

## SUBJECT: Compliance Checklist for Manufactured Home Lending

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### INTRODUCTION

This release applies to Wisconsin state and federal credit unions granting closed-end consumer manufactured home and mobile home loans to consumers within the state of Wisconsin. It reviews various lending considerations above and beyond those for vehicle loans. Some, but not all, mortgage-related regulations may apply. When the loan is secured by real estate, review this release for special considerations for mobile home loans. But also see *ii Release No. B053 - Real Estate Mortgage Lending* for additional important requirements if the mobile home is real estate.

A *mobile home* is a similar dwelling that is typically smaller, older, and lacks the certification of construction and safety standards, as compared to a *manufactured home*.

The items in this checklist generally apply to both manufactured homes and mobile homes unless indicated otherwise.

### GENERAL

- ☐ The Department of Housing and Urban Development (HUD) regulations define “manufactured home:”

*Manufactured home* means a structure, transportable in one or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length or which when erected on-site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. This term includes all structures that meet the above requirements except the size requirements and with respect to which the manufacturer voluntarily files a certification pursuant to §3282.13 of this chapter and complies with the construction and safety standards set forth in this part 3280. The term does not include any self-propelled recreational vehicle. \* \* \* \* \*

§ 24 CFR 3280.2

A *mobile home* is a similar dwelling that is typically smaller, older, and lacks the certification of construction and safety standards, as compared to a *manufactured home*.

- ☐ Post the Fair Housing Act poster in all office and branch lobbies. If the credit union is subject to Reg. C, place the HMDA poster in office and branch lobbies. See *ii Release No. 0080*. Also comply with Reg. C (HMDA) rules for collection of data, reporting information, and disclosure of data. See *ii Release No. B017*.
- ☐ Comply with all non-discrimination laws, such as Fair Housing Act, Equal Credit Opportunity Act, Wis. Stats. § 138.20, and Wisconsin Open Housing Law § 101.22. See *ii Releases No. B021 & No. B041*.
- ☐ If the mobile home loan is secured as real estate, then review this release in conjunction with the more detailed *ii Release No. B053 – Real Estate Mortgage Lending*.

If the loan has a variable rate, comply with Wis. Stats. § 138.056 or § 422.421, as applicable, regarding the variable rate clause, notice of rate change, etc. See *ii Releases No. B002 & No. B030*. If the loan is secured by the consumer’s principal dwelling with a term greater than one year, then the Reg. Z ARM application disclosure, CHARM booklet, and rate change notice rules will also apply.

- ☐ If the loan is a home equity line of credit, comply with Reg. Z § 1026.40 home equity loan rules, and supplement this checklist with HELOC disclosures, forms and procedures. Exercise caution if considering accepting a mobile home to secure a HELOC. The League's R.E.A.P. line of credit forms are not intended for use with mobile home loans that are not secured by real estate.
- ☐ Comply with the Fair Housing Act when advertising manufactured and mobile home loans. See *ii Release No. 0124*. If the loan is used to purchase the structure, check the appropriate box in the Truth in Lending disclosure indicating whether a subsequent purchaser of the dwelling may be permitted to assume the remainder of the loan on the original terms. See *ii Release No. B042*.
- ☐ If the structure is a dwelling (regardless of whether it is classified as real estate under state law), comply with Reg. Z's limits loan originator compensation, qualifications and training. For details, see The League's *ii Release No. B071*.
- ☐ If the structure is a dwelling (regardless of whether it is real estate), comply with the SAFE Act. Make the NMLSR ID numbers of the credit union's registered mortgage loan originators (MLOs) available to members "in a manner and method practicable to the credit union." A registered MLO must provide his/her NMLSR ID number to a member:
  - Upon request (either verbally or in writing);
  - Before acting as an MLO (either verbally or in writing); and
  - Through the originator's initial written communication with a member, if any, whether on paper or electronically.

See *ii Release No. B070* for details.

- ☐ For all closed-end, dwelling-secured consumer loans, Reg. Z §1026.36(g) requires a "loan originator organization" to include certain information on the following documents whenever they are provided to a consumer or presented to a consumer for signature: 1) the credit application; 2) the Loan Estimate and Closing Disclosure (required by Reg. Z §1026.19(e) and (f)); 3) the note or loan contract; and 4) the security instrument (such as the mortgage).

The following information must be shown at least once on each of those documents (not necessarily on every page):

- The loan origination organization's name and NMLSR ID number (if the NMLSR has provided the organization with an NMLSR ID number); and
- The name (as the name appears in the NMLSR) and NMLSR ID number (if the NMLSR has provided the person with an NMLSR ID number) of the "individual loan originator" (as defined in Reg. Z) with primary responsibility for the origination. If more than one individual loan originator could be named, list the one with primary responsibility for the transaction at the time the loan document is issued.

See The League's *ii Release No. B071*.

- ☐ If the structure is the borrower's principal dwelling:
  - Determine if the Truth in Lending rules for high-cost mortgages under the Homeownership and Equity Protection Act (HOEPA) apply. If so, provide HOEPA disclosures, certify receipt of homeownership counseling and comply with restrictions. See *ii Release No. B062*.
  - Determine if the Truth in Lending rules for "higher priced mortgage loans" (HPMLs) apply using the calculator at [www.ffiec.gov/ratespread/newcalc.aspx](http://www.ffiec.gov/ratespread/newcalc.aspx). If so, comply with the Reg. Z restrictions on higher-priced loans. See *ii Release No. B068*.

HPML requirements include this:

If the higher-priced loan is secured by a first lien, Reg. Z requires the credit union to establish an escrow account for (real or personal) property taxes, homeowners insurance, and other insurance obligations the credit union requires. Certain "small creditors" are exempt from this requirement.

Mobile homes that are not treated as real estate may be subject to personal property taxes (or a monthly parking municipal permit fee). Mobile home parks may collect those taxes themselves. Even if the park collects the taxes, the credit union would still have to require the homeowner to escrow for them, because the HPML rules do not provide an exception. In these situations, it would be up to the

homeowner to request a refund from the lender. The following appears in *a 2024 Wisconsin Department of Revenue publication*:

Federal Law requires a lending institution to escrow the taxes for a mobile/manufactured home when a lien exists on the home. However, state law (sec. 66.0435(3), Wis. Stats.), requires that the monthly municipal permit fee is paid to the local taxing authority (or to the community operator by ordinance). In these situations, the homeowner is paying the fee (tax) twice, once to the lending institution and once to the local taxing authority or community operator. At the end of the year, the homeowner can show the lending institution that the taxes were already paid, and receive a credit/refund from the lending institution.

The appraisal requirements for HPMLs do not apply to mobile homes “that do not meet HUD’s definition of manufactured home.” The rules do apply to certain manufactured homes. See The League’s *ii Release No. B068* for details.

- ☐ Determine whether the structure is real estate or personal property under state law. The mobile home is taxed as real estate in Wisconsin if all of the following are met:
  - 1. It is set upon a foundation (this is met if wheels are removed and the home is set upon some other support);
  - 2. It is on land owned by the structure’s owner; and
  - 3. It is connected to utilities.
- ☐ If the structure is treated as real estate then review this *ii Release* in conjunction with *ii Release No. B053*. You must comply with all other real estate regulations and laws, including but not limited to:
  - RESPA. See *ii Release No. B014*.
  - IRS Form 1099-S. See *ii Release No. 0130*.
  - Wis. Admin. Code Ch. DFI-CU 54 for state-chartered credit unions. See *ii Release No. B053*.
  - Signature of spouse on mortgage if it is a non-purchase homestead. See *ii Release No. B033*.
  - Wis. Stats. Chapter 428 if amount financed is \$25,000 or less. See *ii Release No. B047*.
  - Wis. Stats. § 138.052. See *ii Release No. B047*.
  - Mortgage payoff and satisfaction laws. See *ii Release No. B078*; WCUL #81063.
  - FCRA – Disclosure of Credit Scores by Mortgage Lenders. See *ii Release No. 0126*.
  - The ability-to-repay/qualified mortgage rule in Reg. Z. See *ii Release No. B074*.
  - The TILA-RESPA Integrated Disclosure Rule, which requires (among other things) a Loan Estimate and a Closing Disclosure. (However, the rule does not apply to loans secured by “chattel” – in other words by personal property, as opposed to real property (i.e., land)). For details, see The League’s *ii Release No. B079*.
- ☐ Determine which state and/or federal rules apply that may require the credit union to give mortgage loan applicants copies of appraisals or valuations (and in some cases, notify them that they have the right to obtain copies). See The League’s *ii Release No. B077*. Credit unions may have to comply with more than one set of rules in this area. See The League’s *ii Release No. B068* for guidance on how the HPML appraisal rules may apply to manufactured housing.
- ☐ If the structure is personal property rather than real estate, obtain the signature of the owner of the real estate on a fixtures disclaimer, such as WBA (UCC) 460.
- ☐ If the loan is subject to RESPA, provide a list of homeownership counseling organizations to the applicants within three business days of application. This requirement applies to most types of closed-end and open-end credit transactions, but applicants for reverse mortgages and loans for time-shares are excluded. Reg. X §1024.20. For details, see The League’s *ii Release No. B014*.

## AT THE TIME OF APPLICATION

- ☐ *Delay charging fees.* Reg. Z § 1026.19(e). See *ii Release No. B079* for details. For loans covered by the TILA-RESPA Integrated Disclosure Rule – virtually all closed-end consumer credit transactions secured by real

property (other than reverse mortgages) – a credit union or other person may not impose any fee (except a bona fide and reasonable fee for obtaining a consumer’s credit) on a consumer in connection with an application for a mortgage until the consumer has received the Loan Estimate and indicated that he/she intends to proceed with the loan. For example, this bars application fees, appraisal fees, underwriting fees, etc. If the Loan Estimate is not provided to the consumer in person, the consumer is presumed to have received it three business days after it is delivered or placed in the mail. This rule applies to email, as well. However, if the credit union has evidence that the consumer received the Loan Estimate earlier, it may rely on that evidence and consider it to be received on that date.

- ☐ *Loan Application.* Be sure application forms comply with Wisconsin law. If the credit union’s loan application used for Wisconsin residents does not include a separately-signed declaration that the credit, if granted, will be incurred in the interest of the marriage or family, then obtain a separate such declaration from an individual married applicant residing in Wisconsin. WCUL #82083 does include the statement. See *ii Release No. B064, Exhibit M.*
- For all dwelling-secured consumer loans, include on the application (at least once):
  - The loan origination organization’s name and NMLSR ID number (if the NMLSR has provided the organization with an NMLSR ID number); and
  - The name (as the name appears in the NMLSR) and NMLSR ID number (if the NMLSR has provided the person with an NMLSR ID number) of the” individual loan originator” (as defined in Reg. Z) with primary responsibility for the origination. If more than one individual loan originator could be named, list the one with primary responsibility for the transaction at the time the loan document is issued.

For details, see The League’s *ii Release No. B071.*

- ☐ Provide the Reg. Z ARM application disclosure and Consumer Handbook on Adjustable Rate Mortgages (“CHARM booklet) at the time an application form is provided or before the consumer pays a nonrefundable fee, whichever is earlier if the loan has a variable rate, is secured by the principal dwelling, and has a term greater than one year. The loan note and this application disclosure must state a lifetime rate cap.
- ☐ *Information for Government Monitoring Purposes.* Under Reg. B, this form must be completed with ethnicity, race, sex, marital status, and age when the loan is primarily for the purchase or refinance of the purchase of the primary residence (incl. a mobile home), where the loan will be secured by the dwelling. Reg. B § 1002.13. See Exhibit A of *ii Release No. B041 - Reg. B – Equal Credit Opportunity* for sample language.

If the credit union is subject to Reg. C, this form must be completed for certain loan applications, preapproval requests, and originations in connection with home purchase loans, home improvement loans, and refinancings.

#### NOTICE

1. If your loan application is denied or the loan is not closed, any application fee or other charge you have paid in connection with the application is:
  - ☐ Partly refundable.
  - ☐ Refundable in full.
  - ☐ Not refundable.
2. The interest rate and fees to be charged in connection with the loan:
  - ☐ Are fixed through the date of the loan closing.
  - ☐ Are not fixed through the date of the loan closing.
3. If checked ☐, we may change the terms of the proposed loan if it is not closed on or before the date we set with you. The specific terms that we reserve the right to change are:
  - ☐ The interest rate,
  - ☐ \_\_\_\_\_.

## WITHIN 3 BUSINESS DAYS OF APPLICATION

- ☐ *WCA or Non-WCA loan forms?* Use Wisconsin Consumer Act forms for loans for a personal, family or household purpose, with an amount financed of \$25,000 (increased to \$50,000 as of Jan. 1, 2027) or less, unless secured by a first mortgage real estate lien (or a second mortgage where the credit union also holds the first). See *ii Release No. B001*.

For other basic home equity mortgage loans, use non-WCA forms. See *ii Release No. B047*.

- ☐ *Determine whether the loan is HOEPA high-cost mortgage loan.* See *ii Release No. B062*.
- ☐ *Determine whether the loan is a Higher-Priced Mortgage Loan.* See *ii Release No. B068*.
- ☐ *Truth in Lending disclosures:*
- See *ii Release No. B079*. For real estate loans covered by the TILA-RESPA Integrated Disclosure Rule – virtually all closed-end consumer credit transactions secured by real property (other than reverse mortgages) – provide a Loan Estimate within three business days of receiving a consumer’s loan application and no later than the seventh business day before consummation of the loan. *Reg. Z* §§1026.19 and 1026.37.
  - If the dwelling is not real estate, then a Truth in Lending disclosure with an Interest Rate and Payment Summary is required to be provided. *Reg Z § 1026.18(s)*.
- ☐ Homeownership counseling list. See *ii Release No. B014* for most federally-related mortgage loans.
- ☐ Notice of right to copy of appraisal. The League’s *ii Release No. B077* has details and includes a chart to help clarify when and how the various regulations apply.
- ☐ Loan Estimate, as required by *Reg. Z* if the loan is secured by real estate.

## UNDERWRITING

- ☐ If not real estate, verify value with the purchase order if the structure is new, or NADA value if used. If real estate, comply with the NCUA appraisal rule and Interagency Guidance on Appraisals and Valuations. FNMA and FMAC offer a Manufactured Home Appraisal Report form. (Note that if the structure is the consumer’s principal dwelling, *Reg. Z* prohibits creditors or mortgage brokers from coercing, influencing, or otherwise encouraging an appraiser to provide a misstated appraisal.) Exemptions from the appraisal rules may apply in certain situations. See The League’s *ii Release No. B008*.
- ☐ If the structure is on a permanent foundation, check flood insurance maps to see whether flood hazard notices and insurance are required. A permanent foundation includes mobile home parks where a structure is connected to utilities. A credit union does not have to obtain a security interest in the underlying real estate in order for the loan to be covered by the requirements of the national flood insurance program. Use the Standard Flood Hazard Determination Form, unless exempt. See *ii Release No. B003* for details.
- ☐ If the property is found to be in a flood hazard area in a participating community, require flood insurance. Flood insurance requirements apply to loans with a security interest in a manufactured or mobile home affixed to a permanent foundation even if the lien is only taken “out of an abundance of caution,” such as in the case of a “tack on mortgage.” See *ii Release No. B003* for details.
- ☐ Require escrow for flood insurance premiums and fees, if required. Under NCUA flood insurance regulations, unless either 1) the credit union qualifies for a “small lender” exemption or 2) a particular loan is exempt, lenders/servicers must escrow premiums and fees for flood insurance for any loan secured by residential improved real estate or a mobile home that is made, increased, extended, or renewed. In some cases, a credit union must notify borrowers on existing loans that they have the option to escrow for flood insurance premiums and fees. The League’s Notice of Special Flood Hazard form (WCUL #82010) can be used to comply with both of these requirements. For details, see *ii Release No. B003*.
- ☐ Determine whether any prior liens are recorded on a Department of Safety and Professional Services (previously Department of Commerce) Certificate of Title, UCC financing statement, or the land (if owned by the structure owner).

- ☐ If the structure is a dwelling, and if the loan is closed-end, then comply with the requirements of the Truth in Lending ability-to-repay / qualified mortgage rule. For details, see *ii Release No. B074*.
  - Make a reasonable, good faith determination before closing that the consumer has a reasonable ability to repay the loan, considering all of the factors the rule requires, and retain evidence of compliance for at least three years after closing.
  - If the credit union intends the loan to be a “qualified mortgage,” then comply with the qualified mortgage requirements summarized in *ii Release No. B074*. There are four types of qualified mortgages, and the requirements vary for each type. Generally, the credit union will need to calculate debt-to-income ratios, keep points and fees within certain caps, and not including certain prohibited features (such as negative amortization and balloon payments (although balloon payments can be allowed for one type of qualified mortgage)).
- ☐ Credit unions that use risk-based pricing must provide a risk-based pricing notice to consumers. The notice must be given before closed-end credit is consummated (i.e., the loan documents are signed) or before the first transaction for open-end credit. In no case should it be given before credit approval is communicated to the consumer. The notice is needed whether the structure is considered personal property or real estate. For details, see The League’s *ii Release No. 0126*, in the section titled, “Guide to the FACT Act.”
- ☐ The credit union need not comply with Department of Defense regulations under the federal Military Lending Act (MLA) on loans secured by a dwelling, including a mobile home loan. The rules apply to almost any consumer lending by a credit union, closed-end or open-end; however, they make exceptions for dwelling-secured loans, whether or not attached to real estate. They also make exceptions for purchase-money loans secured by personal property. For details, see The League’s *ii Release No. B067*.

## CLOSING

- ☐ Before closing a closed-end, dwelling-secured loan that may result in negative amortization to a first-time borrower, the credit union must confirm that the borrower has received homeownership counseling. Reg. Z §1026.36(k). For details, see The League’s *ii Release No. B042*.
- ☐ Truth in Lending disclosures must be provided, depending on whether the structure is real estate or personal property:
  - A TILA-RESPA Closing Disclosure must be provided for most closed-end consumer credit transactions secured by real property. See The League’s *ii Release No. B079* for details.
  - However, the TILA-RESPA Integrated Disclosure Rule does not apply to “chattel” – in other words by personal property, as opposed to real property (i.e., land). Therefore, for closed-end loans secured by a dwelling *other than* real estate, use The League’s #82045 (fixed rate loans) or #82046 (variable rate loans).
- ☐ Comply with all of the applicable state and/or federal rules that require the credit union to provide a copy of an appraisal (and more than one set of rules may apply). For example, Reg. B requires the credit union to share copies of all written valuations (not just appraisals) that it develops in connection with an application for a closed-end loan or open-end line of credit (i.e., HELOC) secured by a first lien on a dwelling. The copies must be shared upon completion or the appraisal or evaluation, or at least three business days before loan closing (for closed-end credit) or account opening (for open-end credit), whichever is earlier. This requirement applies whether credit is extended or denied or the application is incomplete or withdrawn. For details, see The League’s *ii Release No. B077*.
- ☐ Determine whether the credit union is subject to the Home Mortgage Disclosure Act (HMDA) and Reg. C. (See *ii Release No. B017*.) If it is, you must collect certain data and report a variety of information for “covered loans,” meaning closed-end or open-end credit secured by a “dwelling,” whether or not attached to real estate. The credit union must notify applicants that it is requesting information; request that information (or collect it based on visual observation or surname in some cases); record the information and a variety of other data points about the loan on a Loan/Application Register (LAR); and submit the LAR annually by March 1. (In some cases, credit unions are required to submit data quarterly.) (Note: Do not use the Reg. B “Voluntary Information for Government Monitoring Purposes” form, found in *ii Release No. B041* Exhibit A, for compliance with Reg. C, since it does not comply with HMDA. HMDA requires a more extensive data collection form for demographic information of applicant and co-applicant. For information on Reg. B, see The League’s *ii Release No. B041*.) In addition, the credit union must provide notices that its disclosure statement and modified LAR are available on the Consumer

Financial Protection Bureau's website. See *ii Release No. B017* for information on complying with all of the HMDA/Reg. C requirements.

- ☐ Verify the identity and record identifying information (name, address, date of birth, and identification number) of each borrower as required by the credit union's Customer Identification Program. See *ii Release No. 0159*.
- ☐ Require owners and borrowers to sign a chattel security agreement for the structure. List personal property contents if not a prohibited security interest in household goods. See *ii Release No. B007*. Perfect the security interest according to law.

## PERFECTION

- ☐ If the structure is classified as real estate:<sup>1</sup>
  - Require the owner(s) to grant a mortgage to the credit union, and promptly record it in the Register of Deeds office.
    - Include a description of the structure in the legal description of the mortgage, stating the make, model, VIN, and the language "which is affixed and attached to the land and is part of the real property."
    - Do this regardless of whether a Certificate of Title will record the credit union's lien.
    - The spouse's signature is required if the loan is not purchase money and is the homestead of either spouse.
  - A DSPS title is not required if the collateral is real estate, unless a title has already been issued. There is no procedure to extinguish an existing title.
    - If a Certificate of Title has been issued by the Department of Safety and Professional Services, then record your lien on the title application and file it with the required fee.
    - If no title has been issued by the Department of Safety and Professional Services, retain the manufacturer's statement of origin for the life of the loan.
  - File a UCC-1 with the Wisconsin Department of Financial Institutions to perfect the lien on any personal property, other than the structure, identified in the chattel security agreement. See *ii Release No. B060*.
- ☐ If the structure is not classified as real estate,<sup>2</sup> and:
  - If the structure is more than 45 feet in length, promptly file a Manufactured Home Certificate of Title Application (Form SBD-10687) and the required fee with the Wisconsin Department of Safety and Professional Services, to obtain a Certificate of Title showing the credit union's lien.
  - If the structure is 45 feet or less in length, promptly file an MV-1 with the Department of Transportation, recording the credit union's lien. See *ii Release No. B044*.
- ☐ Provide a Notice of Right to Cancel (WCUL #82034) if the home is the borrower's primary residence (unless it is a purchase-money loan or for a business purpose). The loan proceeds must be withheld until the three-business day rescission period expires. See *ii Release No. B036*.

## POST-CLOSING

- ☐ File IRS Form 1098 at year-end to report \$600 or more of mortgage interest paid in the calendar year. This applies to all manufactured home and mobile home loans, even if the member does not own the land. See *ii Release No. 0130*.

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<sup>1</sup> Under Wisconsin law, a manufactured home or mobile home is classified as real estate if all of the following are true:

1. It is set upon a foundation (this is met if wheels are removed and the home is set upon some other support);
2. It is on land owned by the structure home owner; and
3. It is connected to utilities.

<sup>2</sup> Same as footnote 1.

- ☐ Under Wis. Stats. section 101.9216 (3), the Department of Safety and Professional Services may remove the credit union's lien from a title after 20 years, unless the security interest filing is renewed. If necessary, renew the credit union's security interest filing by filing a new Application (Form SBD-10687) with the Department of Safety and Professional Services.

- ☐ Release the Department of Safety and Professional Services lien on the structure within one month of final payment on the loan (or within 10 days of the borrower's written request) of the final payment on the loan.

This requires delivering to the owner a release of the security interest in the form and manner prescribed by the department and a notice to the owner stating in no less than 10-point boldface type the owner's obligation to forward the release to the Department of Safety and Professional Services.

- ☐ If the structure is the borrower's principal dwelling, the loan servicer must comply with Reg. Z's rules prohibiting two practices that are deemed to be unfair, deceptive and abusive; a third rule applies even if it is not the principal dwelling:
1. Failing to credit a payment to a consumer's account as of the date received, unless the delay does not result in a finance or late charge or result in negative information being reported to a credit bureau.
  2. "Pyramiding" of late fees, meaning a servicer may not impose a late fee or delinquency charge when it is due only to the borrower's failure to include a similar charge that was imposed on an earlier payment. This would apply to payments that otherwise would be a full payment that is paid on time, but for the previously charged late fee or delinquency charge. The League's *ii Release No. B007* has additional details.
  3. Failing to provide, within a reasonable time after receiving a request, an accurate statement of the amount currently required to pay the obligation in full, often referred to as a payoff statement. (For additional information on payoff statements, including requirements under state law, see The League's *ii Release No. B078*.)
- ☐ The credit union cannot finance any premiums or fees for credit insurance (including debt cancellation or suspension agreements) in connection with most dwelling-secured loans and home equity lines of credit. (The rules do not affect credit insurance in force before that date.) This rule applies to single-premium as well as monthly-pay insurance. Credit unions must consult their insurance provider(s) for guidance on complying with this rule, including how premiums should be billed and/or reflected on periodic statements. See The League's *ii Release No. B076*.
- ☐ Truth in Lending Act regulations (Reg. Z) and Real Estate Settlement Procedures Act (RESPA) regulations (Reg. X) impose various requirements on credit unions (and others) that service mortgage loans – which may include manufactured and mobile home loans. Collectively, these regulations are known as the Mortgage Servicing Rule. Each provision covers specific types of loans. Some apply to closed-end loans, and some to open-end home equity lines of credit. Some apply to loan secured by a principal residence, and some apply to mortgage loans even if not secured by a principal residence. Credit unions that are "small servicers" are exempt from some (not all) of these rules. The credit union must ensure that it has appropriate policies and procedures in place to comply with the servicing rules that apply. The League's *ii Release No. B075* summarizes the requirements, including:
- Error resolution and information requests (§§ 1024.35 and 1024.36)
  - Force-placed insurance (§ 1024.37)
  - General servicing policies, procedures, and requirements (§ 1024.38)
  - Prompt crediting of mortgage payments and responses to requests for payoff amounts (§ 1026.36(c))
  - Periodic statements for mortgage loans (§ 1026.41)
- ☐ If the loan has a variable rate, send Interest Rate Adjustment Notices meeting all applicable timing and content requirements that apply per:
- Wisconsin Consumer Act § 422.421
  - Wis. Stats. § 138.056, and
  - Reg. Z § 1026.20

See *ii Release No. B002*.

☐ *Mortgage payoff requests and payoff statements.*

- Federal and state laws cover mortgage payoff requests and payoff statements. For example, Wisconsin law says that if the property securing the loan is 1- to 4-family residential real estate used for personal, family or household purposes, the lender must issue a payoff statement within seven business days of the "effective date" of the notice. Otherwise, the lender must issue the payoff statement within a "reasonable longer time," which is not defined.
- Federal Truth in Lending regulations generally require an accurate payoff statement to be provided within a reasonable time, but in no case more than seven business days for open or closed-end consumer credit transactions secured by a dwelling. The federal rules apply even if the dwelling is not real estate under state law.
- For a high-cost mortgage subject to the HOEPA rules, a payoff statement must be provided by a creditor or servicer within five business days after receiving a request for such statement by a consumer or a person authorized by the consumer to obtain such statement.
- Error resolution and information requests (§§ 1024.35 and 1024.36)
- Force-placed insurance (§ 1024.37)
- General servicing policies, procedures, and requirements (§ 1024.38)
- Prompt crediting of mortgage payments and responses to requests for payoff amounts (§ 1026.36(c))
- Periodic statements for mortgage loans (§ 1026.41)

For details, see The League's *ii Release No. B078*.

## **DELINQUENCY/DEFAULT**

☐ Homeowner Delinquency Counseling and Servicemembers Civil Relief Act notices.

- Homeowner Delinquency Counseling Notice.

The Department of Housing and Urban Development (HUD) requires credit unions to send a Homeowner Delinquency Counseling notice to certain delinquent mortgagors, advising them of the availability of homeownership counseling. The notice requirement applies if:

1. The loan is secured by a one family real estate dwelling that is the principal residence of the homeowner; and
2. The homeowner, or another person who contributes income, is or is expected to be, unable to make payments to correct a home loan delinquency within a reasonable time because of a loss or reduction in the homeowner's income from employment or other occupational pursuits.

For simplification, HUD suggests that lenders send the notice out to all delinquent mortgagors. Keep a file copy as proof of compliance. See *ii Release No. B058* for more information.

- Servicemembers Civil Relief Act Notice.

HUD also requires mortgage lenders to notify all homeowners who are in default about the foreclosure rights of servicemembers and their dependents under the SCRA. [See \*ii Release No. B058\* for more information.](#)

A sample including both notices is attached as Exhibit A to *ii Release No. B058*.

☐ FACT Act Notice of Negative Information.

Send the FACT Act Notice of Negative Information if the credit union reports negative information to a Consumer Reporting Agency. See *ii Release No. 0126*.

- Here is the model language that credit unions may use if they give the notice before furnishing the negative information to a Consumer Reporting Agency:

*We may report information about your account to a credit bureau. Late payments, missed payments, or other defaults on your account may be reflected in your credit report.*

- Here is the model notice language that credit unions may use if they give the notice after they have already furnished negative information to a Consumer Reporting Agency:

*We have told a credit bureau about a late payment, missed payment, or other default on your account. This information may be reflected in your credit report.*

☐ Wisconsin Consumer Act Default.

Under the Wisconsin Consumer Act, a closed-end loan with monthly installments is in default when past due in an amount *more than* one full installment for *more than* ten days. The loan is also in default upon failure to observe any provision of the agreement where the violation “materially impairs” the condition, value or protection of the credit union’s rights in the collateral or materially impairs the member’s ability to pay the amounts due under the loan or security agreement. The credit union may not take any of the actions below until the member’s right to cure expires.

- Accelerate the maturity of the loan;  
*This means the credit union may not call the loan balance due quicker than called for in the regular payment schedule.*
- Exercise right of setoff; Wis. Admin. Code DFI-WCA § 1.321;  
*See ii Release No. B013 for more guidance about setoff and freezes.*
- Commence any legal action in a court of law; or
- Demand or take possession of collateral.

Before any such action may be taken to collect on a Wisconsin Consumer Act loan, the credit union must provide the member with a Notice of Right to Cure Default (#82040) and allow 15 days for the member to cure the default. See *ii Release No. B031* for information regarding default and the right to cure notification requirements.

☐ Unless exemptions apply, comply with any provisions of the Reg. Z and Reg. X Mortgage Servicing Rule that apply to delinquency and default, as covered in The League’s *ii Release No. B075*, including:

- Early intervention with delinquent consumers;
- Continuity of contact with delinquent consumers;
- Loss mitigation procedures; and
- Periodic statements.

\* \* \* \* \*

League publications are designed to provide accurate information with regard to the subject matter covered, with the understanding that The League does not render legal services. If you have general questions regarding this release, please call The League at (608) 640-4500 if local or (800) 242-0833. For specific legal advice, please consult your credit union’s attorney.

Legal Affairs Department

PEG/jb

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