

MARYLAND REGISTER

Proposed Action on Regulations

Comparison to Federal Standards Submission and Response

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In accordance with Executive Order 01.01.1996.03 and memo dated July 26, 1996, the attached document is submitted to the Department of Business and Economic Development for review.

The Proposed Action is not more restrictive or stringent than corresponding federal standards.

COMAR Codification: 09.03.06.02-07, 09, 11, 15, 17-18, 20, 24-28

Corresponding Federal Standard:

12 CFR Part 30, Appendix B

Discussion/Justification:

New Regulation .25 establishes data protection standards. The standards are modeled after, but differ slightly and are less burdensome, than 12 CFR Part 30, Appendix B, which applies to institutions regulated by the Office of the Comptroller of the Currency, one of the prudential banking regulators. In an effort to reduce regulatory burden, licensees who demonstrate compliance with the federal standard are deemed to be compliant with the Maryland regulation. The requirements of the regulation are tailored to the licensee's size and complexity, the nature and scope of the licensee's activities, and the sensitivity of any customer information at issue, which should further reduce regulatory burden.

TO BE COMPLETED BY DBED

Agree

Disagree

Comments:

Commerce does not have the necessary expertise in this area. Commerce feels the Department of Labor, Licensing, and Regulation does have the necessary expertise and therefore Commerce trusts their assertion that the proposal is not more restrictive/stringent than corresponding federal standards.

Name: Malachy Rice

Date: 12/7/2016

Submit to Governor's Office

Governor's Office Response

Comments:

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	12/08/2016	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 1/20/2017

2. COMAR Codification

Title Subtitle Chapter Regulation

09 03 06 02-07, 09, 11, 15, 17-18, 20, 24-28

3. Name of Promulgating Authority

Department of Labor, Licensing, and Regulation

4. Name of Regulations Coordinator

Jessica V Carter

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5. Name of Person to Call About this Document

Brian Weeks

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6. Check applicable items:

X- New Regulations

X- Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: November 3, 2016.

- Repeal of Existing Regulations

- Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R
(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes - No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Brian Weeks, Assistant Attorney General, (telephone #410-230-6359) on November 3, 2016. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Gordon Cooley

Title

Commissioner of Financial Regulation

Telephone No.

410-230-6361

Date

November 3, 2016

Title 09
DEPARTMENT OF LABOR, LICENSING, AND
REGULATION

Subtitle 03 COMMISSIONER OF FINANCIAL REGULATION

09.03.06 Mortgage Lenders

Authority: Business Regulation Article, §2-105; Financial Institutions Article, §§2-105.1, 11-503, 11-503.1, 11-505, 11-506(a), 11-506(c)(1), 11-507, 11-508(g), 11-511, 11-511.1, 11-513(a) and 11-515(c); Real Property Article, §3-104.1; Annotated Code of Maryland

Notice of Proposed Action

[]

The Commissioner of Financial Regulation proposes to make the following changes under COMAR 09.03.06 Mortgage Lenders:

- (1) Amend existing Regulation .02;
- (2) Adopt new Regulation .03;
- (3) Amend and recodify existing Regulations .03-.07 to be Regulations .04-.08;
- (4) Recodify existing Regulation .08 to be Regulation .09;
- (5) Amend and recodify existing Regulation .09 to be Regulation .10;
- (6) Recodify existing Regulation .10 to be Regulation .11;
- (7) Amend and recodify existing Regulation .11 to be Regulation .12;
- (8) Recodify existing Regulations .12-.14 to be Regulations .13-.15;
- (9) Amend and recodify existing Regulation .15 to be Regulation .16;
- (10) Recodify existing Regulation .16 to be Regulation .17;
- (11) Amend and recodify existing Regulations .17-.18 to be Regulations .18-.19;
- (12) Recodify existing Regulation .19 to be Regulation .20;
- (13) Amend and recodify existing Regulations .20-.21 to be Regulations .21-.22; and
- (14) Adopt new Regulations .24-.28.

Statement of Purpose

The purpose of this action is to clarify the Commissioner's requirements related to the delivery and receipt of mortgage disclosures; clarify the scope or requirements of specific regulations to prevent inconsistent interpretations or applications of those regulations; specify the process for obtaining approval of a trade name; change record keeping requirements to align with the statutorily-mandated examination cycle; add provisions relating to electronic records, provision of records to the Commissioner and loss of records; allow licensees to substitute compliance with certain federal laws and regulations for compliance with certain Maryland laws and regulations; make corrections to outdated or invalid terminology, references, and typographical errors; provide clarity to licensees regarding the Commissioner's requirements related to supervision of mortgage loan originators; establish date protection standards; clarify

when a licensee is required to make certain reports to the Commissioner; and generally add requirements relating to mortgage servicing transfers.

Comparison to Federal Standards

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

Estimate of Economic Impact

I. Summary of Economic Impact.

The proposed action is expected to have a positive economic impact on licensees. The changes will bring clarity to licensees regarding certain obligations, and certain changes will make it easier to do business in Maryland. The new regulations are expected to impose a very minimal burden for licensees and are tailored to the size and complexity of the licensee's business operations.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
<hr/>		
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
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D. On regulated industries or trade groups:	(+)	Indeterminable
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	
(1)	(+)	Indeterminable

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

D. By providing clarity to and simplifying the regulatory process, the proposed action should reduce compliance costs for licensees.

F(1). The new requirements related to record keeping, supervision of mortgage loan originators, data protection, and mortgage servicing transfers should help improve the Commissioner's supervision of licensees and thereby benefit the public.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Jedd Bellman, Assistant Commissioner for Enforcement and Compliance, Office of the Commissioner of Financial Regulation, 500 North Calvert Street, Room 402, Baltimore, Maryland, 21202, or call 410-230-6390, or email to jedd.bellman@maryland.gov, or fax to 410-333-0475. Comments will be accepted through March 6, 2017. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 17

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

Special (Nondepository Special Fund)

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

There will be an expected reduction in compliance cost for small businesses as a result of providing clarity and streamlining certain regulations. The new requirements either do not affect small businesses (mortgage servicing transfer regulations) or are tailored to the size and complexity of the business (data protection regulation).

G. Small Business Worksheet:

1a. Intended Beneficiaries. Who are the intended beneficiaries of the proposed regulation? Are these intended beneficiaries primarily households or businesses?

Businesses

1b. Intended Beneficiaries: Households. If households are the primary intended beneficiaries, will the proposal affect their income or purchasing power such that the volume or patterns of their consumer spending will change? If so, what directions of change would you anticipate? Will these expected spending changes have a disproportionate impact on small businesses? Can you descriptively identify the industries or types of business activities that are impacted?

N/a

1c. Intended Beneficiaries: Businesses. If businesses are the intended beneficiaries, identify the businesses by industry or by types of business activities. How will

businesses be impacted? Are these Maryland establishments disproportionately small businesses? If so, how will these Maryland small businesses be affected? Can you identify or estimate the present number of small businesses affected? Can you estimate the present total payroll or total employment of small businesses affected?

Mortgage-related businesses will be impacted. This includes mortgage lenders, mortgage servicers, and mortgage brokers. Although some may be small businesses, the businesses vary in size and complexity. It is not possible to estimate the number of small businesses affected or their total payroll.

2a. Other Direct or Indirect Impacts: Adverse. Businesses may not be the intended beneficiaries of the proposal. Instead, the proposal may direct or otherwise cause businesses to incur additional expenses of doing business in Maryland. Does this proposal require Maryland businesses to respond in such a fashion that they will incur additional work-time costs or monetary costs in order to comply? Describe how Maryland establishments may be adversely affected. Will Maryland small businesses bear a disproportionate financial burden or suffer consequences that affect their ability to compete? Can you estimate the possible number of Maryland small businesses adversely affected? (Note that small business compliance costs in the area of regulation are the sum of out-of-pocket (cash) costs plus time costs — usually expressed as payroll, akin to calculations for legislative fiscal notes. Precise compliance costs may be difficult to estimate, but the general nature of procedures that businesses must accomplish to comply can be described.)

The proposed regulation is not expected to adversely impact small businesses. New requirements either don't apply to small businesses (mortgage servicing transfers) or are tailored to the size and complexity of the company (data protection). New requirements were drafted to minimize compliance burden for all businesses.

2b. Other Direct or Indirect Impacts: Positive. Maryland businesses may positively benefit by means other than or in addition to changed consumer spending patterns. How may Maryland businesses be positively impacted by this initiative? Will Maryland small businesses share proportionately or disproportionately in these gains? Can you estimate the possible number of Maryland small businesses positively affected?

Mortgage businesses, large and small, will benefit from a reduction in compliance burden due to the clarification and simplification of the regulations.

3. Long-Term Impacts. There are instances where the longer run economic impact effect from regulations differ significantly from immediate impact. For example, regulations may impose immediate burdens on Maryland small businesses to comply, but the overall restructuring of the industry as a consequence of monitoring and compliance may provide offsetting benefits to the affected small businesses in subsequent years. Can you identify any long run economic impact effects on Maryland small businesses that over time (a) may compound or further aggravate the initial economic impact described above, or (b) may mitigate or offset the initial economic impact described above?

There is no long-term economic impact.

4. Estimates of Economic Impact. State Government Article, §2-1505.2 requires that an agency include estimates, as appropriate, directly relating to: (1) cost of providing goods and services; (2) effect on the work force; (3) effect on the cost of housing; (4) efficiency in production and marketing; (5) capital investment, taxation, competition,

and economic development; and (6) consumer choice.

(1) There is no anticipated effect on the cost of providing goods and services; (2) There is no anticipated effect on the work force; (3) There is no anticipated effect on the cost of housing; (4) There is no anticipated effect on efficiency in production and marketing; (5) There is no anticipated capital investment, taxation, competition, and economic development; and (6) There is no anticipated effect on consumer choice.

Attached Document:

.02 Definitions.

- A. (text unchanged)
- B. Terms Defined.
- (1) (text unchanged)
- (2) "Annual percentage rate (APR)"[, under §B(13) of this regulation,] has the meaning stated in 12 CFR Part [226] 1026, as may be amended from time to time.
- (3) (text unchanged)
- (4) "Average prime offer rate" [means an annual percentage rate that is derived from average interest rates, points, and other loan pricing terms currently offered to consumers by a representative sample of creditors for mortgage transactions that have low-risk pricing characteristics. The Board of Governors of the Federal Reserve publishes average prime offer rates for a broad range of types of transactions in a table updated at least weekly as well as the methodology the Board uses to derive these rates] *has the meaning stated in 12 CFR Part 1026, as may be amended from time to time.*
- (5) (text unchanged)
- (6) "Breach of the security of a system" *has the meaning stated in Commercial Law Article, §14-3501, Annotated Code of Maryland.*
- [(6)] (7) Broker.
- (a) (text unchanged)
- (b) For purposes of all Maryland laws and regulations applicable to mortgage lenders, a person is acting as a broker if:
- (i) The person [procures a mortgage loan or arranges] *aids* or [otherwise] assists a borrower in obtaining a mortgage loan *for a fee or other valuable consideration*; and
- (ii) The creditor identified in the loan documents is a different [entity than that] person *than the person described in §B(7)(b)(i) of this regulation.*
- (c) There is no broker in a transaction solely because the lender contracts with a third party for processing or underwriting services if:
- (i) The [entity] *person* contracting to perform the [underwriting or] processing *or underwriting* did not generate the loan application; and
- (ii) The loan is closed in the name of the lender which did generate the loan application.
- [(7)] (8) — [(8)] (9) (text unchanged)
- (10) "Customer information" *has the meaning stated in 16 CFR Part 314, as may be amended from time to time.*
- [(9)] (11) [Dwelling.
- (a)] "Dwelling" has the meaning stated in Financial Institutions Article, §11-501, Annotated Code of Maryland.
- (12) "Electronic record" *has the meaning stated in (12) Commercial Law Article, §21-101(h), Annotated Code of Maryland.*
- [(10)] (13) — [(11)] (14) (text unchanged)
- [(12)] (15) "Fully indexed rate" [means the index rate, as defined in the mortgage loan documents, prevailing at the time the mortgage loan is approved by the lender, plus the margin that will apply after the expiration of an introductory interest rate] *has the meaning stated in 12 CFR Part 1026, as may be amended from time to time.*
- [(13)] (16) [Higher-Priced Mortgage Loan.
- (a)] "Higher-priced mortgage loan" *has the meaning stated in 12 CFR Part 1026, as may be amended from time to time* [means a mortgage loan for which the annual percentage rate exceeds the average prime offer rate for a comparable transaction as of the date the interest rate is set by:
- (i) 1.5 or more percentage points for loans secured by a first lien on residential real estate; or

(ii) 3.5 or more percentage points for loans secured by a subordinate lien on residential real estate.

(b) Notwithstanding §B(13)(a) of this regulation, the calculation set forth therein for determining whether a loan is a higher-priced mortgage loan shall adjust as may be necessary to be consistent with the final rule codified at 12 CFR §226.35, as it may be amended from time to time.

(c) "Higher-priced mortgage loan" does not include a:

(i) Transaction to finance the initial construction of a dwelling on residential real estate;

(ii) Temporary loan with a term of 12 months or less, such as a loan to purchase residential real estate where the borrower plans to sell current residential real estate within 12 months;

(iii) Reverse mortgage transaction subject to 12 CFR §226.33; or

(iv) Home equity line of credit subject to 12 CFR §226.5b].

(17) "Information security program" has the meaning stated in 16 CFR Part 314, as may be amended from time to time.

[(14)] (18) [Initial Application.

(a) "Initial application" means the submission of a borrower's financial information in anticipation of a credit decision relating to a mortgage loan, which shall include the borrower's name, the borrower's monthly income, the borrower's social security number to obtain a credit report, the property address, an estimate of the value of the property, and the mortgage loan amount sought [when:

(i) An applicant requests that a mortgage loan be made or obtained on the applicant's behalf; and

(ii) The person to whom the request was made agrees to begin processing the loan application.

(b) A person may require an applicant to complete a written application before agreeing to begin processing the loan, if that requirement is explained to the applicant].

[(15)] (19) Lender.

(a) "Lender", as used in these regulations, means a person who makes a mortgage loan.

(b) (text unchanged)

[(16)] (20) — [(19)] (23) (text unchanged)

(24) Loan modification.

(a) "Loan modification" means a change to a mortgage loan that alters the loan amount or one or more of the credit terms of the mortgage loan.

(b) "Loan modification" includes, but is not limited to, one or more of the following:

(i) A reduction in interest rate;

(ii) A conversion from a variable interest rate to a fixed interest rate;

(iii) An extension of term length; and

(iv) A reduction in principal.

(25) "Loss mitigation option" has the meaning stated in 12 CFR Part 1024, as may be amended from time to time.

(26) "Maryland loan" as used in these regulation means a mortgage loan.

(27) "Master servicer" has the meaning stated in 12 CFR Part 1024, as may be amended from time to time.

[(20)] (28) — [(22)] (30) (text unchanged)

(31) "Mortgage servicer" includes a person that engages in one or more of the following actions for the benefit of other persons in connection with mortgage loans:

(a) Collects or receives one or more of the following types of payments directly from borrowers for distribution to the owner of the mortgage loan or another third party, including a master servicer:

(i) Principal;

(ii) Interest;

(iii) Tax;

(iv) Insurance; or

(v) Any other payment due under a loan agreement or security instrument;

(b) Evaluates borrower eligibility for loss mitigation options;

(c) Communicates to borrowers regarding loss mitigation options;

(d) Is responsible for taking actions to protect a secured party's interest in the property under the applicable security instrument, including:

(i) Maintenance of hazard and mortgage insurance coverage; and

(ii) Preservation of the property; or

(e) Conducts or supervises the foreclosure process, except if the person is an attorney acting as a substitute trustee in a foreclosure action under a deed of trust.

(32) "Mortgage servicing right" means the right to perform one or more of the actions listed in §B(31)(a)-(e) of this regulation in connection with one or more mortgage loans.

[(23)] (33) Nationwide Mortgage Licensing System and Registry "NMLSR" has the meaning stated in Financial Institutions Article, §11-501, Annotated Code of Maryland [means the Nationwide Mortgage Licensing System and Registry established by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators].

[(24)] (34) — [(26)] (36) (text unchanged)

(37) "Service provider" has the meaning stated in 16 CFR Part 314, as may be amended from time to time.

(38) Social Media.

(a) "Social media" means an Internet website or application software that:

- (i) Requires a person to register or create an account to become a member; and
- (ii) Allows two or more members to communicate directly with one another.

(b) "Social media" includes, but is not limited to, an Internet website or application software that allows members to communicate by means of one or more of the following:

- (i) Text;
- (ii) Video;
- (iii) Still photograph; or
- (iv) Audio.

(c) "Social media" does not include an electronic mail account.

(39) "Subservicer" has the meaning stated in 12 CFR Part 1024, as may be amended from time to time.

(40) "Trade name" means any word or group of words used to identify a business to the public.

(41) "Transfer date" means the date on which the transfer of the servicing or subservicing responsibility to the transferee servicer or subservicer occurs.

(42) Transfer of Servicing Rights.

(a) "Transfer of servicing rights" means the transfer or sale of mortgage servicing rights.

(b) "Transfer of servicing rights" includes a transfer of mortgage servicing rights from a master servicer to a subservicer pursuant to an agreement, if one of the parties is a mortgage servicer licensed by the Commissioner.

(c) "Transfer of servicing rights" does not include a transfer of mortgage servicing rights that occurs before the first payment is due under the applicable note or security instrument.

(43) "Transferee servicer" means a mortgage servicer licensed by the Commissioner that obtains the right to service a loan under either a subservicing agreement or an agreement for the sale of mortgage servicing rights.

(44) "Transferor servicer" means a mortgage servicer licensed by the Commissioner that transfers the right to service a loan under either a subservicing agreement or an agreement for the sale of mortgage servicing rights.

[(27)] (45) (text unchanged)

03. Delivery and Receipt of Mortgage Disclosures

A. This regulation explains how the Commissioner will exercise supervisory authority granted to the Commissioner under Financial Institutions Article, §11-501 et seq., Annotated Code of Maryland.

B. A licensee shall be deemed to have complied with a requirement under Commercial Law Article, Title 12, Subtitles 1, 3, 4, 8, 9, or 10 to provide a written disclosure or agreement within a specified time period after the date the loan application is completed if the mortgage disclosure is provided to an applicant in person, or placed in the mail, before the end of the time period specified in the applicable statute.

C. Electronic Disclosures

(1) Mortgage disclosures required by Commercial Law Article, Title 12, Subtitles 1, 3, 4, 8, 9, 10, 12, or 13 may be provided to an applicant in electronic form, subject to compliance with the consumer consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. §7001 et seq.) and the Maryland Uniform Electronic Transactions Act (Commercial Law Article, Title 21, Annotated Code of Maryland).

(2) For the purpose described in §A of this regulation, unless otherwise agreed between the licensee and an applicant, the time of sending and receipt of a mortgage disclosure sent as an electronic record shall be governed by Commercial Law Article, §21-114, Annotated Code of Maryland.

[.03].04 Licensing and Application Requirements.

A. Scope.

(1) — (4) (text unchanged)

(5) For purposes of Financial Institutions Article, §11-506(b)(4), Annotated Code of Maryland, a "principal officer" includes:

(a) An individual who owns, directly or indirectly, 10% or more of the business;

(b) Any individual who serves on the board of directors of the business;

(c) An elected or appointed senior officer of the business; or

(d) Any individual regardless of title who has the power to direct the management or policies of the mortgage lending business.

B. — E. (text unchanged)

F. Loan Processing Under Expired License. If a [licensee] person who had a license is operating without a license because of a failure to timely renew, or an unauthorized change in location, [the licensee] that person may continue to process and close loans if the application for the loan was taken at the time the person was licensed and [which were applied for] before the deadline for renewal or the unauthorized change of location.

G. Posting License.

(1) A licensee shall post its license for each licensed location[, on the premises in a conspicuous location accessible to the public].

(2) A licensee shall post the license:

- (a) *On the premises of the licensed location;*
- (b) *In a manner that is accessible to the public; and*
- (c) *In a conspicuous location within the licensed location.*
- (3) *A licensee is not required to post its license if the licensee does not grant access to the licensed location to members of the general public.*

H. Complaint Resolution.

- (1) A licensee shall designate [an officer, director, or member of senior management] *a person* as being responsible for, and authorized to make, decisions regarding the resolution of complaints received from the Commissioner.
- (2) (text unchanged)
- (3) *The person designated under §H(1) of this regulation shall have:*
 - (a) *The necessary skills and knowledge of the mortgage industry to be able to adequately respond to consumer complaints; and*
 - (b) *Authority to resolve the complaint, or shall report directly to an individual with such authority.*
- (4) *If, after the Commissioner grants a license to the licensee, the name of the person designated under §H(1) of this regulation changes, the licensee shall notify the Commissioner in writing within 10 business days of the change.*

I. Designation of Mortgage-Related Activity.

- (1) (text unchanged)
- (2) Notification.
 - (a) A licensee shall notify the Commissioner in writing *through the NMLSR* if, after the issuance or the renewal of its license, it begins conducting a new activity that the licensee did not designate under §I(1) of this regulation.
 - (b) The licensee shall deliver the notification *through the NMLSR* to the Commissioner within 10 business days after beginning the new activity.

J. (text unchanged)

K. [Incomplete] Applications.

- (1) *The Commissioner shall approve or deny an application for an initial license, a renewal license, or a license amendment within 60 days after the Commissioner receives a completed application, including, if applicable, a surety bond and all required fees.*
- (2) *If the Commissioner notifies an applicant that an application for an initial license, a renewal license, or a license amendment is incomplete, the Commissioner shall itemize the steps that the applicant must take to complete the application.*
- (3) *The application for an initial license, a renewal license, or a license amendment shall not be approved until after the applicant completes all steps identified in the Commissioner's notice.*
- (4) *If an application for an initial license, a renewal license, or a license amendment is incomplete when submitted and remains incomplete [for at least 60 days], the Commissioner may cease processing and deem the incomplete application withdrawn [and return it to the applicant], provided that the Commissioner has previously notified the applicant of the basis for incompleteness in accordance with §K(2) of this regulation, and given the applicant not less than 15 days to correct the incompleteness.*

L. Trade Names.

- (1) *Prior to a licensee's use of a trade name to engage in mortgage lending business in Maryland, the licensee shall:*
 - (a) *Register the trade name with the Maryland Department of Assessments and Taxation; and*
 - (b) *Obtain the approval of the Commissioner for the use of the trade name.*
- (2) *A licensee shall obtain the approval of the Commissioner for the use of a trade name by:*
 - (a) *Designating on an original license application, license renewal application, and through the NMLSR, any trade name under which the licensee will engage in mortgage lending business in Maryland; and*
 - (b) *Specifying on an original license application, license renewal application, and through the NMLSR, which licensed locations will utilize the trade name.*
- (3) *At all times subsequent to obtaining the approval of the Commissioner for the use of the trade name, a licensee shall maintain registration of the trade name in accordance with the requirements of Corporations and Associations Article, §1-406, Annotated Code of Maryland, and accompanying regulations.*
- (4) *A licensee shall immediately notify the Commissioner if the licensee amends, cancels, or otherwise fails to renew the registration of a trade name which the Commissioner has approved previously.*

[.04].05 Records.

A. Preservation of Records.

- (1) A licensee shall preserve the records of a mortgage loan transaction in one *or more* of the following ways:
 - (a) — (c) (text unchanged)
 - (2) *A licensee's use of electronic or microphotographic preservation of records, or storage of books and records at a location other than the licensee's place of business, shall be considered approved by the Commissioner if the licensee:*

(a) *Completes an attestation in the format prescribed by the Commissioner; and*
(b) *Uploads an electronic copy of the attestation to the NMLSR system in accordance with directions provided by the Commissioner.*

(3) *A licensee who stores records in the form of electronic copies shall:*

(a) *Store the records in a format which shall allow the Commissioner to read the records using common, readily available software;*

(b) *Maintain electronic copies of the original documents that are:*

- (i) *Complete;*
- (ii) *Accurate;*
- (iii) *Unaltered; and*
- (iv) *Unabridged.*

(c) *Ensure that, when printed, the records will be legible;*

(d) *Protect the records from:*

- (i) *Deletion;*
- (ii) *Damage to, or failure of, electronic storage media; and*
- (iii) *Unauthorized access, use, modification or disclosure.*

(4) *A licensee who stores records at a location other than its licensed address shall:*

(a) *Ensure that all records are:*

- (i) *Complete;*
- (ii) *Accurate;*
- (iii) *Unaltered; and*
- (iv) *Unabridged.*

(b) *Protect the records from:*

- (i) *Deletion;*
- (ii) *Damage to, or failure of, electronic storage media; and*
- (iii) *Unauthorized access, use, modification or disclosure.*

(c) *Immediately notify the Commissioner when the licensee:*

- (i) *knows of any actual or potential loss of records required to be kept by this regulation; or*
- (ii) *reasonably should know of any actual or potential loss of records required to be kept by this regulation.*

[(2)] (5) *Time Period.*

(a) *A lender shall retain records for [25] 37 months after a loan is denied, repayment of the loan is made in full, or the loan is sold, whichever occurs first.*

(b) *A servicer shall retain records for [25] 37 months after final payment is made or the [loan is sold] right to service the loan under either a servicing or subservicing agreement is terminated or transferred, whichever occurs first.*

(c) *If a licensee acts as a broker in a loan transaction, records of the transaction shall be retained for [25] 37 months after the loan is made or denied.*

[(3)] (6) — [(4)] (7) (text unchanged)

B. Content of Records.

(1) *For each mortgage loan made or serviced by a licensee, a file shall be maintained which contains, at a minimum, the following:*

(a) — (g) (text unchanged)

(h) *An accurate [payment] history, since the date of loan closing, of the application of all:*

- (i) *Payments;*
- (ii) *Charges; and*
- (iii) *Credits;*

(i) — (k) (text unchanged)

(l) *All required [truth-in-lending] State and federal disclosure documents;*

(m) — (p) (text unchanged)

(q) *Optional insurance:*

(i) (text unchanged)

(ii) *This paragraph does not apply to hazard insurance on the property securing the loan; [and]*

(r) *Records of any foreclosure action begun by the licensee by filing an order to docket or a complaint to foreclose including, if applicable:*

(i) (text unchanged)

(ii) *The name and mortgage lender license number of the mortgage lender that originated the loan[.]; and*

(iii) *Copies of all documents provided to the borrower or filed with a court in conjunction with the*

foreclosure action;

(s) *Copies of all documents filed by or on behalf of the licensee in a bankruptcy proceeding involving the mortgage loan;*

(t) *If the licensee is a mortgage servicer:*

(i) *Copies of all written correspondence between the licensee or its vendors and the borrower;*

(ii) *Written records of verbal communications between the mortgage servicer or its vendors and the borrower; and*

(iii) *Copies of any audio recordings of communication with the borrower; and*

(u) *Other documents necessary to prove compliance with any State or federal statute or regulation applicable to the mortgage loan.*

(2) Notwithstanding §B(1) of this regulation, a licensee acting as a broker in connection with a particular transaction:

(a) — (b) (text unchanged)

(c) Shall retain a record of the lender to whom the loan was brokered; [and]

(d) *Shall retain a record of the amount of any finder's fee received;*

(e) *Shall retain a record of any compensation as required by federal law; and*

[(d)] (f) (text unchanged)

[(3) A licensee acting as a servicer shall compile and submit to the Commissioner, on or before the 25th day of each month, a report on the form required by the Commissioner that contains the following information for the preceding month:

(a) The number of mortgage loans the licensee is servicing;

(b) The number of mortgage loans that the licensee is servicing that are in payment default and a breakdown of these mortgage loans by length of payment delinquency, including 30-day, 60-day, and 90-day and longer delinquencies;

(c) Information on loss mitigation activities undertaken including, but not limited to, the following:

(i) The number of workout arrangements entered into by the licensee in connection with mortgage loans;

(ii) A description of the types of workout arrangements, including mortgage loan modifications, and the percentage of each type of workout arrangement entered into;

(iii) The proactive steps taken by the licensee to identify borrowers at a heightened risk of default, such as those with impending interest rate resets, including, but not limited to, contacts with borrowers to assess their ability to repay their mortgage loan obligations;

(d) The number of foreclosure actions commenced in this State in connection with mortgage loans the licensee is servicing;

(e) Information regarding adjustable rate mortgage loans; and

(f) Any other information that the Commissioner may consider necessary, including geographic information regarding applicable mortgage loans.

(4) The Commissioner may:

(a) Publish for public review the report required under §B(3) of this regulation, or any information contained in the report, except personally identifying information regarding borrowers;

(b) Require that the information contained in the report be for a period other than the preceding month; and

(c) Require that the report be provided to the Commissioner on a date later than the 25th day of each month or terminate the reporting requirement for such length of time as the Commissioner may consider appropriate.]

(3) *A licensee shall maintain all records which demonstrate that the licensee meets the general qualifications for a license as described in Financial Institutions Article, §11-506, Annotated Code of Maryland.*

[(5)] (4) (text unchanged)

C. Provision of Records to the Commissioner.

(1) *A licensee who keeps books and records at its place of business shall, at the request of the Commissioner, immediately make those books and records available to the Commissioner at the licensee's place of business.*

(2) *A licensee who keeps books and records at a location other than its place of business shall, within 5 business days of a request by the Commissioner, make those books and records available to the Commissioner at the licensee's place of business.*

(3) *If the Commissioner makes a written request that the licensee deliver records to the Commissioner, the licensee shall ensure that the Commissioner receives the requested records:*

(a) *Within 10 business days from the date of the request; or*

(b) *By a date agreed to by the Commissioner.*

(4) *When delivered to the Commissioner, records shall be:*

(a) *In an electronic format agreed to by the Commissioner; or*

(b) *In paper form, if the licensee does not maintain its records in an electronic format.*

(5) *The licensee shall organize the records requested by the Commissioner in the manner specified by the Commissioner.*

D. Loss of Records. A licensee shall immediately notify the Commissioner when the licensee:

(1) *knows of any actual or potential loss of records required to be kept by this regulation; or*

(2) *reasonably should know of any actual or potential loss of records required to be kept by this regulation.*

[.05] .06 Advertising and Solicitation.

A. (text unchanged)

B. Licensee Name and Address.

(1) A [person] licensee may not advertise under any name or address other than a name or address which:
(a) [appears] *Appears* on its license; or
(b) *Has been approved by the Commissioner pursuant to COMAR 09.03.06.04L and is listed as a trade name on the licensee's NMLSR record.*

(2) (text unchanged)

(3) *Notwithstanding §B(1) of this regulation, a licensee may use an e-mail address or website address that is different from the name or address that appears on the licensee's license, provided that the content of any e-mail correspondence, or of the website itself, uses only a name which appears on the licensee's license or has been approved by the Commissioner pursuant to COMAR 09.03.06.04L and is listed as a trade name on the licensee's NMLSR record.*

(4) *A licensee must disclose the licensee's NMLSR unique identifier in every advertisement.*

(5) *Notwithstanding §B(4) of this regulation, a licensee who utilizes social media for advertising purposes need not disclose the licensee's NMLSR unique identifier in each statement published through a social media platform, provided that the NMLSR unique identifier is displayed prominently on the licensee's profile page within the social media platform.*

[(3)] (6) (text unchanged)

(7) *A licensee is responsible for any advertisement disseminated by an employee of the licensee if such advertisement relates to activities performed by the licensee or by the employee in the employee's capacity as an employee of the licensee.*

[.06].07 Financing Agreements.

A. — B. (text unchanged)

C. A financing agreement need not be provided under Commercial Law Article, §§12-125, 12-922, or 12-1022, Annotated Code of Maryland, if within 10 business days after initial application the:

(1) (text unchanged)

(2) Applicant receives a written commitment [that the loan will be made, which contains all material terms of the loan].

D. Beginning October 3, 2015, a licensee that provides disclosures that comply with 12 CFR Parts 1024 and 1026, as applicable and as amended from time to time, shall be deemed compliant with the requirement to:

(1) Provide a financing agreement if the licensee also completes and signs, on a form substantially similar to Appendix A of this chapter, an attestation that the terms provided in those disclosures are accurate and provides the signed attestation to the applicant within 10 business days of initial application; and

(2) Provide a commitment if the licensee also completes and signs, on a form substantially similar to Appendix A of this chapter, an attestation that the terms provided in those disclosures are accurate and not subject to change, and provides the signed attestation to the applicant at least 72 hours prior to loan settlement, or at settlement if the borrower waives the 72-hour advance presentation requirement.

[.07].08 Agreements with the Borrower.

A. Written Agreements.

(1) Agreements between a borrower and a licensee shall be:

(a) (text unchanged)

(b) Provided *promptly* to the borrower following execution by all parties.

(2) (text unchanged)

B. Agreements in Blank.

(1) (text unchanged)

(2) The prohibitions of §B(1) of this regulation do not apply to blanks for the signatures of a:

(a) (text unchanged)

(b) Witness who is not a borrower, guarantor, or obligor on the loan; or

(c) *Person required to sign a certification or affidavit required by law for recordation.*

C. Undisclosed Fees.

(1) — (2) (text unchanged)

(3) Compliance with *applicable disclosures under the federal Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and corresponding regulations and applicable disclosures under the federal Truth in Lending Act (15 U.S.C. §1601 et seq.) and corresponding regulations* shall be deemed compliance with §C(1) and (2) of this regulation.

(4) (text unchanged)

D. (text unchanged)

[.09].10 Fees.

A. (text unchanged)

B. Timing of Collection.

(1) If a financing agreement is required under Commercial Law Article, §§12-125, 12-922, or 12-1022, Annotated Code of Maryland, and these regulations, a licensee may not collect any fee from the applicant before providing the financing agreement.

- (2) (text unchanged)
- C. — D. (text unchanged)

[.11].12 Brokers.

- A. — C. (text unchanged)
- D. Cure of Unintentional Violation.
 - (1) This section applies only to a licensee [which] *that* engages in both brokering and lending in the regular course of its business.
 - (2) (text unchanged)

[.15].16 Bonds, Letters of Credit, and Trust Accounts.

- A. — B. (text unchanged)
- C. Restitution awarded and to be paid from a bond, letter of credit, or trust account shall be paid as follows:
 - (1) (text unchanged)
 - (2) Awards resulting from an examination *or investigation* by the Commissioner which will exceed the total available under the bond, letter of credit, or trust account, shall be paid on a pro rata basis;
 - (3) (text unchanged)
- D. (text unchanged)
- [E. Claims against a bond, letter of credit, or trust account:
 - (1) Shall be filed by the claimant if against a:
 - (a) Surety bond, directly with the surety,
 - (b) Letter of credit or trust account, with the Commissioner;
 - (2) Shall be filed in accordance with §E(1) of this regulation within 1 year after the occurrence from which the claim arises;
 - (3) May not include:
 - (a) Attorneys' fees,
 - (b) Damages for personal injury, or
 - (c) Punitive damages.]
- [F.] E. (text unchanged)
 - F. *Nothing in this regulation shall preclude the Commissioner from filing a claim against a bond, letter of credit, or trust account to obtain restitution for a consumer.*

[.17].18 Continuing Education.

- A. Purpose and Applicability.
 - (1) (text unchanged)
 - (2) [Subject to Financial Institutions Article, §11-511.1, Annotated Code of Maryland, the] *The* continuing education requirement does not apply to the original application for a license.
- B. (text unchanged)
- C. Requirements.
 - (1) Except as provided in §A(2) [and (3)] of this regulation, in order to renew a license, each covered employee of a licensee shall successfully complete in the licensing period immediately preceding the current renewal period at least 8 hours of continuing education in approved courses.
 - (2) The required 8 hours of continuing education shall be the same as the continuing education requirements for mortgage loan originators set forth in Financial Institutions Article, §11-612, Annotated Code of Maryland, and COMAR 09.03.09.03, and include at least the following subjects in the number of hours indicated:
 - (a) Federal law and regulations *relating to mortgage origination*—3 hours;
 - (b) (text unchanged)
 - (c) Lending standards *and loan terms* for the nontraditional mortgage product market—2 hours; and
 - (d) [Maryland mortgage-related laws] *Maryland law and regulations relating to mortgage lending and origination*—1 hour.
 - (3) (text unchanged)
- D. Reporting, Verification, and Record Keeping.
 - (1) [Except as provided in §A(2) of this regulation, a] A licensee, when applying for a license renewal, shall:
 - (a) Provide to the Commissioner any information or certification as the Commissioner may require as proof of satisfactory completion of each covered employee's education requirements; and
 - (b) Submit to the Commissioner, in the manner the Commissioner requires, a list of all covered employees.
 - (2) The Commissioner may [verify] *require verification*, on a random or other basis, *of* satisfactory completion of the requirements of this regulation.
 - (3) (text unchanged)
- E. Repealed.
- F. Repealed.
- G. (text unchanged)

[.18] .19 Special Rules for Covered Loans.

A. Purpose and Scope.

(1) (text unchanged)

(2) This regulation applies to [all covered loans made under the provisions of Commercial Law Article, Title 12, Subtitle 1, 3, 4, or 10, Annotated Code of Maryland] *loans subject to Commercial Law Article, §§12-127, 12-311, 12-409.1, and 12-1029, Annotated Code of Maryland.*

[B. Definitions. In this regulation, the following terms have the meanings indicated:

(1) "Consumer report" has the meaning stated in Commercial Law Article, §14-1201, Annotated Code of Maryland.

(2) "Consumer reporting agency" has the meaning stated in Commercial Law Article, §14-1201, Annotated Code of Maryland.

(3) "Covered loan" means a mortgage loan made under Commercial Law Article, Title 12, Subtitle 1, 3, 4, or 10, Annotated Code of Maryland, that meets the criteria for a loan subject to the Federal Home Ownership Equity Protection Act set forth in 15 U.S.C. §1602(AA), as modified from time to time by Regulation Z, 12 CFR 226, except that the comparison percentages for the mortgage loan shall be 1 percentage point less than those specified in 15 U.S.C. §1602(AA), as modified from time to time by Regulation Z, 12 CFR 226.

(4) "Credit grantor" has the meaning stated in Commercial Law Article, §12-1001, Annotated Code of Maryland.

(5) Lender.

(a) "Lender" has the meanings stated in Commercial Law Article, §§12-101, 12-301, or 12-401, Annotated Code of Maryland, as the context may require.

(b) "Lender" includes a credit grantor under Commercial Law Article, Title 12, Subtitle 10, Annotated Code of Maryland.

(6) "Loan application" has the meaning stated in Commercial Law Article, §12-125(a), Annotated Code of Maryland.

(7) "Mortgage loan" has the meaning stated in Financial Institutions Article, §11-501, Annotated Code of Maryland.

C. Requirements.

(1) For purposes of Commercial Law Article, §§12-124.1(c), 12-311(e), 12-409.1(c), and 12-1029(c), Annotated Code of Maryland:

(a) A loan application is completed at the time of initial application; and

(b) In the case of loan applications received by a lender by mail, telephone, or other electronic means the requirement that the lender shall provide a written recommendation that the borrower seek home buyer education or housing counseling and a list of approved agencies and organizations is satisfied, if they are mailed or otherwise provided to the borrower at the time of the initial application or within 3 business days after completion of the initial application.

(2) Under Commercial Law Article, §§12-127(b), 12-311(d), 12-409.1(b), and 12-1029(b), Annotated Code of Maryland:

(a) If the residential real estate securing the covered loan of a borrower is not located in a metropolitan statistical area, the borrower's monthly gross income shall be compared to the nonmetropolitan median family income for the county in which the property is located, as reported in the most recent estimates made available by the United States Department of Housing and Urban Development as of the date of initial application for a covered loan;

(b) A borrower's total scheduled monthly payment obligations are the amounts required to be paid to satisfy the borrower's legally enforceable minimum monthly financial obligations as of the date of initial application for a covered loan;

(c) A borrower's total scheduled monthly payment obligations include secured and unsecured debt, alimony, child support, and other similar legally enforceable financial obligations payable in two or more installments;

(d) A borrower's total scheduled monthly payment obligations do not include any debts that are consolidated with, or paid off by, a covered loan;

(e) A lender's consideration of a borrower's scheduled monthly payment obligations may be limited to information provided directly by the borrower and verified by a consumer report from a consumer reporting agency, unless information provided by the borrower or the consumer reporting agency reasonably leads to further investigation by the lender; and

(f) A lender shall retain information used to determine a borrower's ability to repay for at least 25 months after final payment is made or the covered loan is sold, whichever occurs first.]

B. Subject to §C of this regulation, a lender shall give due regard to the borrower's ability to repay the mortgage loan utilizing the following standards:

(1) If the residential real estate securing the loan of a borrower is not located in a metropolitan statistical area, the borrower's monthly gross income shall be compared to the nonmetropolitan median family income for the county in which the property is located, as reported in the most recent estimates made available by the United States Department of Housing and Urban Development as of the date of initial application for a loan;

(2) A borrower's total scheduled monthly payment obligations are the amounts required to be paid to satisfy the borrower's legally enforceable minimum monthly financial obligations as of the date of initial application for a loan;

(3) A borrower's total scheduled monthly payment obligations include secured and nonsecured debt, alimony, child support, and other similar legally enforceable financial obligations payable in two or more installments;

(4) A borrower's total scheduled monthly payment obligations do not include any debts that are consolidated with, or paid off by, a mortgage loan; and

(5) A lender's consideration of a borrower's scheduled monthly payment obligations may be limited to information provided directly by the borrower and verified by a consumer report from a consumer reporting agency, unless information provided by the borrower or the consumer reporting agency reasonably leads to further investigation by the lender.

C. Compliance with applicable provisions in 12 CFR Part 1026, as may be amended from time to time, may be substituted for the obligations required by, and shall be sufficient to meet the requirements of, §B of this regulation.

D. A lender shall retain information used to determine a borrower's ability to repay for at least 37 months after final payment is made or the loan is sold, whichever occurs first.

[.20] .21 Duty of Care.

A. (text unchanged)

B. Method to Determine Net Tangible Benefit.

(1) (text unchanged)

(2) A licensee is considered to have conducted a reasonable inquiry of whether a refinance of a mortgage loan provides a net tangible benefit to a borrower if the mortgage lender has the borrower complete and sign a net tangible benefit worksheet on the form prescribed by the Commissioner, *or a form that is substantially similar to the form prescribed by the Commissioner.*

[.21] .22 Nontraditional and Higher-Priced Mortgage Loans.

A. — B. (text unchanged)

C. Risk Management Policies, Procedures, and Control Systems.

(1) (text unchanged)

(2) Policies and Procedures.

(a) — (c) (text unchanged)

(d) A licensee acting as a lender shall establish written [policies] *policies* and procedures to implement the requirements set forth in this subsection.

(3) (text unchanged)

.24 Supervision of Mortgage Loan Originators.

A. A licensee who is the employer of a mortgage loan originator shall at all times reasonably and adequately supervise those activities of the mortgage loan originator which are conducted within the scope of the mortgage loan originator's employment.

B. The Commissioner may consider the following factors, or additional factors, to determine whether supervision by the licensee is reasonable and adequate:

(1) The availability of:

(a) Experienced supervisory personnel to review and discuss:

(i) Mortgage loan terms;

(ii) Disclosure requirements; and

(iii) Advertising.

(b) Regularly updated policies and procedures that provide adequate guidance to mortgage loan originators in the following areas:

(i) Licensing and education requirements;

(ii) State and federal mortgage lending laws and regulations, including any new requirements or changes to existing requirements;

(iii) The preparation, execution, and review of disclosures, agreements, and other documents; and

(iv) Advertising.

(2) Evidence of:

(a) Review of disclosures, agreements, and other documents prepared or executed by mortgage loan originators;

(b) Compliance with the policies and procedures specified in §B(1)(b) of this regulation; and

(c) Dissemination of the policies and procedures specified in §B(1)(b) of this regulation.

C. If it is shown that the licensee has not provided reasonable and adequate supervision in the areas specified under §B of this regulation, the burden of proof shall be on the licensee to show that the supervision which was provided was reasonable and adequate.

.25 Data Protection.

A. A licensee shall develop, implement, and maintain a comprehensive information security program that is commensurate with the licensee's size and complexity, the nature and scope of the licensee's activities, and the sensitivity of any customer information at issue.

B. A licensee's information security program shall be designed to achieve the following objectives:

- (1) Ensuring the security and confidentiality of customer information;
- (2) Protecting against any anticipated threats or hazards to the security or integrity of such information; and
- (3) Protecting against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any customer.

C. Governance Over Information Technology.

(1) A licensee shall have an established governance process in place to control and monitor information security.

(2) The governance process shall include, as appropriate for the size and complexity of the licensee and its information technology systems:

(a) The establishment, with approval by the board of directors, ownership, or other most senior level of management, of policies and procedures related to information technology;

(b) A management structure that encompasses:

(i) The assignment of responsibilities and authorities for ensuring adherence to information technology policies and procedures;

(ii) Documented accountability functions to ensure compliance with information technology policies and procedures; and

(iii) Reporting to the board of directors, ownership, or other most senior level of management, no less than annually, regarding the effectiveness of the information technology policies and procedures.

D. Information Technology Security Risk Assessment.

(1) A licensee shall complete an information technology security risk assessment on a periodic basis, but not less than once every three years.

(2) A licensee's security risk assessment shall include:

(a) Identification of the data and information systems that need to be protected;

(b) Classification and ranking of sensitive data, systems, and applications; and

(c) Identification and assessment of threats and vulnerabilities.

E. Information Technology Security Testing and Monitoring.

(1) A licensee shall perform periodic testing and monitoring of information technology security controls as appropriate for the size and complexity of the licensee's information technology systems.

(2) A licensee's periodic testing and monitoring of information technology security controls shall include:

(a) Evaluation of the effectiveness of existing internal controls;

(b) Corrective action to address any significant deficiencies identified during the course of licensee's evaluation of the effectiveness of existing internal controls;

(c) Monitoring of external sources for new vulnerabilities; and

(d) Development and implementation of additional control frameworks for any new or changed threats or risks identified by the licensee.

F. Third Party Provider Oversight.

(1) A licensee shall oversee third party service providers, by:

(a) Taking reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the customer information at issue; and

(b) Requiring service providers by contract to implement and maintain such safeguards.

G. Reporting Obligations.

(1) A licensee shall provide to the Commissioner through the NMLSR an annual certification as to the performance and results of the periodic testing required by §E(1) of this regulation.

(2) A licensee shall provide notice of a breach of the security of a system to the Commissioner prior to giving the notice required by Commercial Law Article, §14-3504(b), Maryland Code Annotated.

H. A licensee that adequately demonstrates compliance with the federal Interagency Guidelines Establishing Information Security Standards, 12 CFR Part 30, Appendix B, as may be amended from time to time, shall be deemed to be in compliance with §§A-C of this regulation.

.26 Significant Event Reporting.

A. A licensee shall comply with the duty to report at COMAR 09.03.10.02.

B. A licensee shall notify the Commissioner in writing, and, if applicable, amend the licensee's information and disclosures in the NMLSR, within two business days of the occurrence of any of the following events:

(1) Insolvency, filing for bankruptcy or reorganization of the licensee, the placement into receivership by any court, or initiation of any form of attachment of any of the licensee's assets;

(2) Receiving notification of any initiation, settlement agreement or other form of consensual resolution, or entry of judgment in any administrative, civil, or criminal action against the licensee by any government entity;

(3) Expiration, termination or default, technical or otherwise, of any existing line of credit or warehouse credit agreement;

(4) Suspension or termination of the licensee's status as an approved seller or seller/servicer by the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Government National Mortgage Association, or a direct endorsement mortgagee by the Federal Housing Administration;

(5) Any change to net worth resulting from market valuation or future loss liability or any other change which causes the net worth of the licensee to fall below the requirements of Financial Institutions Article, §11-508.1, Annotated Code of Maryland;

(6) Cancellation or modification by the licensee, or termination by a surety, of the licensee's surety bond required by Financial Institutions Article, §11-508, Annotated Code of Maryland; and

(7) Becoming aware of systemic violations of any provision of Financial Institutions Article, Title 11, Subtitle 5, Annotated Code of Maryland, any regulation adopted thereunder, or any other law regulating mortgage loan lending in the State.

C. The notice required by §B(2) of this regulation shall include, as applicable, a copy of the complaint, settlement agreement or judgment that is the subject of the notice.

.27 Notice of Mortgage Servicing Transfers.

A. General Information Regarding Transfers of Servicing Rights.

(1) For each transfer of servicing rights involving 7,500 or more loans, a transferee servicer shall provide the Commissioner with the following information at least 30 days before the transfer date, regardless of whether the transfer of servicing rights includes Maryland loans:

(a) Whether the transfer agreement is a subservicing agreement or an agreement for the sale of mortgage servicing rights;

(b) The names of all parties to the agreement;

(c) The total number of loans that will be transferred;

(d) The total unpaid principal balance for the loans that will be transferred;

(e) The total number of additional staff that has been or will be hired in order to service the transferred loans; and

(f) Whether the pool of transferred loans includes Maryland loans.

(2) Waiver of 30 Day Requirement.

(a) A transferee servicer may submit a written request to the Commissioner for a waiver from the 30 day requirement in §A(1) of this regulation.

(b) After receipt of a written request, the Commissioner may grant a waiver from the 30 day requirement in §A(1) of this regulation if extenuating circumstances exist, such as where a court or regulator required the transfer.

B. Information Regarding Maryland Loans.

(1) For each transfer of servicing rights subject to §A of this regulation that includes one or more Maryland loans, a transferee servicer shall provide the following information, accurate as of the date of submission to the Commissioner, at least 30 days before the transfer date:

(a) The total number of Maryland loans in the pool of transferred loans;

(b) A breakdown of the Maryland loans by investor type;

(c) The number of Maryland loans that are delinquent, broken out by 30+, 90+, and 360+ days delinquent;

(d) The number of Maryland loans with a permanent loan modification;

(e) The number of Maryland loans for which the borrower has completed a trial loan modification and the transferor servicer has not supplied an executed copy of a permanent loan modification to the borrower;

(f) The number of Maryland loans with a loan modification that is in a trial period;

(g) The number of Maryland loans where the borrower has submitted a complete loss mitigation application and the transferor servicer has not made a decision regarding eligibility for a loss mitigation option;

(h) The number of Maryland loans that have incomplete loss mitigation applications; and

(i) The number of Maryland loans that include an escrow for taxes, insurance, ground rent, or other charges or levies.

(2) Waiver of 30 Day Requirement.

(a) A transferee servicer may submit a written request to the Commissioner for a waiver from the 30 day requirement in §B(1) of this regulation.

(b) After receipt of a written request, the Commissioner may grant a waiver from the 30 day requirement in §B(1) of this regulation if extenuating circumstances exist, such as where a court or regulator required the transfer.

C. For a transfer of servicing rights subject to §B of this regulation, a transferee servicer shall designate an individual as the contact person authorized to discuss, negotiate, and make decisions for the resolution of complaints related to the servicing of Maryland loans that are in the pool of transferred loans.

D. Subsequent to a licensee's submission of the information required by §§B and C of this regulation in compliance with the applicable timeframe, the Commissioner may request not less than 5 days before the transfer date, and a transferee servicer shall provide, additional information before the transfer date, including, but not limited to:

(1) The names and loan numbers of Maryland borrowers whose loans are included in one or more of §B(1)(a)-(i) of this regulation; and

(2) An informational plan describing how the transferee servicer will manage risks related to the transfer.

E. Calendar-Year Information Regarding Mortgage Servicing Transfers.

(1) If, at the conclusion of a calendar year, a transferee servicer has acquired mortgage servicing rights, including subservicing rights, for 15,000 or more loans, a transferee servicer shall provide the information required by §§B and C of this regulation to reflect all transfers of servicing rights during the preceding calendar year, even if no single transfer of servicing rights was for 7,500 or more loans.

(2) Subsequent to receipt of the information required by §E(1) of this regulation, the Commissioner may request, and a transferee servicer shall provide, additional information, including, but not limited to, the names and loan numbers of Maryland borrowers whose loans are included in one or more of §B(1)(a)-(i) of this regulation.

F. The Commissioner may allow the submission of information and documents required under this regulation by an electronic method, including the NMLSR.

.28 Obligations Related to Mortgage Servicing Transfers.

A. Policies and Procedures.

(1) If a licensee is involved in a transfer of mortgage servicing rights as either a transferor or a transferee servicer, the licensee shall have policies and procedures in place to ensure compliance with applicable state and federal law regarding mortgage servicing, including, but not limited to, evaluation of borrowers for loss mitigation options.

(2) Examples of appropriate policies and procedures include:

(a) Requiring counterparties to provide all necessary documents and information, including all information needed to validate the debt and process payments, before the transfer date;

(b) Flagging all loans with pending offers of loss mitigation options or approved loss mitigation options;

(c) Ensuring that discussions with borrowers and any loss mitigation requests, applications, or documentation are provided to the transferee servicer;

(d) Testing transferor servicer and transferee servicer systems of record to ensure compatibility of transferred data;

(e) Identifying and promptly addressing data errors, missing information or documents, and other loan level issues;

(f) Creating a customer service plan for responding to inquiries from borrowers and for identifying whether a loan is subject to a pending loss mitigation application, offer of a loss mitigation option, or approved loss mitigation agreement;

(g) Creating a customer service plan for responding to and processing loss mitigation requests or inquiries from successors in interest of borrowers; and

(h) Remediating actual harm to borrowers that results from a transfer of servicing rights.

B. Obligations of Transferor Servicers.

(1) On or before the transfer date, a transferor servicer shall take all of the following actions:

(a) Provide all necessary loan level documents and information, including a complete history of loan payments, charges, and credits and of any loss mitigation activity, to the transferee servicer;

(b) Provide an itemization of all payments applied to the account, including any fees incurred by the borrower;

(c) Flag for the transferee servicer all loans with any of the following:

(i) A pending loss mitigation application;

(ii) An approved loss mitigation option;

(iii) A pending written complaint; or

(iv) A pending notice of error.

(d) Provide descriptions to the transferee servicer of loss mitigation options that are unique to the transferor servicer and that are applicable to one or more of the transferred loans, including the criteria for determining eligibility;

(e) Describe specific regulatory requirements that are applicable to some or all of the transferred loans; and

(f) Describe specific requirements related to the terms of a settlement agreement that are applicable to some or all of the transferred loans.

(2) A transferor servicer shall forward all borrower payments received after the transfer date to the transferee servicer.

(3) Subject to Financial Institutions Article, §11-518, Annotated Code of Maryland, if a transferor servicer's failure to promptly comply with §B(1)-(2) of this regulation causes demonstrable financial loss to the borrower or harm to the borrower's credit score, the transferor servicer shall promptly take affirmative action to correct the violation including, but not limited to:

(a) Providing restitution of money or property to the affected borrower; and

(b) Taking steps to repair the borrower's credit score.

C. Obligations of Transferee Servicers.

(1) On or after the transfer date, a transferee servicer shall comply with all of the following requirements:

- (a) Accept and continue processing pending loss mitigation applications within the timeframes that were applicable to the transferor servicer under relevant state and federal law;*
 - (b) Honor trial and permanent loan modification agreements entered into by the transferor servicer;*
 - (c) Provide general information about the transfer process to borrowers, including notice of a borrower's complaint resolution rights under applicable state and federal law;*
 - (d) Confirm the amount and status of scheduled payments, including any fees incurred before the transfer date, with information and documents provided by the transferor servicer from its system of record; and*
 - (e) Respond, within the timeframes established by applicable state and federal law, to any pending written complaint or pending notice of error sent to the transferor servicer.*
- (2) A transferee servicer may not take any of the following actions on or after the transfer date:*
- (a) Attempt to obtain from the borrower any missing information or documents that were previously submitted by the borrower to the transferor servicer, without first contacting the transferor servicer to attempt to obtain the missing information or documents; or*
 - (b) Engage in any of the following activities before complying with §C(1)(d) of this regulation:
 - (i) Charge a late fee or any other fee in connection with the servicing of the loan;*
 - (ii) Begin or continue collection activities; or*
 - (iii) Provide information about delinquency to a credit reporting agency.**
- (3) Subject to Financial Institutions Article, §11-518, Annotated Code of Maryland, if a transferee servicer's failure to comply with §C(1)-(2) of this regulation causes demonstrable financial loss to the borrower or harm to the borrower's credit score, the transferor servicer shall promptly take affirmative action to correct the violation including, but not limited to:*
- (a) Providing restitution of money or property to the affected borrower; and*
 - (b) Taking steps to repair the borrower's credit score.*