November 22, 2024

Director Rohit Chopra
Consumer Financial Protection Bureau
1700 G Street, NW
451 7th Street S.W.
Washington DC 20552

Director Rohit Chopra,

We write to express serious concerns about the Consumer Financial Protection Bureau's (CFPB) proposed amendments to mortgage servicing regulations aimed at streamlining processes for borrowers experiencing payment difficulties.

While we recognize and appreciate the CFPB's intent to modernize and improve mortgage servicing—especially considering lessons learned during the COVID-19 pandemic—these changes must not introduce unnecessary risks, costs, and uncertainties for homeowners and mortgage servicers. As currently proposed, the amendments risk doing more harm than good by increasing borrower confusion and creating extensive inefficiency in the loss mitigation process. The proposal rightfully provides borrowers with protections earlier in the default process; however, the proposal unwisely removes a borrower's motivation to engage with mortgage servicers to receive loss mitigation assistance.

The proposed amendments make significant adjustments to early intervention and loss mitigation determination notices. Flexibility in early intervention is crucial for assisting borrowers, but the proposed broad and undefined standards do not simplify the process as intended. Instead, they risk confusing borrowers with complex notices and shifting options, overwhelming them rather than providing clarity. Prolonged loss mitigation cycles, driven by continuous re-evaluations, only extend the loss mitigation process and borrowers' arrearages, making it harder for homeowners to recover from their financial hardship. This approach is counterproductive and will lead to additional financial strain on borrowers without clear guidelines that define the availability of dual tracking protections.

The proposed rule repeatedly states that the potential for increased costs to mortgage servicers will be offset by streamlining measures, or that the costs will be minimal. However, this assumption is misguided. The proposal's approach to loss mitigation would significantly increase operational costs for servicers, without a clear mechanism for recovering those costs. Servicers already bear substantial expenses during the foreclosure process, and the proposal's restrictions on recouping these costs only add further strain.

This prohibition on recovering foreclosure-related fees introduces significant challenges, increasing both risk and uncertainty for mortgage servicers. Servicers often face third-party costs during foreclosure, and the inability to recover those expenses will lead to financial strain that ultimately harms borrowers, as these risks will be reflected in higher loan pricing. An additional unintended consequence could be fewer entities participating in the loan servicing market or offering fewer loss mitigation options. The proposal overlooks the reality that increased regulatory burdens such as the inability to collect appropriate fees on a few loans, will drive up the cost of credit for all borrowers, pushing the American Dream of homeownership further out of reach—especially for lower-income borrowers.

In conclusion, the proposed amendments risk creating confusion and financial strain for both borrowers and servicers. The CFPB should not move forward with this proposed change.

Sincerely,

M. Michael Rounds
United States Senator

Bill Hagerty
United States Senator

Steve Daines
United States Senator