

§ 3500.16

(5) *Direct ownership* means the holding of legal title to an interest in a provider of settlement service except where title is being held for the beneficial owner.

(6) *Franchise* is defined in 16 CFR 436.2(a).

(7) *Franchisor* is defined in 16 CFR 436.2(c).

(8) *Franchisee* is defined in 16 CFR 436.2(d).

(9) *Person who is in a position to refer settlement service business* means any real estate broker or agent, lender, mortgage broker, builder or developer, attorney, title company, title agent, or other person deriving a significant portion of his or her gross income from providing settlement services.

(d) *Recordkeeping*. Any documents provided pursuant to this section shall be retained for 5 years after the date of execution.

(e) *Appendix B of this part*. Illustrations in appendix B of this part demonstrate some of the requirements of this section.

[61 FR 13233, Mar. 26, 1996, as amended at 61 FR 29252, June 7, 1996; 61 FR 58476, Nov. 15, 1996]

EFFECTIVE DATE NOTE: At 61 FR 29252, June 7, 1996, §3500.15 was amended by revising the introductory text of paragraph (b)(1), effective Oct. 7, 1996. At 61 FR 51782, Oct. 4, 1996, the effective date was delayed until further notice. For the convenience of the user, the new text is set forth as follows:

§ 3500.15 **Controlled business arrangements.**

* * * * *

(b) * * *

(1) Prior to the referral, the person making a referral has provided to each person whose business is referred a written disclosure, in the format of the Controlled Business Arrangement Disclosure Statement set forth in appendix D of this part. This disclosure shall specify the nature of the relationship (explaining the ownership and financial interest) between the person performing settlement services (or business incident thereto) and the person making the referral, and shall describe the estimated charge or range of charges (using the same terminology, as far as practical, as section L of the HUD-1 or HUD-1A settlement statement) generally made by the provider of settlement services. The disclosure must be provided on a separate piece of paper no later than the time of each referral or, if the lender requires the

use of a particular provider, the time of loan application, except that:

* * * * *

§ 3500.16 **Title companies.**

No seller of property that will be purchased with the assistance of a federally related mortgage loan shall violate section 9 of RESPA (12 U.S.C. 2608). Section 3500.2 defines “required use” of a provider of a settlement service. Section 3500.19(c) explains the liability of a seller for a violation of this section.

§ 3500.17 **Escrow accounts.**

(a) *General*. This section sets out the requirements for an escrow account that a lender establishes in connection with a federally related mortgage loan. It sets limits for escrow accounts using calculations based on monthly payments and disbursements within a calendar year. If an escrow account involves biweekly or any other payment period, the requirements in this section shall be modified accordingly. A HUD Public Guidance Document entitled “Biweekly Payments—Example” provides examples of biweekly accounting and a HUD Public Guidance Document entitled “Annual Escrow Account Disclosure Statement—Example” provides examples of a 3-year accounting cycle that may be used in accordance with paragraph (c)(9) of this section. A HUD Public Guidance Document entitled “Consumer Disclosure for Voluntary Escrow Account Payments” provides a model disclosure format that originators and servicers are encouraged, but not required, to provide to consumers when the originator or servicer anticipates a substantial increase in disbursements from the escrow account after the first year of the loan. The disclosures in that model format may be combined with or included in the Initial Escrow Account Statement required in §3500.17(g).

(b) *Definitions*. As used in this section:

Acceptable accounting method means an accounting method that a servicer uses to conduct an escrow account analysis for an escrow account subject to the provisions of §3500.17(c).