REAL ESTATE SETTLEMENT PROCEDURES ACT

(REGULATION X)

REVIEW CONSIDERATIONS

Review Considerations

Review Area	Requirements / Recommendations
Policy/Procedures	Adopt policy and comprehensive procedures for implementing RESPA and Regulation X, including an explanation of the coverage of the regulation, exemptions, disclosure requirements, Section 8 prohibitions, and other relevant requirements.
Coverage	RESPA applies to "federally-related mortgage loans," which includes, for example, any loan: • Made by a lender that is regulated by, or whose deposits are insured by, the Federal government; • Secured by a first or subordinate lien on residential real property (including a refinance of such a loan); • Secured by property designed principally for occupancy of from one to four families; and • Located in a state. Note: An installment sales contract, land contract or contract for deed may also constitute a federally related mortgage loan. Exemptions: • Loan secured by 25 acres or more (even if it has a residential structure); • Business purpose loans (excluding loans to persons involving residential rental property); • Temporary financing such as construction loans without permanent end financing or not

	involving the transfer of title to land (note exceptions); • Bridge loans or swing loans; • Loan secured by vacant land unless a structure is constructed or placed on the property using loan proceeds; • Assumptions without lender approval; • Conversion of a federally related mortgage loan to different terms where no new note required; and • Secondary market transactions (not including "table funded" transactions).
Special Information Booklet	Provide loan applicants with the HUD Special Information Booklet describing the nature and costs of settlement services. Note: If a borrower uses a mortgage broker, the mortgage broker must provide the booklet and the lender need not do so. In the case of open end credit plan (home equity lines of credit) subject to Regulation Z, a lender can provide brochure entitled "When Your Home is on the Line: What You Should Know About Home Equity Lines of Credit" instead of the booklet. No booklet required for: 1. Refinancing transactions; 2. Closed-end subordinate lien loans; 3. Reverse mortgages; and 4. Any other mortgage loan not involving a 1-4 family residential purchase.
Good Faith Estimate	Provide loan applicants with Good Faith Estimate (GFE) of the amount or range of charges for the specific settlement services the borrower is likely to incur in connection with the settlement. This

	document should be prepared in accordance with the regulatory requirements. If lender requires use of a particular provider of a settlement service and requires borrower to pay any portion of the costs, the GFE must provide additional information as provided in the regulation. Mortgage brokers and dealer loans: • If mortgage broker is not an exclusive agent of lender, broker provides GFE and lender verifies compliance. • If broker is an exclusive agent, either lender or broker may provide GFE. • In the case of dealer loans, lender must provide GFE, either directly or by the dealer. For open-end lines of credit (home equity plans) covered under Regulation Z, no GFE need be given if disclosures required by 12 C.F.R. §226.5b are provided to borrower.
Affiliated Business Arrangement	In the case of "affiliated business arrangements," the person making the referral must provide a written disclosure to each person whose business is referred at the time of referral or the time of application (if the lender requires use of a particular provider). This disclosure must be provided on a separate sheet of paper. The disclosure is designed to (i) specify the relationship between the parties giving and receiving the referral and (ii) describe the estimated charges generally made by the provider of settlement services. An "affiliated business arrangement" is an arrangement in which: (1) a person who is in a position to refer settlement business has either an affiliate relationship with or an ownership interest of more than one percent in a provider of settlement services and (2) such person refers business to that provider or affirmatively influences the selection of that provider.

Directing Use of Title Company	If a lender holds legal title to property being sold, the lender as seller may not directly or indirectly require the borrower to purchase title insurance from any particular title company as condition for selling the property.
HUD-1 / HUD-1A Settlement Statement	A HUD-1 or HUD-1A (if no seller involved) Settlement Statement must be used in every settlement involving a federally-related mortgage loan, itemizing all charges imposed on borrower and seller by the lender. The HUD-1 or HUD-1A must be completed in accordance with the instructions set forth in Appendix A of Regulation X. The HUD-1 or HUD-1A is not required for open-end lines of credit (home equity plans) covered by the Truth in Lending Act and Regulation Z.
Escrow Accounts	When a borrower is required to make payments into an escrow account to pay taxes, insurance premiums, or other charges with respect to a federally related mortgage loan, the lender must: • Provide an Initial Escrow Statement (may be included in HUD-1 or HUD-1A). (See §3500.17(g) and (h) for required information and format.) • Provide an Annual Escrow Statement. (See §3500.17(i) and (j) for required information and format.) • Follow limits on amounts which may be required to be paid into escrow. • Conduct escrow account analysis at closing and end of computation year to determine payments into escrow. • Shortages/Deficiencies/Surpluses a. If escrow analysis reveals a shortage or a deficiency, choose one of options provided in §3500.17(f). b. Notify borrower at least annually of

	shortage or deficiency in the escrow account. The notice may be part of the annual escrow account statement or it may be a separate document. c. If escrow analysis reveals surplus, provide refund to borrower. • Ensure that all payments from escrow accounts are made in a timely manner. • Adhere to aggregate accounting method (except "pre-rule accounts"). Note that §3500.17 sets out detailed requirements for establishing and maintaining escrow accounts, including acceptable accounting methods that may be utilized.
Servicing Disclosure Statement	Provide loan applicants with a Servicing Disclosure Statement which explains the process of transferring servicing rights in the form described in §3500.21. Obtain signed acknowledgment of the applicant.
Servicing Transfer Notice	If servicing is assigned, sold or transferred, both the transferor and transferee servicers must provide either separate notices or a combined notice of the transfer to the borrower in the manner set forth in the regulation. An extended notice period is allowed where the transfer of servicing is preceded by: a. Termination of the loan servicing contract for cause; b. Commencement of proceedings for bankruptcy of the servicer; or c. NCUA proceedings for conservatorship or receivership of the servicer. Special provisions apply in connection with the transfer of servicing, relating to: 1. Treatment of loan payments during transfer period;

	2. Handling of borrower inquiries (if inquiry is a "qualified written request"); and 3. Protection of credit rating.
Kickbacks and Unearned Fees	Ensure that the prohibition against kickbacks and unearned fees with regard to settlement services is accurately reflected in the policy statement and is adhered to by all personnel involved in the origination and/or processing federally-related mortgage loans. • No referral fees. • No splitting charges except for actual services performed.(See §3500.14) Note regulatory exemptions for: 1. Fees, salaries, or other consideration as described in the regulation. 2. "Affiliated Business Arrangements" (defined in Section 3 of RESPA) if three specific conditions are met: (i) Separate written disclosure using the format in Appendix D specifying the nature of the relationship and estimating charges for the referral; (ii) No requirement to use any particular provider (except that a lender may chose the attorney, credit reporting agency, and/or real estate appraiser); (iii) The only thing of value received other than payments for services actually rendered is a return on an ownership or franchise relationship. (See §3500.15)
No Fee	No fee can be charged by a lender for preparing the HUD-1 or HUD-1A Settlement Statement, escrow account statements, or required Truth-in-Lending disclosures.
Record Retention	Retain copy of completed HUD-1 or HUD-1A and related documents. Retain documents provided pursuant to §3500.14

	(Prohibition Against Kickbacks and unearned Fees). Retain documents provided pursuant to §3500.15 (Affiliated Business Arrangements). Retain records reflecting the handling of each borrower's escrow account. Retain the applicant's acknowledgment of the Servicing Disclosure Statement as part of the loan file for every settled loan. Although not specified in the regulation, maintenance of other notices and disclosures such as the Servicing Transfer Notice and the Good Faith Estimate is recommended.
Training	Provide training to employees involved in the origination or processing of federally related mortgage loans or whose duties are otherwise impacted by the requirements of RESPA and Regulation X.
Updating	Update policies, procedures, disclosures, and notices as necessary to reflect changes in the regulation or changes in equipment or internal operations/processes as appropriate. Ensure effective communication and distribution of updated notices and disclosures.
Internal Review	Conduct an internal review at least annually to assess compliance with the regulation and conformity of an institution's practices with its policies and procedures.