



Americans for Financial Reform
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March 16, 2015

Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: Amendments to the 2013 Mortgage Rules under the Real Estate Settlement Procedures Act and the Truth in Lending Act, [Docket No. CFPB-2014-0033]

Dear Ms. Jackson:

Thank you for the opportunity to comment on the CFPB's proposed amendments to its mortgage servicing regulations. AFR is a coalition of more than 200 national, state, and local groups who have come together to advocate for reform of the financial industry. Members of AFR include consumer, civil rights, investor, retiree, community, labor, faith based, and business groups.

We applaud the CFPB's attention to continuing problems facing borrowers seeking loan modifications, and appreciate steps taken in the proposed rule to address them. Below we provide comments suggesting additions or changes that are needed in a number of key areas for the rule to more successfully address challenges confronting borrowers and meet the goals of the rulemaking. There are also many areas not included in this rulemaking that we think need further attention and action from the Bureau. This includes requiring servicers to better meet the needs of borrowers with Limited English Proficiency, patching the gaps in the dual tracking rule by allowing applications submitted fewer than 37 days prior to sale to trigger a temporary pause in foreclosures, and requiring servicers to process appeals for all applications submitted within the dual tracking timelines. Finally, the end of the HAMP program is not too far off and no other system establishes a standard for sustainable loan modifications for private label securities that also benefits investors. We strongly urge the CFPB to require servicers to provide affordable loan modifications consistent with investor interests, and believe that it is within your authority to do so.

Successors in Interest: A substantial step in the right direction, but further steps can strengthen the proposed rule.

We commend the CFPB for taking a substantial step forward to protect successors in interest from foreclosure, as this vulnerable population is greatly in need of the kinds of protection the CFPB is making an effort to extend. The Bureau's proposal allows successors to be considered a borrower or consumer once a servicer confirms the successor in interest's identity and ownership

interest. However, to achieve the goals the CFPB has discussed in considering this amendment, the proposed rule should be strengthened. The final rule should create a deterrent to unreasonable conduct by servicers in confirming successor status by creating a privately enforceable right triggered by the homeowner's submission of documentation, not the servicer's additional step of confirming the person's status. We would also like to see the CFPB broaden the definition of successor in interest to incorporate groups, such as parents, siblings or grandchildren, and gay partners, as well as co-homeowners who did not sign the original loan. The Bureau also should require servicers to communicate with successors in writing regarding how that status can be documented and to notify the homeowner of the servicer's determination regarding the person's status. Applications for loss mitigation by successors should clearly be identified as not falling within the duplicative request rule.

The Duplicative Request Proposal: Makes progress but needs expansion.

We commend the CFPB for amending its duplicative request rule to exclude loans where the delinquency has been cured, but think the proposal must go further to address the range of appropriate subsequent applications. The final rule should clearly state that a borrower who has obtained a permanent loan modification is eligible to apply again for loss mitigation, as the delinquency has been cured. It also should make clear that the limitation on duplicative requests does not apply where the servicer is otherwise reviewing the application, either due to a voluntary act by the servicer or under GSE, FHA or HAMP rules. In addition, servicers declining to review an application because it has been determined to be duplicative should be required to notify the homeowner in writing that this is the case. Lastly, because the cure exemption to the duplicative request rule fails to capture many homeowners with truly changed circumstances, such as the borrower who has begun paying again but is still considered delinquent because a portion of the arrears is still outstanding, the Bureau should require servicers to process loss mitigation applications received more than one year after an evaluation of a prior complete loss mitigation application, whether or not the borrower has formally cured.

The Complete Application Rule: Should be replaced with an "Initial Package" rule, but if it is retained it should require the proposed notice of a complete application.

Dual tracking protections should kick in when a homeowner has submitted an initial loss mitigation application package, not when a servicer deems the package complete. The documented problems with lost documents, piecemeal document requests, and repeated document requests make clear that the current rule, which allows a servicer to be the arbiter of what must be included in a complete application, undermines efficient loss mitigation reviews. As a result, homeowners face months more of increasing arrears and fees, making any ultimate resolution more expensive and more difficult to obtain.

If the CFPB does maintain the "complete application" standard, the written notice requirement should be adopted. We support this common-sense approach that addresses a prevalent issue regarding borrowers' uncertainty on their pending applications. The Bureau should require servicers to explicitly state in the notice whether a scheduled sale has been canceled or postponed, and should also make the suggested timing requirement for the notice of complete application a mandatory rule, as a flexible rule invites unnecessary delay. Also, the Bureau should require servicers to explicitly document the need for additional information after an

application has become complete or facially complete as a means to curb ongoing dilatory tactics.

Servicing Transfers: Proposed rules should be adopted and improved upon.

The servicing rights for a large number of consumer mortgage loans have been transferred in recent years, often to non-bank mortgage servicing companies. These transfers have been accompanied by significant problems, as the Bureau has identified.

We support the Bureau's inclusion of a separate, privately enforceable provision establishing requirements for the processing of loss mitigation applications when there has been a transfer of servicing. We also urge the CFPB to prohibit servicers from making duplicative and burdensome requests from borrowers for information and documents that have been previously provided to a transferor servicer. The final rule should include specific requirements that the transferor servicer has an obligation to provide all documents and information that have been provided by a borrower on a loss mitigation application to the transferee servicer, including any records of the transferor's discussions with borrowers about loss mitigation and any copies of loss mitigation relevant documents. The rule also should require the transferor servicer to provide a detailed list of loans with pending loss mitigation applications and should require the transferee to review the material (not just obtain it).

Force-Placed Insurance: These rules should be expanded.

Finally, we believe the CFPB should expand the force-placed insurance provisions in the mortgage servicing rule to ensure that homeowners without escrow accounts are protected from force-placed insurance abuses. The CFPB also should prohibit mortgage servicers from accepting any payments from force-placed insurance companies, including reinsurance deals and free or discounted administrative services. The current rule leaves too many openings for continued abuse in an area with a history of such conduct. These gaps must be addressed.

Thank you for your consideration. For questions, please contact policy analyst Rebecca Thiess at thiess@ourfinancialsecurity.org or 202-973-8005.

Sincerely,

Americans for Financial Reform
California Reinvestment Coalition
Community Legal Services Philadelphia
Connecticut Fair Housing Center
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