

allows for explanatory language in the event of both a deficiency and a remaining shortage.

(m.) [Page 53905, § 3500.17(f)(2).] May a servicer give the borrower an option to credit a refundable surplus directly to principal, rather than refund the surplus to the borrower?

Answer: No. However, the servicer may inform the borrower in the information accompanying the return of the surplus that the borrower may also choose to use the refund to credit principal or the escrow account.

(n.) [Page 53906, § 3500.17(g)(1)(i).] The rule indicates that the trial running balance is required to be submitted for an initial escrow account statement. Is it also required to be submitted for subsequent years as part of the annual statement projections?

Answer: The reference cited in § 3500.17(g)(1)(i) means that the information from the trial running balance is to be included in the initial escrow account statement. Similarly, the information from a trial running balance is included as the projections in the annual statement after the first escrow account computation year. There is no requirement for duplication of the same information.

(o.) [Page 53906, §§ 3500.17(h)(3) and (i)(1)]. If a particular payee collects payments on behalf of several taxing or other entities, how much information identifying these subpayees is necessary?

Answer: The minimum amount of information to be disclosed is that which describes the payee to whom the servicer delivers the funds. The servicer may, but is not required to, identify the subpayees on the account. If there are several payees for similar categories of items, such as taxes or insurance, there should be sufficient differentiation to identify the use of funds (see last sentence of § 3500.17(h)(3) for examples).

(p.) [Page 53906, § 3500.17(i)(1).] Does the servicer have to highlight a change in the monthly mortgage payments during the year caused by such factors as an adjustable rate mortgage (ARM) readjustment?

Answer: This rule does not require that such a change be specifically highlighted after an annual statement has been delivered. Language is provided in Appendix I to alert the borrower that principal or interest may change during the escrow account computation year under certain loan programs, such as ARMs. The borrower should receive notice of an ARM change prior to the change. The next annual statement history will note the change in principal and interest.

(q.) [Page 53906, § 3500.17(i)(4).] If the servicer determines that new escrow items should be added to the account, what further activities are required of the servicer?

Answer: If the servicer is going to change the payment amount, then the servicer should reanalyze the account to include the new items and issue a short-year annual statement, with a new projection for a new escrow account computation year. If there is no payment change, there is no activity required of the servicer.

(r.) [§ 3500.17(i)(4)]. Please explain in more detail when and how short-year statements are used under this rule.

Answer: Short-year statements must include all the elements normally provided in an annual statement, with the clarifications noted below. These elements consist of a history of the account since the last annual statement, a copy of the projections issued with the last annual statement, and projections for the next 12 months. The following principles are followed in developing short-year statements:

(1.) The servicer that prepared the projections issued with the last annual statement must provide to the borrower another copy, with all 12 months of those projections, at the time the servicer's components of the short-year statement are provided.

(2.) The servicer that prepared the projections issued with the last annual statement will report history, with asterisks, from the time of the last analysis to the time of the short-year statement.

(3.) Upon transfer, payoff, or maturity, the paragraphs beginning with "Last year we * * *" and "Your actual lowest * * *" on the account history are not required. Otherwise, if the account will be ongoing with the same servicer, these paragraphs are required only if the projected lowest monthly balance was in the period covered by the history.

(4.) Upon transfer, the new servicer must issue a short-year statement at the time of transfer only if the monthly escrow payment or accounting method changes. Otherwise, the servicer may wait until up to the end of the regular yearly cycle to issue an annual statement. The transferor (old) servicer shall submit a short-year statement to the borrower within 60 days of the transfer.

(5.) With a transfer, the account history issued by the new servicer must report the transferred balance along with the history for the period since the transfer. Asterisks, inclusion of a copy of the projections issued with the last annual statement, and the paragraphs beginning with "Last year we * * *"

and "Your actual lowest * * *" on the account history are not required of the new servicer.

(6.) A projection for the next 12 months is not required upon maturity or payoff. Upon transfer, the old servicer is not required to produce a projection for the next 12 months. The new servicer issues a projection for the next 12 months when it does its analysis. For the new servicer this must occur at the time of transfer if the monthly payment or the accounting method changes. Otherwise, the new servicer has until the end of the regular 12-month cycle to perform the analysis, including the projection for the next 12 months.

With two exceptions, servicers must always project the account forward for a period of 12 months to determine monthly payments and the existence of surpluses, shortages, and deficiencies. The term "short-year" refers to the time since the last annual statement, not the period to be covered by the old or new projections.

The first exception is for mortgages scheduled to terminate within the next 12 months, when projections of less than 12 months are permissible. The second exception is for escrow accounts covering items, such as flood insurance, that have disbursements less frequently than every 12 months. In this case, projections longer than 12 months are required. In the latter case, servicers may opt to report only the first 12 months of a projection covering a longer period.

(s.) [Appendix K] How is the annual statement projection prepared when the loan is scheduled to mature within the upcoming escrow account computation year?

Answer: The account may be analyzed and payments collected as if the account would be in existence for a full computation year. Alternatively, the account may be analyzed and payments collected and disbursed as if the account were terminating on the date of maturity. In either event, any balances are returned to the borrower following maturity of the loan. The judgment of the servicer as to which method to use may be based on the length of time the account will be open and the size of payments to be made within that period. The short-year statement after payoff should be furnished consistent with § 3500.17(i)(4)(iii).

(t.) During the first year of operation of the rule (i.e. May 24, 1995, through May 23, 1996), certain information may not be available, such as the previous year's projection or history. Is a servicer required to reconstruct or hypothesize about such documents?