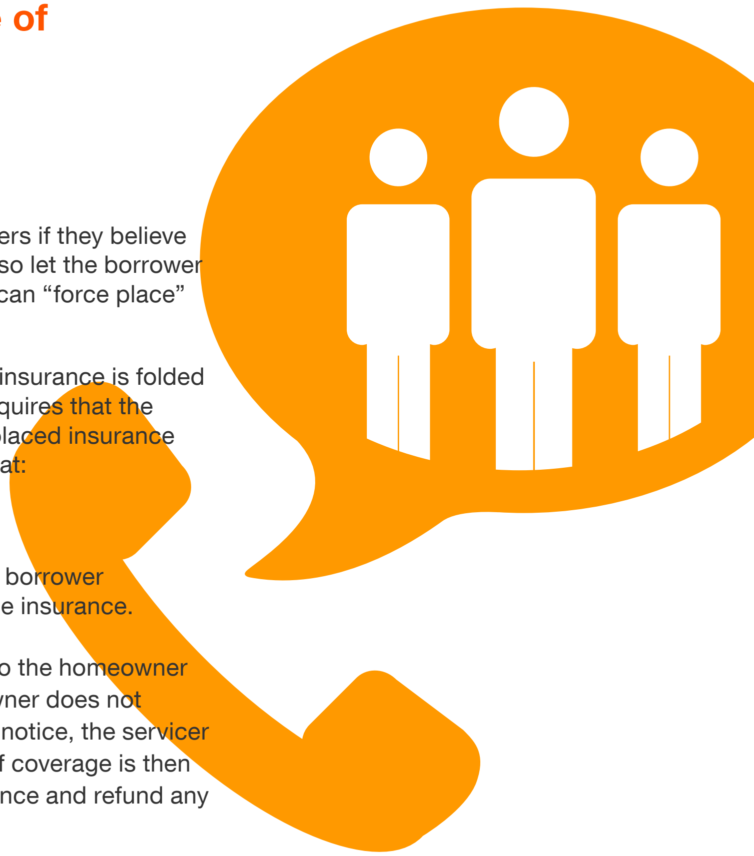
To go above and beyond the minimum CFPB requirements, one national servicer employed a cross-channel communications strategy that didn't "break the bank." Here's what they did:

> A few days before the Welcome Letter arrived at the borrower's home, the servicer sent an interactive voice message (IVM) to the borrower notifying them of the transfer.
>
> This personalized message alerted the borrower to the welcome letter, restated the terms of the loan and asked the borrower for an updated or "better" phone number.
>
> The message also offered the borrower the option to transfer into the servicer's contact center should any information be incorrect.

This extra step allowed the servicer to:

– Impress borrowers with a higher level of service
– Get borrowers used to regular communications
– Measurably reduce first payment default rates
– Confirm preferred phone numbers (including mobile) and get "prior express consent" required by the TCPA to contact mobile numbers
– Reduced inbound calls to the customer service team that can occur when unexpected transfer notices are received by mail

Rule 2: Hazard warning - assurance of insurance



Where to find it
Regulation X – Section 1024.37

What it means
Under the new CFPB rules, servicers must contact borrowers if they believe there is no hazard insurance on the property. They must also let the borrower know that if proof of insurance isn't provided, the servicer can "force place" insurance on the property.

Some borrowers may face "bill shock" after this high-cost insurance is folded into their monthly mortgage payment. Regulation X now requires that the servicer notify the homeowner in writing before the force-placed insurance goes into effect. The notice must inform the homeowner that:

– There is an obligation to maintain hazard insurance
– The servicer doesn't have proof of insurance coverage
– Evidence of existing coverage must be provided or, if the borrower does not prove coverage, the servicer may force place the insurance.

The loan servicer must also send a second written notice to the homeowner at least 30 days after mailing the first notice. If the homeowner does not provide proof of insurance within 15 days after the second notice, the servicer can then force place the insurance coverage. If evidence of coverage is then provided, the servicer must cancel the force-placed insurance and refund any duplicate coverage costs.

Why it matters
Aside from establishing whether or not there is insurance coverage, communication is important to avoid churn. If servicers aren't successful in reaching borrowers to determine their current coverage, they run the risk of acquiring and then canceling the force-placed policy. This not only leads to higher administrative costs, it could potentially harm their relationship with their borrowers.

What you can do
While the law doesn't require contact beyond written notification, servicers would benefit from additional outreach such as a phone call or text message. By taking extra steps beyond the base requirement, you can reduce force-placed insurance churn as well as lessen the chance that borrowers who missed the written notice will complain, "but nobody told me!"

Automated voice calls are a good follow-on to a mailed notice. Studies show that when servicers made live contact or left a detailed answering machine message with borrowers who had been sent insurance verification requests, there was an increase (10 percent) in those who responded immediately as a result of this interaction.

Rule 3: Intervene early with past due borrowers

Where to find it

Regulation X – Section 1024.39

What it means

Mortgage servicers must make a “good faith effort” to establish live contact with a borrower by the 36th day of delinquency. Good faith effort includes phone calls and “electronic communications” such as interactive voice messaging (IVM), text messages, email and smartphone push notifications.

Servicers have some discretion as to whether a borrower needs to be informed of loss mitigation options in every instance. The rule also allows for normal collections calling.

Why it matters

The CFPB wants to ensure servicers are providing delinquent borrowers with a meaningful opportunity to avoid foreclosure. Most servicing operations are already commencing outreach long before the 36th day on their high risk loans, but the Bureau is making it clear that all borrowers, regardless of their credit score, need to be contacted once they go two payments past due.

What you can do

The CFPB verbally confirmed that “good faith effort” can include communications across many different channels. This is advisable as not all borrowers will pick up the phone when you call, many don’t read mail in a timely manner and email may inadvertently be sent to a SPAM or deleted folder.

Automated voice messages have proven effective in treating early-stage delinquencies, reducing the number of borrowers that require a higher touch from your agent pool.

Although, not widely used in the mortgage space, particularly with default management, servicers shouldn’t ignore the growing popularity of text messaging with consumers.

As long as you have the necessary consent to call the borrower on their mobile phone, you’ll find that CFPB compliance is even more easily achieved. Communicating with them on their mobile phone is by far the most effective means of reaching today’s borrower. In fact, 38 percent of US households no longer have a landline.

Rule 4: Maintain continuity of contact

Where to find it
Regulation X – Section 1024.40

What it means
Requires that a borrower in trouble must have "readily available telephone access" to a customer service representative or a team of representatives designated to help him/her avoid foreclosure. Borrowers who call and don't get a live response from their assigned representative must be able to leave a message and get a call back within three business days.

The new rules stop short of mandating a single point of contact (SPOC), instead only requiring "dedicated personnel" work with borrowers in loss mitigation. It's up to the servicer to decide whether to assign a single staff person or a team of people to the borrower, so long as the required continuity is maintained.

While this affords servicers more flexibility in treating distressed borrowers, it's important to note that state laws, the U.S. Treasury's consent orders and the National Mortgage Settlement still apply and may have a SPOC requirement.

Regardless of whether or not a SPOC is assigned, the customer service person or team must be able to:

– Explain what to do if the borrower thinks there has been an error
– Address loss mitigation options (LMOs) the borrower may have for avoiding foreclosure
– Tell the borrower what he/she needs to do to apply, including deadlines that must be met
– Access the borrower's payment history and all application documents he/she submitted
– Pass along this material to the people who actually make the decision
– Inform the borrower about his/her application status and tell the borrower what the decision is within three business days of when it's made
– Explain if, and how, the borrower can appeal if a loan modification is denied
– Clarify the circumstances under which the servicer can start foreclosure

Additionally, anyone helping the borrower, such as a housing counselor or lawyer, must also have access to this dedicated person or team. If a non-delinquent borrower contacts the servicer saying he/she expects to be late in making a payment, the servicer may, but is not required to, provide continuity of contact. Additionally, once the borrower is out of trouble, the servicer is no longer obligated to provide continuity of contact.

Why it matters

Servicers are required to start providing continuity of contact no later than the 45th day of the borrower's delinquency or five days after notifying (or making a good faith effort to notify) a borrower about loss mitigation options.

What you can do

Just like the new servicer welcome call for mortgage transfers, early interaction can go a long way in easing anxiety and motivating the borrower. Be sure to communicate that a relationship manager has been assigned, is familiar with their account, and will keep them informed throughout the loss mitigation process.

After that first call, automated communications via voice, text and email can be used to keep borrowers up to date. Best practices suggest that the option to transfer directly to their relationship manager should always be offered.

Rule 5: Manage processes around loss mitigation

Where to find it

Regulation X – Section 1024.41

What it means

Establishes timelines for reviewing Loss Mitigation applications, depending on delinquency and whether a foreclosure has been scheduled. Servicers must provide borrowers with written notification of approval or denial of a loan modification as well as any additional information or documentation needed to complete their application. Servicers are also required to exercise "reasonable diligence" in following up with borrowers to obtain any missing information with the definition of "reasonable diligence" extending beyond just a written notice.

Borrowers entering a trial modification are also at high risk of re-defaulting. Therefore, pre-delinquency outreach to remind them that they must make their modified payments on time in order to qualify for a permanent modification is a good idea. The CFPB rules also require a single message to contact borrowers in advance of their first Trial Modification payment plan due date.

Why it matters

The CFPB has been vocal in expressing disappointment in how servicers handled communication with borrowers in loss mitigation in the past, citing:

- Inconsistent communications with borrowers
- Conflicting instructions for loss mitigation
- Poor procedures for requesting missing or incomplete information from borrowers
- Deceptive communications to borrowers about the status of loan modification applications, leading some borrowers to faster foreclosure.

To help distressed borrowers avoid foreclosure, the CFPB is attempting to tighten up the process around loss mitigation including requiring better communication with distressed borrowers.

What you can do

Given that the borrower has recently had contact with you, a telephone call may be all it takes. When that call reinforces the need for timely payment, it can go a long way to fully rehabilitating a troubled loan.

But sometimes one call isn't sufficient. Just like the "good faith effort" regulation around contacting delinquent borrowers, the CFPB expects servicers to do more than the minimum when it comes to following up with borrowers to obtain any information or documentation required to complete evaluation of their loss mitigation request.

This is where automated communications pay off. Given the limited number of SPOCs and team members qualified to service distressed borrowers, and the high cost of these dedicated resources, offloading routine communications to a self-service solution can result in considerable costs savings.

Real World Example: Automated Notification

A leading mortgage servicer used automated communications with borrowers to notify them of missing documentation, status updates and next steps for loan modifications. As a result, the servicer was able to reduce spend around loss mitigation while still compying with CFPB rules. Results of this approach included:

- Increased the loan per SPOC from 84 to 98
- Reduced the number of relationship managers required by 15%
- Saved $360,000 a year in loss mitigation on 5,000 loans

Rule 6: Notification of interest rate adjustments

Where to find it
Regulation Z – Section 1026.20 (c) & (d)

What it means
Establishes timelines and requirements for notifying borrowers that their adjustable rate mortgage is going to be adjusted and their monthly payment is going to be different.

The biggest change is requiring a new early-warning notice 210 to 240 days before the first rate adjustment. This is in addition to the notices that are still required 25 to 120 days before an adjustment, depending on the type of loan.

Why it matters
There may be no higher risk moment in the life of an adjustable rate mortgage than when the borrower faces an increase in their monthly payment due to a change in the interest rate. No matter how much thought went in to taking out a mortgage on such variable terms, when faced with the need to make a larger payment, borrowers often find themselves in a predicament. Giving them a longer lead time to prepare for the change increases the likelihood they can adjust their budgets so they can continue to make their payments.

What you can do
Servicers can further reduce default risk owing to an ARM reset by making sure the borrower is aware of the upcoming change.

As with mortgage servicing transfers, relying solely on a written notice is risky. Using automated communications to alert borrowers to an increase in their monthly payments is inexpensive insurance compared to what it will cost if they go delinquent.

Be compliant, not complacent.

It's clear from the new rules that the CFPB wants servicers to have better and timelier communication with borrowers throughout the servicing process. The key is to be compliant in ways that are also cost effective.

This doesn't mean only doing the minimum required. While mail notification and manual calls may be sufficient in meeting requirements, the cost can be high. More importantly, you run the risk of raising the ire of the CFPB who clearly are sending a message to servicers that they expect them to go "above and beyond" the rules to improve borrower engagement.

Adding automation and leveraging multiple channels in your outreach strategy offers the benefits of reaching more borrowers in a timely manner, reducing inbound calls to relationship managers, and lowering operational costs. Some servicers have even seen improvements in first payment default rates, two-due delinquency, and trial-to-permanent modification conversion rates.

Keeping borrowers better informed will also go a long way toward improving their satisfaction, something that they may well consider the next time they are in the market for a mortgage or other financial product.

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