

Making the Most of NOEs and RFIs

A. Requests for Information are No Longer Limited to Servicing of Loan

1. A servicer is required to respond to any written request for information from a borrower that “states the information the borrower is requesting with respect to the borrower’s mortgage loan.” Reg. X, 12 C.F.R. § 1024.36(a).
2. Unlike the earlier regulation that applied to qualified written requests, the scope of an information request under § 1024.36 is not limited to information that is “related to the servicing” of the loan. *See* Section-by-Section Analysis, § 1024.36(f)(1)(iv), 78 Fed. Reg. 10,761 (Feb. 14, 2013) (“the final rule . . . does not limit information requests to those related to servicing”).
3. Rather, requests are valid if they seek any information concerning the borrower’s mortgage loan. Thus, the question as to whether the borrower has sent a valid information request no longer turns on the narrow definition of “servicing” found in RESPA that focuses on the receipt of payments from the borrower. Requests are valid even if the mortgage loan is in default and the servicer is not “receiving” payments from the borrower.
4. Prior court decisions that had found certain requests to be ineffective because of this definition are effectively abrogated by § 1024.36. But servicers continue to argue this point, so advocates must instruct courts about the law change. *See, e.g.,* Smallwood v. Bank of Am., N.A., 2015 WL 7736876 (S.D. Ohio Dec. 1, 2015) (in case involving several requests for information sent after Jan. 10, 2014, court erroneously concluded that requests must relate to loan servicing and held that inquiries relating to loan modification were not valid qualified written requests).

B. Getting the Servicing File

1. In promulgating the final 2013 RESPA Servicing Rule, the CFPB refused to adopt a per se rule that such requests would be invalid. Rather, the CFPB concluded that, if a borrower requests a servicing file, the servicer shall provide the borrower with a copy of the information contained in the file subject only to the limitations set forth in Regulation X section 1024.36(f) that deal with duplicative, overbroad, or unduly burdensome requests. *See* Wilson v. Bank of Am., 48 F. Supp. 3d 787 (E.D. Pa. 2014) (refusing to dismiss RESPA claim based on the servicer’s contention that a request for information seeking copies of the servicing logs related to contacts between plaintiff and employees/representatives of the servicer, audio files of telephone calls with plaintiff, and documents submitted by plaintiff in support of her request for loan modification was overbroad, unduly burdensome, and sought duplicative, confidential, proprietary, privileged, or irrelevant information).
2. What constitutes the “servicing file” that the borrower may obtain through a request for information is addressed in the general servicing requirements of Regulation X, at section

1024.38. Reg. X, 12 C.F.R. § 1024.38(c)(2) requires the servicer to maintain the following documents and data on each mortgage loan account it services in a manner that facilitates compiling such documents and data into a servicing file within five days:

- a schedule of all transactions credited or debited to the mortgage loan account, including any escrow account and any suspense account;
 - a copy of the security instrument that establishes the lien securing the mortgage loan;
 - any notes created by servicer personnel reflecting communications with the borrower about the mortgage loan account;
 - a report of the data fields relating to the borrower's mortgage loan account, to the extent applicable, created by the servicer's electronic servicing systems; and
 - copies of any information or documents provided by the borrower to the servicer in accordance with the notices of error procedures under section 1024.35 or the loss mitigation procedures under section 1024.41.
3. Since the schedule of all transactions provision refers to "all" transactions and no time limitation is placed on the reporting period, this would appear to require production of a life-of-loan payment history. *But see* Russell v. Nationstar Mortgage, LLC, 2015 WL 5819663 (S.D. Fla. Oct. 6, 2015) (in case involving pre-2014 requests for information, court accepted without explanation servicer's response that life-of-loan payment history was not available).
 4. Investor and GSE guidelines may require that servicers retain other documents in a borrowers' servicing file. *See, e.g.*, Fannie Mae Servicing Guide Announcement SVC-2014-04, Feb. 26, 2014 ("The servicer must retain in the mortgage loan servicing file all supporting documentation for all expense reimbursement claims (for example, vendor invoices and third-party invoices from the vendor rendering services), in addition to other servicing and liquidation information such as property inspection reports, copies of delinquency repayment plans, copies of disclosures of ARM interest rate and payment changes, documents related to insurance loss settlements, and foreclosure records, as stated in the Servicing Guide.").

C. Using RFI to Confirm that Application is Complete

1. In cases decided before the 2013 amendments to Regulation X became effective, some courts had held that a request for information about a loan modification application is not related to servicing of the loan and is therefore not a valid qualified written request.
2. Such requests are now covered under Regulation X § 1024.36 and are clearly permissible. *Wilson v. Bank of Am.*, 48 F. Supp. 3d 787 (E.D. Pa. 2014).

3. A request about whether a loan application is complete is an appropriate use of the request for information procedure. *Norris v. Bayview Loan Servicing, LLC*, 2015 WL 6745048 (C.D. Cal. Oct. 26, 2015).

D. Using RFI to Get Information about Loss Mitigation Options

1. As HAMP winds down, a significant concern is that servicers will not inform borrowers of loss mitigation options that replace it, particularly with respect to the availability and eligibility requirements for proprietary options. A request for information may be used to compel the servicer to provide such information.
2. Requests for information are valid if they seek any information concerning the borrower's mortgage loan, including information about available loss mitigation options to avoid default or foreclosure.
3. The general servicing requirements in section 1024.38, though not directly enforceable by a private right of action, make clear that servicers have an obligation to provide information about loss mitigation to borrowers. The regulation provides that a servicer shall have policies and procedures reasonably designed to ensure that the servicer can:
 - a. Provide accurate information regarding loss mitigation options available to a borrower from the owner or assignee of the borrower's mortgage loan; and
 - b. Identify with specificity all loss mitigation options for which borrowers may be eligible pursuant to any requirements established by an owner or assignee of the borrower's mortgage loan. Reg. X, 12 C.F.R. § 1024.38(b)(2).
4. In discussing the borrowers' right to assert a notice of error for a servicer's failure to provide accurate information to a borrower with respect to available loss mitigation options, the CFPB stated that "it is critical for borrowers to have information regarding available loss mitigation options," and that that this access should include "accurate information about the loss mitigation options available to the borrower, the requirements for receiving an evaluation for any such loss mitigation option, and the applicable timelines relating to both the evaluation of the borrower for the loss mitigation options and any potential foreclosure process." See Section-by-Section Analysis, § 1024.35(b)(7), 78 Fed. Reg. 10,742 (Feb. 14, 2013). The CFPB also noted that servicers are typically required to provide borrowers with information about loss mitigation options and foreclosure under the National Mortgage Settlement and servicer participation agreements with the Department of the Treasury, HUD, Fannie Mae, and Freddie Mac, and that "providing such information to borrowers is a standard servicer duty." *Id.*

E. Using NOE and RFI When Servicer Fails to Give Reason for Denial of Loan Modification

1. The servicer has an obligation after evaluating a loss mitigation application to give the borrower written notice of its decision to deny any trial or permanent loan modification available to the borrower. Reg. X, 12 C.F.R. § 1024.41(d).
2. The servicer must give the borrower notice in writing of the servicer's decision on the borrower's eligibility for all trial or permanent loan modification options available to the borrower. Reg. X, 12 C.F.R. §§ 1024.41(c)(1)(ii), 1024.41(d). This written denial portion of the section 1024.41(c)(1)(ii) evaluation notice must state the specific reasons for the servicer's denial of any modification option and, if applicable, that the borrower was not evaluated on other criteria. *Id.*
3. If a reason for denial was a requirement set by an owner or assignee of the loan, the notice must identify the owner or assignee and the specific requirement that was the basis for the denial. *See* Official Interpretations to Reg. X, ¶ 41(d)(1)-1. A mere statement that a loan modification option is denied based on an investor requirement, without additional information specifically identifying the relevant investor or guarantor and the specific applicable requirement, is insufficient. *Id.*
4. If the servicer denies any loan modification option because of a net present value calculation, the notice must state this reason and include the inputs used for the calculation. *See* Official Interpretations to Reg. X, ¶ 41(d)-2.
5. A letter requesting information related to the status of a loan modification application has been treated as a proper request for information. *McClain v. Citimortgage, Inc.*, 2016 WL 269568 (N.D. Ill. Jan. 21, 2016) (applying the pre-2014 requirements); *Wilson v. Bank of Am.*, 48 F. Supp. 3d 787 (E.D. Pa. 2014); *Diamond v. One West Bank*, 2010 WL 1742536 (D. Ariz. Apr. 29, 2010) (applying the pre-2014 requirements).
6. For purposes of a notice of error, section 1024.35(b) lists as a covered error the failure to "provide accurate information to a borrower regarding loss mitigation options and foreclosure, as required by 12 C.F.R. § 1024.39."
7. In discussing the borrowers' right to assert a notice of error for a servicer's failure to provide accurate information to a borrower with respect to available loss mitigation options, the CFPB stated that "it is critical for borrowers to have information regarding available loss mitigation options," and that that this access should include "accurate information about the loss mitigation options available to the borrower, the requirements for receiving an evaluation for any such loss mitigation option, and the applicable timelines relating to both the evaluation of the borrower for the loss mitigation options and any potential foreclosure process." *See* Section-by-Section Analysis, § 1024.35(b)(7), 78 Fed. Reg. 10,742 (Feb. 14, 2013). The CFPB also noted that servicers are typically required to provide borrowers with information about loss mitigation options and foreclosure under the National Mortgage Settlement and servicer participation agreements with the Department of the Treasury, HUD, Fannie Mae, and Freddie Mac, and that "providing such information to borrowers is a standard servicer duty." *Id.*

F. Using NOE to Challenge Denial of Loan Modification

1. In addition to the list of covered errors, Reg. X, 12 C.F.R. § 1024.35(b)(11) provides a catch-all category for “any other error relating to the servicing of a borrower’s mortgage loan.”
2. Based on the addition of this catch-all error provision and the expansion of servicing made by the 2013 amendments to Regulation X, a borrower can assert in a notice of error a servicer’s failure to correctly evaluate a borrower for a loss mitigation option.
3. Although the 2013 amendments to Regulation X focus only on a servicer’s duty to follow standard loss mitigation procedures and do not compel a servicer to offer loan modifications or any particular loss mitigation option, they do establish loss mitigation activities as a standard servicer duty. *See also* CWC Capital Asset Mgmt., L.L.C. v. Chicago Properties, L.L.C., 610 F.3d 497, 500 (7th Cir. 2010) (describing common duties of a servicer of loans in a securitized trust, including “modifying the mortgage to make its terms less onerous to the borrower”).
4. In addition, Congress has specifically stated that the loan modification analysis required by the HAMP program is the standard of the residential mortgage servicing industry under both federal and state law. *See* Helping Families Save Their Homes Act of 2009, Pub. L. No. 111-22, 123 Stat. 1632 (2009) (“The qualified loss mitigation plan guidelines issued by the Secretary of the Treasury under the Emergency Economic Stabilization Act of 2008 shall constitute standard industry practice for purposes of all Federal and State laws”).
5. The CFPB has correctly noted that “any error related to the servicing of a borrower’s mortgage loan also relates to standard servicer duties.” *See* Section-by-Section Analysis, § 1024.35(b)(11), 78 Fed. Reg. 10,744 (Feb. 14, 2013). It would thus seem appropriate for a notice of error to be used by a borrower to seek correction of a servicer’s improper denial of a loan modification application by asserting, for example, that the servicer failed to follow HAMP or GSE guidelines or erroneously applied the net present value test.
6. In discussing its reasoning for not including a servicer’s failure to correctly evaluate a borrower for a loss mitigation option as a specific covered error in section 1024.35(b), the CFPB stated its belief that the “appeals process set forth in § 1024.41(h) provides an effective procedural means for borrowers to address issues relating to a servicer’s evaluation of a borrower for a loan modification program.” *See* Section-by-Section Analysis, § 1024.35(b)(11), 78 Fed. Reg. 10,744 (Feb. 14, 2013). Significantly, though, the CFPB went on to state in this same discussion that it was adding the catch-all provision to the error resolution procedure under section 1024.35(b) so as “to encompass the myriad and diverse types of errors that borrowers may encounter with respect to their mortgage loans.” *Id.* This suggests that an error asserted under section 1024.35(b)(11) for a servicer’s failure to correctly evaluate a borrower for a loss mitigation option is an appropriate remedy available for borrowers.
7. It is also significant that while the CFPB did not include loss mitigation evaluation as a covered error, it also did not exclude it or indicate that it was a “noncovered error.” Although section 1024.35 includes express exclusions and limitations on the use of error notices, nothing in section 1024.35 or its commentary prohibits a borrower from asserting an error

under the catch-all provision in section 1024.35(b)(11) based on a servicer's failure to correctly evaluate a loss mitigation application. In fact, RESPA itself requires servicers, through amendments made by the Dodd-Frank Act, to take timely action to correct errors relating to "avoiding foreclosure," suggesting that borrowers should be able to assert under RESPA errors related to loss mitigation. 12 U.S.C. § 2605(k)(1)(C).

G. Using NOE to Assert Claims Unavailable under State Law

1. A notice of error or request for information is not valid if it was delivered to the servicer more than one year after either (1) "servicing for the mortgage loan . . . was transferred from the servicer receiving the [notice of error or request for information] to a transferee servicer," or (2) "the mortgage loan is discharged." Reg. X, 12 C.F.R. §§ 1024.35(g)(1)(iii), 1024.36(f)(1)(v).
2. Although an action seeking remedies for a RESPA servicing violation must be brought within three years of the violation, there is no time limitation under RESPA for when a notice of error may be sent, other than the one-year period following a transfer of servicing or loan discharge.
3. Thus, a notice of error can be used to seek correction of an account error occurring years earlier, perhaps by a prior servicer, even when other possible claims related to the error or violation could not be brought because of the expiration of the statute of limitations for those claims.
4. For example, if a servicer fails to correct an overcharge on an escrow account that occurred eight years earlier after receiving a notice of error, the borrower may pursue a claim based on the violation of RESPA section 2605(e) and Regulation X section 1024.35(e), even though a breach of contract or UDAP claim could not be brought based on the applicable state statute of limitations.
5. One court has relied upon the CFPB's explanation of the one-year limitation in holding that that a foreclosure judgment and sale does not eliminate the servicer's obligation to respond to a request sent within one year of the sale and transfer of the property. The court held that "RESPA obligations did not end with the merger of Plaintiff's mortgage with the final judgment entered in Plaintiff's foreclosure case." *Zaychick v. Bank of Am.*, 2015 WL 4538813, at *2 (S.D. Fla. July 27, 2015).

H. Send Follow-Up RFI/NOE to Establish Actual Damages

1. In pleading actual damages, it is not enough to allege simply that charges were incurred by the plaintiff. The plaintiff must show a causal connection between the actual damages and the RESPA violation. Actual damages for a section 2605 violation should include all of the homeowner's economic injuries that directly flow from the servicer's failure to respond to the notice of error or request for information, make appropriate corrections to the account, evaluate a borrower's loss mitigation application for all available options,

suspend foreclosure proceedings while a loss mitigation application is being evaluated, or otherwise comply with the Act's requirements.

2. This can include expenses that become actual damages due to the servicer's failure to adequately respond, even if incurred before the failure to respond. *Renfro v. Nationstar Mortgage, LLC*, 2016 WL 2754461, at *5 (11th Cir. May 12, 2016) (rejecting servicer's argument that there was no causal connection between plaintiff's damages and the RESPA violation where the damages occurred before the notice of error was sent, noting that the "statutory mechanism makes past errors current by requiring servicers to fix errors they find upon reasonable investigation, including by issuing refunds as necessary"); *Marais v. Chase Home Fin. L.L.C.*, 736 F.3d 711, 721 (6th Cir. 2013) (remanding matter with instructions to district court to consider plaintiff's argument that "those costs [of the qualified written request] were for naught due to defendant's deficient response, i.e., her QWR expenses became actual damages when [the defendant] ignored its statutory duties to adequately respond."); *McMillen v. Resurgent Capital Servs., L.P.*, 2014 WL 3341337, at *3 (S.D. Ohio July 8, 2014) ("Therefore, where the borrower incurs costs as the result of submitting a QWR but effectively receives no benefit, due to a servicer's non-trivial violation of 12 U.S.C. § 2605(e)(2), those costs may become 'actual damages.'").
3. However, some courts hold that costs to prepare a notice of error or request for information cannot be recovered if the servicer fails to properly respond, because the RESPA violation in that situation does not occur until after the notice or request is sent. *Giordano v. MGC Mortgage, Inc.*, 2016 WL 627344 (D.N.J. Feb. 16, 2016) (pre-violation letter preparation costs are not actual damages under RESPA because not incurred as a result of the violation); *Tsakanikas v. JP Morgan Chase Bank*, 2012 WL 6042836 (S.D. Ohio Dec. 4, 2012) (costs incurred by plaintiffs in preparing and sending the request are not recoverable, because they were incurred before the alleged RESPA violation).
4. To avoid this result, a follow-up notice or request can be sent to the servicer, pointing out the failure to comply, and requesting that the servicer comply with the prior requests.
5. This may include attorney fees as actual damages. Based on the language in section 2605(f) which provides for an award of costs and attorney fees "in addition to" actual damages, some courts have held that the costs of bringing a RESPA action under section 2605 do not constitute actual damages. However, attorney fees incurred in taking other action that would have been unnecessary if the servicer had complied with RESPA, such as the need to defend a foreclosure action that the servicer should not have initiated or continued if it had properly investigated the borrower's notice of error, are recoverable. *Hammer v. Residential Credit Sols., Inc.*, 2015 WL 7776807 (N.D. Ill. Dec. 3, 2015) (borrower would not have had to incur attorney fees if servicer had properly investigated the borrower's QWR and dismissed the second foreclosure proceeding).

I. Dealing with Boilerplate and Nonresponsive Responses

1. Section 2605(e) requires that servicers take affirmative action to investigate and correct a

servicing error if an account dispute is asserted in a qualified written request or notice of error.

2. However, servicers often argue that section 2605(e) is not violated if, in response to a notice of error contained in a notice of error, the servicer simply provides the borrower with a written explanation as to why it believes the account is correct, even though the account is in fact incorrect. *Starkey v. JP Morgan Chase Bank*, 2013 WL 6669268, at *4 (S.D. Ohio Dec. 18, 2013) (no “substantive duty” under RESPA to correct an account error when the servicer explains its “reasonable belief that its position is correct”).
3. Before January 10, 2014, servicers were required to conduct an “investigation” before sending a response. Courts concluded that compliance with section 2605(e) was not met either when the servicer has failed to conduct an investigation (or the response does not respond to the specific inquiry) or when the servicer should have discovered the error through reasonable investigation and made an appropriate correction. *Burdick v. Bank of Am.*, 2015 WL 4555239, at *5 (S.D. Fla. July 28, 2015) (servicer’s response to notice of error asserting that notice was not “timely and must be made within the context of [his] bankruptcy” was not a sufficient “written explanation or clarification” of the issues in dispute); *Marais v. Chase Home Fin., L.L.C.*, 24 F. Supp. 3d 712 (S.D. Ohio 2014) (servicer did not conduct an investigation when it simply stamped the request as received, verified the loan number, and sent a form letter to the borrower enclosing copies of documents it pulled from its online system); *Kesten v. Ocwen Loan Serv., L.L.C.*, 2012 WL 426933 (N.D. Ill. Feb. 9, 2012) (“perfunctory response” which did not contain an explanation or clarification as to why the borrowers’ request for an interest overcharge refund could not be processed was not a sufficient statement of reasons for servicer’s actions); *Holland v. GMAC Mortg. Corp.*, 2006 WL 1133224 (D. Kan. Apr. 26, 2006).
4. The servicer’s “subjective belief” that it has properly responded is immaterial. *Holland v. GMAC Mortg. Corp.*, 2006 WL 1133224, at *9 (D. Kan. Apr. 26, 2006) (“defendant did not cite, nor could the court locate, authority supporting the proposition that defendant’s subjective belief is the appropriate standard to apply”).
5. The 2013 amendments to Regulation X strengthen the view that an objective standard should apply, by requiring that a servicer conduct a “reasonable” investigation. Reg. X, 12 C.F.R. § 1024.35(e)(1)(i)(B). For notices of error sent after January 10, 2014, it is no longer sufficient for the servicer to merely conduct some investigation, the servicer’s investigation must be reasonable. *Wilson v. Bank of Am.*, 48 F. Supp. 3d 787, 804 (E.D. Pa. 2014) (“The addition of the word ‘reasonable’ seemingly imposes a substantive obligation that is not satisfied by the mere procedural completion of some investigation followed by a written statement of reasons.”).
6. A response letter that fails to provide an explanation of the servicer’s determination does not comply with Regulation X section 1024.35(e)(1)(i)(B), and it also implies that the servicer did not conduct a reasonable investigation. *Renfroe v. Nationstar Mortgage, LLC*, 2016 WL 2754461, at *3-4 (11th Cir. May 12, 2016) (servicer’s response letter did not contain specific factual details or an explanation of its determination, and simply stated: “[T]he above-mentioned loan and related documents were reviewed and found to comply with all state and federal guidelines that regulate them.... [W]e did review the account, and all transactions appear to be correct from our records review.”).

7. For requests for information, a servicer must conduct a “reasonable search for the requested information” before concluding that information requested is not available. 12 C.F.R. § 1024.36(d)(1)(ii). This amendment to Regulation X reflects a substantive change in the response requirement imposed on servicers. For requests for information sent after January 10, 2014, a servicer may not conduct simply an “investigation” for the information as provided in RESPA section 2605(e)(2)(C), it must conduct “a reasonable search for the requested information.” *Wilson v. Bank of Am.*, 48 F. Supp. 3d 787, 806 (E.D. Pa. 2014) (noting that the 2013 amendment to Regulation X changed servicers’ response obligations for requests for information).
8. RESPA does not require the borrower to seek clarification of the servicer’s response if the explanation is unclear or inadequate. *Anderson v. Barclays Capital Real Estate, Inc.*, 2010 WL 2541807 (N.D. Ohio June 18, 2010).
9. If the servicer provides multiple responses that are contradictory, this calls into question the service’s conclusion that no error occurred or that the investigation was reasonable. *Guccione v. JPMorgan Chase Bank*, 2015 WL 1968114 (N.D. Cal. May 1, 2015) (servicer’s response that there was no error with escrow account contradicted by three documents sent to the borrowers each stating that a different escrow amount was owed); *Wilson v. Bank of Am.*, 48 F. Supp. 3d 787 (E.D. Pa. 2014) (plaintiff sufficiently alleged that servicer did not conduct a reasonable investigation of her notices of error where the servicer sent her responses with contradictory explanations for why she was not given a permanent loan modification).
10. In addition, a response from the service that comes as a form letter or template, and contains boilerplate language that is not responsive to the specific notice of error or request for information, suggests that a reasonable investigation was not conducted. *Lage v. Ocwen Loan Servicing LLC*, 2015 WL 7294854, at *13 (S.D. Fla. Nov. 19, 2015) (“The sending of a template or form letter which fails to substantively address concerns raised by the borrower's inquiry does not satisfy the servicer's obligations under Regulation X's error resolution procedures.”); *Marais v. Chase Home Fin., LLC*, 24 F.Supp.3d 712, 723–24 (S.D. Ohio 2014) (“form letter with no individualized features” did not satisfy servicer's duty under § 2605).
11. A borrower may request copies of the documents and information relied upon by the servicer in making a determination that no error occurred. If the request is made, the servicer must provide, at no charge, the documents and information within fifteen business days of receiving the borrower’s request for such documents. Reg. X, 12 C.F.R. § 1024.36(e)(4).

Sample Requests for Information and Notices of Error

The following are sample “requests for information” and “notices of error.” The Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. § 2605(e), provides a procedure and a remedy

for borrowers to obtain information from a loan servicer about their mortgage loan and to dispute account errors, by sending a “qualified written request.” RESPA regulations effective on January 10, 2014, refer to qualified written requests as a “request for information” and a “notice of error.” Reg. X, 12 C.F.R. §§ 1024.35, § 1024.36 (effective Jan. 10, 2014). Although there are separate procedures that apply to each of these forms of written inquiry, both a notice of error and a request for information can be combined in the same letter.

Advocates should check that the address they use in preparing the sample forms is one given by the servicer for notices of error and requests for information, and not assume that the address used by the client to send monthly payments is the proper designated address.¹ If the notice or request is sent by an attorney on behalf of a client, it should include a written authorization from the client.² Appropriate alterations based on the client’s situation must be made before sending the following sample notices.³ To avoid a servicer response that a request for information is overbroad or burdensome, only those specific request items that are applicable to your client and needed to assist in representing the client should be included.⁴

1. Sample Notice of Error and Request for Information Under RESPA for Use by Consumers

This sample request for information and notice of error is designed for use directly by consumer borrowers.

Joe & Sally Consumer

[address]

[date]

¹ Borrower written inquiries (including notices of error) under RESPA must be sent to the “designated” address for receipt and processing of such inquiries, if the servicer has properly designated such an address. See Reg. X, 12 C.F.R. § 1024.35(c). The servicer’s website should be checked for the designated address.

² A servicer is required to respond to a notice of error or request for information that is sent by the borrower or the borrower’s agent. 12 U.S.C. § 2605(e)(1)(A). However, a servicer may require that the borrower or agent provide documentation, such as an authorization, that the agent has authority to act on the borrower’s behalf. See Official Bureau Interpretation, Supp. 1 to Part 1024, ¶¶ 35(a)-1, 36(a)-1 (effective Jan. 10, 2014).

³ No response is required by a servicer to a request for information that is irrelevant, which the regulation describes as information requested that is not directly related to the borrower’s mortgage loan account. See 12 C.F.R. § 1026.36(f)(1)(iii).

⁴ A servicer is not required to comply with a request for information if the servicer reasonably determines that it is overbroad or burdensome. See 12 C.F.R. § 1026.36(f)(1)(iv).

[mortgage co. or servicer]
[address]

Attn: Borrower Inquiry Department

Re: [acct. no.]

Joe and Sally Consumer
[address]

Dear Sir or Madam:

[Mortgage co. or servicer] is the servicer of our mortgage loan at the above address. We dispute the amount that you claim is owed according to the monthly Mortgage Statement and request that you send us information about the fees, costs, and escrow accounting on our loan. This is a “notice of error” and “request for information” pursuant to the Real Estate Settlement and Procedures Act (section 2605(e)).

Specifically, we are requesting the following information:

1. A complete payment history which lists the dates and amounts of all the payments we have made on the loan to date, and shows how each payment was applied or credited (whether to principal, interest, escrow, suspense, or some other treatment);
2. A breakdown of the amount of claimed arrears or delinquencies on our account, including an itemization of all fees and charges you claim are currently due;
3. An explanation of how the total amount due of [amount] on the monthly Mortgage Statement dated [date] was calculated and an explanation of why this amount was increased to [amount] in the most recent Statement [or foreclosure notice] dated [date];
4. The payment dates, purpose of payment, and recipient of any and all foreclosure fees and costs that have been charged to our account;
5. The payment dates, purpose of payment, and recipient of all escrow items charged to our account since [date mortgage co. or servicer took over the servicing];
6. A breakdown of the current escrow charge showing how it is calculated and the reasons for any increase within the last 24 months;
7. A copy of any annual escrow statements, and notices of a shortage, deficiency, or surplus, sent to us within the last three (3) years; and
8. The current balance in any suspense account as of [date] and the reason why such funds were deposited in the account.

Thank you for taking the time to acknowledge and answer this notice and request as required by the Real Estate Settlement and Procedures Act (section 2605(e)).

Very truly yours,

Joe & Sally Consumer

2. Sample Notice of Error and Request for Information Under RESPA for Use by Attorneys

Appropriate alterations based on your client's situation must be made before sending the following sample notice and request. Only those specific request items that are applicable to your client and needed to assist in representing the client should be included.

[date]

[mortgage co. or servicer]

RE: [name of mortgagor]

[address]

[acct. no.]

To Whom It May Concern:

Please treat this letter as a "notice of error" and "request for information" under the Real Estate Settlement Procedures Act, 12 U.S.C. § 2605(e), and Regulation X, 12 C.F.R. §§ 1024.35, 1024.36. This request is made on behalf of my client, [client], based on her dispute of the amount alleged to be due and owing contained in the [servicer's] notice of default. Specifically, I am requesting a breakdown of the following information:

1. The monthly principal and interest payment, and monthly escrow payment from [date] to [date].
2. The total amount, separately listed and identified, for any unpaid principal, interest, escrow charges, and other charges due and owing as of [date].
3. The total amount paid by [client] on the mortgage account as of the date of the notice of default.
4. A schedule of all transactions credited or debited to the mortgage loan account, including any escrow account and any suspense account. This should include for each payment received from [date] to [date], the amount of the payment, the date received, the date posted to the account, how the payment was applied or credited (indicating the portion, if any, applied or credited to principal, interest, escrow, suspense or other treatment), and the month to which the payment was applied. If interest is calculated using a daily accrual accounting method, indicate for each payment the number of days that lapsed from the prior payment application date.

5. The amount, payment date, purpose, and recipient of all foreclosure expenses, late charges, NSF check charges, appraisal fees, property inspection/preservation fees, force placed insurance charges, legal fees, bankruptcy/proof of claim fees, recoverable corporate advances, and other expenses or costs that have been charged and/or assessed to [client's] mortgage account from [date] to [date].

6. The amount, payment date, purpose, and recipient of all escrow account items, including but not limited to taxes, water and sewer charges, and insurance premiums, charged and/or assessed to [client's] mortgage account from [date] to [date].

7. A breakdown of the current escrow account payment showing how it was calculated and the reasons for any increase or decrease in the months prior to [date]. Indicate the date when the last escrow account analysis was conducted on the mortgage account.

8. The balance in the escrow account as of [date].

9. The balance in any suspense account as of [date] and the reason why such funds were deposited in said account.

10. The current interest rate on [client's] mortgage account.

11. The transaction codes used by [servicer's] electronic servicing system that will assist in understanding the entries for transactions listed in the information provided in response to this request.

12. Any notes created by personnel of [servicer] reflecting communications with my clients about your claim that the account is in default and my clients' request for loss mitigation assistance.

To the extent that [servicer] has charged to the [client's] mortgage account any late fees, appraisal fees, broker price opinion fees, property inspection/preservation fees, legal fees, recoverable corporate advances, and other fees or costs in connection with the notice of default and [servicer's] claim that the account is in default, [client] disputes such fees and costs and specifically requests that the account be corrected to delete such fees and costs.

Finally, please indicate the date when you began servicing [client's] mortgage account, and if you acquired the servicing rights in this mortgage account following a transfer of servicing from another servicer, state the name of the prior servicer and the effective date of the transfer of servicing to [servicer].

Thank you for taking the time to acknowledge and answer this request as required by the Real Estate Settlement Procedures Act (§ 2605(e)).

Very truly yours,

Attorney for Debtor

Authorization to Release Information

[mortgage co. or servicer]

RE: [names of borrowers]

[acct. no.]

[property address]

To Whom It May Concern:

We are represented by the law office of [name of firm] and attorney [name of attorney] concerning the mortgage on our home located at [address]. We hereby authorize you to release any and all information concerning our mortgage loan account to the law office of [name of firm] and attorney [name of attorney] at their request. We also authorize you to discuss our case with the law office of [name of firm] and attorney [name of attorney].

Thank you for your cooperation.

Very truly yours,

[borrowers]

3. Sample Notice of Error and Request for Information Under RESPA for a Client Who Has Filed for Bankruptcy

Appropriate alterations based on your client's situation must be made before sending the following sample notice and request. Only those specific request items that are applicable to your client and needed to assist in representing the client should be included.

[date]

[mortgage co. or servicer]

RE: [debtor]

[address]

[SSN]

[bankr. no.]

[file date]

[acct. no.]

To Whom It May Concern:

Please treat this letter as a "notice of error" and "request for information" under the Real Estate Settlement Procedures Act, 12 U.S.C. § 2605(e), and Regulation X, 12 C.F.R. §§ 1024.35,

1024.36. This request is made on behalf of my client, [client], based on her dispute of the amount alleged to be due and owing contained in the [servicer's] notice of default and/or proof of claim filed in [client's] Chapter 13 bankruptcy. Specifically, I am requesting the following pre-bankruptcy and post-bankruptcy information:

1. The monthly principal and interest payment, and monthly escrow payment prior to [date of bankr. filing].
2. The monthly principal and interest payment, and monthly escrow payment subsequent to [date of bankr. filing].
3. The total unpaid principal, interest and escrow balances due and owing as of [date of bankr. filing].
4. A schedule of all transactions credited or debited to the mortgage loan account, including any escrow account and any suspense account. This should include for each payment received during the [number of months] prior to [date of bankr. filing], the amount of the payment, the date received, the date posted to the account, how the payment was applied or credited (indicating the portion, if any, applied or credited to principal, interest, escrow or suspense), and the month to which the payment was applied. If interest is calculated using a daily accrual accounting method, indicate for each payment the number of days that lapsed from the prior payment application date.
5. The amount, payment date, purpose, and recipient of all foreclosure expenses, late charges, NSF check charges, appraisal fees, property inspection/preservation fees, force placed insurance charges, legal fees, recoverable corporate advances, and other expenses or costs that have been charged and/or assessed to [client's] mortgage account in the [number of months] prior to [date of bankr. filing].
6. The amount, payment date, purpose, and recipient of all foreclosure expenses, late charges, NSF check charges, appraisal fees, property inspection/preservation fees, force placed insurance charges, legal fees, bankruptcy/proof of claim fees, recoverable corporate advances, and other expenses or costs that have been charged and/or assessed to [client's] mortgage account subsequent to [date of bankr. filing].
7. The amount, payment date, purpose, and recipient of all escrow account items, including but not limited to taxes, water and sewer charges, and insurance premiums, charged and/or assessed to [client's] mortgage account in the [number of months] prior to [date of bankr. filing].
8. A breakdown of the current escrow account payment showing how it was calculated and the reasons for any increase or decrease in the [number of months] prior to [date of bankr. filing].
9. The balance in the escrow account as of [date of bankr. filing].
10. The balance in any suspense account as of [date of bankr. filing] and the reason why such funds were deposited in said account.

11. The current interest rate on [client's] mortgage account.

12. The transaction codes used by [servicer's] electronic servicing system that will assist in understanding the entries for transactions listed in the information provided in response to this request.

13. Any notes created by personnel of [servicer] reflecting communications with my client in the [number of months] prior to [date of bankr. filing].

To the extent that [servicer] has charged to the [client's] mortgage account, subsequent to [date of bankr. filing], any appraisal fees, broker price opinion fees, property inspection/preservation, legal fees, bankruptcy/proof of claim fees, recoverable corporate advances, and other fees or costs that were not disclosed to [client] and approved by the bankruptcy court, [client] disputes such fees and costs and requests that the account be corrected to delete such fees and costs.

Thank you for taking the time to acknowledge and answer this request as required by the Real Estate Settlement Procedures Act (sec. 2605(e)).

Very truly yours,

Attorney for Debtor

Authorization to Release Information

[mortgage co. or servicer]

RE: [name of debtor]

[acct. no.]

[bankr. no.]

[property address]

To Whom It May Concern:

I am represented by the law office of [name of firm] and attorney [name of attorney] concerning the mortgage on my home located at [address] and in my chapter 13 bankruptcy case filed on [date]. I hereby authorize you to release any and all information concerning my mortgage loan account to the law office of [name of firm] and attorney [name of attorney] at their request. I also authorize you to discuss my case with the law office of [name of firm] and attorney [name of attorney].

Thank you for your cooperation.

Very truly yours,

[debtor]

4. Sample Request for Information About a Loss Mitigation Application

The sample form request for information below can be used to seek information about a borrower's request for loss mitigation. Under the Regulation X provision implementing 12 U.S.C. § 2605(e) of the Real Estate Settlement Procedures Act, effective January 10, 2014, a written inquiry that requests information with respect to the borrower's mortgage loan is referred to as "request for information." Appropriate alterations based on your client's situation must be made before sending the following sample notice and request. Only those specific request items that are applicable to your client and needed to assist in representing the client should be included.

[date]

[mortgage servicer]

Attn: Borrower Inquiry Department

RE: [names of borrowers]

[address]

[acct. no.]

To Whom It May Concern:

Please be advised that I represent [borrowers] with respect to the mortgage loan you are servicing on the property located at [address]. My clients have authorized me to send this request on their behalf (see Authorization below). As servicer of my client's mortgage loan, please treat this as a "request for information" pursuant to the Real Estate Settlement Procedures Act, subject to the response period set out in Regulation X, 12 C.F.R. § 1024.36(d)(2)(i)(B). Specifically, I am requesting the following information for the period beginning [when account went into default or some other period] until your receipt of this request (the "applicable period"):

1. Identify and briefly describe all loss mitigation options that were available to my clients from the owner or assignee of my clients' mortgage loan.
2. Provide any notices sent to my clients advising them of the availability of loss mitigation options.
3. For each loss mitigation application you have received from my clients during the applicable period, identify the following:
 - a. the date it was received;
 - b. the date you sent my clients an acknowledgment of receipt of the application;
 - c. the date you determined it was complete; and

d. a description of your evaluation of it, including your determination of which loss mitigation options were or were not offered to my clients.

4. If any loss mitigation application you received from my clients is currently under review and is considered to be incomplete, provide a list of the additional documents and information my clients must submit to make the application complete, as well as any applicable deadline for returning such documents.

5. Identify any other documents or information not under the control of my clients needed to make the application complete.

6. [For loan modification denial based on investor restrictions] If you have determined that a loan modification option is not available to my clients because of a requirement or restriction imposed by the owner or assignee of my clients' mortgage loan, provide the following:

a. a description of the requirement or restriction and the identity of the owner or assignee, including the name of any applicable trusts and trustees;

b. the document, or provision within the document, that contains the requirement or restriction, and information identifying the document sufficient to locate the document if it is publicly available;

c. a description of your actions to seek a waiver of the requirement or restriction;

d. any documents relating to your efforts to seek a waiver of the requirement or restriction, and whether such waiver request was approved or denied;

e. any summary information created or retained by you pertaining to loan modifications available to my clients and investor restrictions applicable to my clients' loan or loans pooled with this loan; and

f. any guidance provided to you by the owner or assignee pertaining to modifications applicable to my clients' loan.

7. [For loan modification denial based on NPV] If you have determined that a loan modification option is not available to my clients because of a net present value calculation, provide:

a. the inputs used for the calculation; and

b. the date the calculation was done.

8. [For loan modification denial based on excessive principal forbearance] If you have determined that a loan modification option is not available to my clients because of excessive principal forbearance, provide the figures used in reaching this determination, including the

current unpaid principal balance, value of the property, gross monthly income, and monthly escrow payment.

9. [For FHA loan modification denial] If you have determined that a loan modification option is not available to my clients, provide the figures and calculations used in reaching this determination, including the gross monthly income, monthly escrow payment, interest arrears, any other fees or charges to be capitalized, current unpaid principal balance, unpaid principal balance as of the date of any previous partial claim, and amount of any previous partial claim.

10. If you have determined that a loan modification option is not available to my clients for any other reason(s), describe in detail the reason(s) for denial and provide documentation of any reason(s) for denial.

11. Provide any notices or documents you sent to my clients in relation to loss mitigation of my clients' loan during the applicable period, including:

a. any notices acknowledging receipt of any loss mitigation application from them and stating whether the application was complete or incomplete;

b. any notices stating the outcome of your evaluation of their application;

c. any proposed written agreement that offered a loss mitigation option to my clients;

d. any written agreement signed by my clients that provided for a loss mitigation option; and

e. any notices stating the outcome of their appeal of your denial of a loan modification option.

12. [If payments made on a loss mitigation option] For any payments made by my clients pursuant to a temporary or permanent loan modification offer, trial period plan, forbearance, or any other loss mitigation offer during the applicable period, describe the following:

a. the date you received each payment;

b. the amount of each payment;

c. a breakdown showing the amount, if any, of each payment that was applied to principal, interest, escrow, fees and charges, and the amount, if any, sent to any suspense or unapplied funds account; and

d. the date, amount, and destination of any payment or amount that was applied from a suspense or unapplied funds account.

13. If you initiated a foreclosure proceeding against my clients during the applicable period, identify or provide the following:

a. the date the matter was referred to your attorney to begin the legal foreclosure process;

b. the date you or your attorney made the first notice or filing to begin the foreclosure process, and a description of the actions taken;

c. [for judicial foreclosure] a listing of any dispositive motions filed and the date filed;

d. any steps taken to schedule the foreclosure sale, and the date those steps were taken;

e. the date of any scheduled or rescheduled foreclosure sale; and

f. any notices sent to my clients about the foreclosure of their mortgage loan.

14. Provide any appraisal, broker's price opinion, automated valuation model analysis, or other assessment of the value of the property securing my clients' mortgage loan that you obtained during the applicable period.

15. Provide any notes or logs created by your personnel reflecting communications with my clients about their request for loss mitigation assistance or about their default on the loan during the applicable period.

Thank you for taking the time to respond to this request for information.

Very truly yours,

[attorney]

Authorization to Release Information

[servicer]

RE: [names of borrowers]

[acct. no.]

[property address]

To Whom It May Concern:

We are represented by the law office of [name of firm] and attorney [name of attorney] concerning the mortgage on our home located at [address]. We hereby authorize you to release any and all information concerning our mortgage loan account to the law office of [name of firm] and attorney [name of attorney] at their request. We also authorize you to discuss our case with the law office of [name of firm] and attorney [name of attorney].

Thank you for your cooperation.

Very truly yours,

[borrowers]

5. Sample Notice of Error Under RESPA for Dual Tracking Violations

The sample form notice of error copied below can be used to challenge and seek correction of violations of the dual tracking restrictions in the Regulation X loss mitigation rule. Under the Regulation X provision implementing 12 U.S.C. § 2605(e) of the Real Estate Settlement Procedures Act, effective January 10, 2014, a written inquiry that asserts an error by the servicer with respect to the servicing of the borrower's mortgage loan is referred to as "notice of error." Appropriate alterations based on your client's situation must be made before sending the following sample notice and request. Only those specific request items that are applicable to your client and needed to assist in representing the client should be included.

[date]

[mortgage servicer]

Attn: Borrower Inquiry Department

RE: [names of borrowers]

[address]

[acct. no.]

To Whom It May Concern:

Please be advised that I represent [borrowers] with respect to the mortgage loan you are servicing on the property located at [address]. My clients have authorized me to send this request on their behalf (see Authorization below). As servicer of my client's mortgage loan, please treat this as a "notice of error" pursuant to the Real Estate Settlement Procedures Act, subject to the response period set out in Regulation X, 12 C.F.R. § 1024.35(e)(3)(i)(B).⁵

⁵ For most notices of error, a servicer must acknowledge the request within five business days of receipt, and respond within 30 business days of receipt. Reg. X, 12 C.F.R. §§ 1024.35(d), 1024.35(e). However, if the borrower or borrower's agent sends a written notice of error that is received by the servicer more than seven days before a scheduled foreclosure sale asserting certain violations of the loss mitigation procedures, either under Regulation X § 1024.35(b)(9) that the servicer initiated a foreclosure before the 120th day of delinquency in violation of Regulation X § 1024.41 (f) or 1024.41(j), or under Regulation X § 1024.35 (b)(10) that the servicer moved for a foreclosure judgment or conducted a foreclosure sale in violation of Regulation X § 1024.41(g) or 1024.41(j), the servicer must respond prior to the date of a foreclosure sale or within thirty business days, whichever is earlier, after the servicer receives the notice of error. If the servicer receives this notice of error more than seven days before a scheduled foreclosure sale, the servicer may have to cancel or postpone the sale in order to comply with the error notice response requirements. Reg. X, 12 C.F.R. §§ 1024.35(e)(3)(i)(B), 1024.35(f)(2); Official Bureau Interpretation, Supp. 1 to Part 1024, ¶ 35(e)(3)(i)(B)-1. If the servicer receives this notice of error seven or less days before a scheduled foreclosure sale, a servicer is not required to comply with the response

[Alternative A—violation of § 1024.41(f)(1)]

You have asserted that my clients' mortgage account became delinquent beginning on [date]. On [date], you initiated a foreclosure proceeding against my clients by [filing a court action, sending a notice of sale, etc.]. This action was taken when my clients' mortgage account was less than 120 days delinquent, in violation of Regulation X, 12 C.F.R. § 1024.41(f)(1) [or Regulation X, 12 C.F.R. § 1024.41(j) if the servicer is a "small servicer"].

To correct this error, you should immediately [cancel the scheduled foreclosure sale and any related legal advertisement of the sale, or dismiss or move to dismiss the foreclosure court action filed against my clients].

[Alternative B—violation of § 1024.41(f)(2)]

In [month/year], my clients submitted to you a complete loss mitigation application. This complete application was received by you [during the 120-day pre-foreclosure review period provided for under Regulation X, 12 C.F.R. § 1024.41(f)(1) or before you initiated foreclosure by making the first notice or filing]. However, on [date], you initiated a foreclosure proceeding against my clients by [filing a court action, sending a notice of sale, etc.]. This action was taken [even though my clients have not received a notice pursuant to Regulation X, 12 C.F.R. § 1024.41(c)(1)(ii) stating the outcome of your evaluation of their application; or prior to the time my clients' appeals rights expired; or even though my clients have not received a notice pursuant to Regulation X, 12 C.F.R. § 1024.41(h)(4) stating the outcome of their appeal of your denial of a loan modification option; or before my clients had rejected the loss mitigation option you offered them; or even though my clients have not failed to perform under the loss mitigation agreement you entered into with them], in violation of Regulation X, 12 C.F.R. § 1024.41(f)(2).

To correct this error, you should immediately [cancel the scheduled foreclosure sale and any related legal advertisement of the sale, or dismiss or move to dismiss the foreclosure court action filed against my clients].

[Alternative C—violation of § 1024.41(g)]

In [month/year], my clients submitted to you a complete loss mitigation application. This complete application was received by you more than thirty-seven days before the foreclosure sale you scheduled on their home. However, on [date], the law firm representing you in the foreclosure proceeding moved for a foreclosure judgment or order of sale [including making a dispositive motion, such as a motion for default judgment, judgment on the pleadings, or summary judgment]. This action was taken [even though my clients have not received a notice pursuant to Regulation X, 12 C.F.R. § 1024.41(c)(1)(ii) stating the outcome of your evaluation of their application; or prior to the time my clients' appeals rights expired; or even though my

obligations but must make a good faith attempt to respond to the borrower, orally or in writing, and either correct the error or state the reason the servicer has determined that no error has occurred. Reg. X, 12 C.F.R. § 1024.35(f)(2).

clients have not received a notice pursuant to Regulation X, 12 C.F.R. § 1024.41(h)(4) stating the outcome of their appeal of your denial of a loan modification option; or before my clients had rejected the loss mitigation option you offered them; or even though my clients have not failed to perform under the loss mitigation agreement you entered into with them], in violation of Regulation X, 12 C.F.R. § 1024.41(g).

To correct this error, you should immediately instruct the law firm representing you in the foreclosure proceeding to take all necessary actions to avoid the issuance of a foreclosure judgment or order of sale [or vacate any foreclosure judgment or order of sale].⁶

Thank you for taking the time to respond to this notice of error.

Very truly yours,

[attorney]

Authorization to Release Information

[servicer]

RE: [names of borrowers]

[acct. no.]

[property address]

To Whom It May Concern:

We are represented by the law office of [name of firm] and attorney [name of attorney] concerning the mortgage on our home located at [address]. We hereby authorize you to release any and all information concerning our mortgage loan account to the law office of [name of firm] and attorney [name of attorney] at their request. We also authorize you to discuss our case with the law office of [name of firm] and attorney [name of attorney].

Thank you for your cooperation.

Very truly yours,

[borrowers]

6. Sample Request for Information Under RESPA to Obtain Identity of Mortgage Owner

⁶ If a servicer conducts a foreclosure sale in violation of Regulation X, 12 C.F.R. § 1024.41(g), the borrowers have a direct cause of action for violation of the regulation and may pursue remedies available under 12 U.S.C. § 2605(f).

This sample form written request can be used to obtain from a mortgage servicer information about the owner of the borrower's mortgage. This information is particularly useful in determining the proper party in foreclosure proceedings, for exercising rescission rights, for naming the proper party in bankruptcy lien strip off and claim objection proceedings, and for effectuating service of process on the mortgage owner in litigation matters.

[date]

[mortgage servicer]

Attn: Borrower Inquiry Department

RE: [names of borrowers]

[address]

[acct. no.]

To Whom It May Concern:

Please be advised that I represent [borrowers] with respect to the mortgage loan you are servicing on the property located at [address]. My clients have authorized me to send this request on their behalf (see Authorization below). As servicer of my client's mortgage loan, please treat this as a "request for information" pursuant to the Real Estate Settlement Procedures Act, subject to the response period set out in Regulation X, 12 C.F.R. § 1024.36(d)(2)(i)(A),⁷ and a request under § 1641(f)(2) of the Truth in Lending Act.⁸

Please provide the following information:

1. The name of the owner or assignee of my clients' mortgage loan;
2. The address and telephone number for the owner or assignee of my clients' mortgage loan;

⁷ For most requests for information that do not seek information about the mortgage owner, a servicer must acknowledge the request within five business days of receipt, and respond within 30 business days of receipt. Reg. X, 12 C.F.R. § 1024.36(c), 1024.36(d). If the borrower or borrower's agent sends a written request seeking the identity, address or other relevant contact information for the owner or assignee of a mortgage loan, the servicer must respond within ten business days. Reg. X, 12 C.F.R. § 1024.36(d)(2)(i)(A).

⁸ 15 U.S.C. § 1641(f)(2). See also National Consumer Law Center, Truth in Lending § 5.15.11 (8th ed. 2012 and Supp.). The primary advantage to sending a RESPA information request over a TILA request is the fixed ten business day response period, whereas no specific deadline is provided under TILA or Regulation Z. Both provisions are privately enforceable, though the availability of statutory damages is subject to different requirements under the RESPA and TILA remedy provisions. For statutory damages under TILA, the borrower does not need to prove a pattern and practice of noncompliance by the servicer. See National Consumer Law Center, Truth in Lending § 5.15.11.4 (8th ed. 2012 and Supp.).

3. The name, position and address of an officer of the entity that is the owner or assignee of my clients' mortgage loan;⁹ and

4. Any other relevant contact information for the owner or assignee of my clients' mortgage loan.

Thank you for taking the time to respond to this request for information.

Very truly yours,

[attorney]

Authorization to Release Information

[servicer]

RE: [names of borrowers]

[acct. no.]

[property address]

To Whom It May Concern:

We are represented by the law office of [name of firm] and attorney [name of attorney] concerning the mortgage on our home located at [address]. We hereby authorize you to release any and all information concerning our mortgage loan account to the law office of [name of firm] and attorney [name of attorney] at their request. We also authorize you to discuss our case with the law office of [name of firm] and attorney [name of attorney].

Thank you for your cooperation.

Very truly yours,

[borrowers]

⁹ For bankruptcy purposes, this information is useful for complying with Bankruptcy Rule 7004(h).