National Reverse Mortgage Lenders Association
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October 9, 2012

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

Re: Docket No. Docket No. CFPB-2012-0033 or RIN 3170-AA14
[2012 Truth in Lending Act (Regulation Z) Mortgage Servicing Proposal]; and,
Docket No. CFPB-2012-0034 or RIN 3170-AA14
2012 Real Estate Settlement Procedures Act (Regulation X) Mortgage Servicing Proposal]

Dear Ms. Jackson:

The National Reverse Mortgage Lenders Association ("NRMLA") is the national voice of the reverse mortgage industry. With over 300 member companies and over 1300 member delegates, NRMLA serves as an educational resource, policy advocate and public affairs center for lenders and related professionals. NRMLA was established in 1997 to enhance the professionalism of the reverse mortgage business. Our mission is to educate consumers about the pros and cons of reverse mortgages, to train lenders to be sensitive to clients' needs, to enforce our Code of Ethics and Professional Responsibility[1], and to promote reverse mortgages in the news media.

Introduction

On August 10, 2012, the Consumer Financial Protection Bureau ("the Bureau") pre-published proposed rules to amend Regulation Z, which implements the Truth in Lending Act (TILA), as well as amendments to Regulation X, which implements the Real Estate Settlement Procedures Act (RESPA), in order to implement changes by the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) to those statutes regarding mortgage loan servicing (together, the "Servicing Proposal"). Comments regarding the Servicing Proposal are due by or before October 9, 2012. NRMLA is pleased to submit these comments to the Bureau's Servicing Proposal.

Overview of the Servicing Proposal

The Servicing Proposal contains nine (9) major categories or topics areas. However, as stated above, only parts of five (5) of these topics are specifically mandated and directed by Congress under the Dodd-Frank Act. The Bureau states that it plans to finalize the proposed servicing rules by January 2013. The Bureau further states its general belief that the final servicing rules should be made effective as soon as possible,

[1] http://www.nrmlaonline.org/nrmla/ethics/conduct.aspx

and that the Dodd-Frank Act in some cases provides no more than 12 months for implementation. However, as stated above, only portions of five (5) of the nine (9) proposed changes that the Bureau submits under the Servicing Proposal are not directly mandated by Congress under Title XIV of the Dodd-Frank Act. The others were unilaterally created by the Bureau without a specific directive from Congress to do so.

We appreciate that the Bureau understands that the final servicing rules will require the programming of many new forms, revisions to software, staff training, and other changes, and that some (we would submit many) companies will also need to implement other new requirements under other parts of the Dodd-Frank Act and other Bureau proposed rules. And, we appreciate that the Bureau requests comments about how long to provide for implementation of the Servicing Proposal.

As requested below, by including in the Servicing Proposal suggested changes outside of specific statutory changes mandated by Congress under Title XIV of the Dodd-Frank, together with specific statutory changes mandated by Title XIV of the Dodd-Frank, and the desire, advisability and need for coordinating the statutorily mandated changes with those proposed changes initiated unilaterally by the Bureau, we submit that a final effective date that for servicing rules need not and should not otherwise strictly adhere to the formulation and timeline stated in section 1400 of the Dodd-Frank Act, and that the Bureau should use its authority to exempt the mortgage industry from any such requirements well beyond the final date stated in Section 1400(c)(1)(B) of the Dodd-Frank Act, perhaps by two or three years.

Periodic Statement. Section 1420 of the Dodd-Frank Act generally mandates that servicers of closed-end residential mortgage loans must send a periodic statement for each billing cycle.

ARM Adjustment Notices. Section 1420 of the Dodd-Frank Act requires Servicers would have to provide a consumer whose mortgage has an adjustable rate with a notice 60 to 120 days before an adjustment which causes the payment to change. The servicer would also have to provide an earlier notice 210 to 240 days prior to the first rate adjustment. This first notice may contain an estimate of the rate and payment change. Other than this initial notice, servicers would no longer be required to provide an annual notice if a rate adjustment does not result in an increase in the monthly payment. The proposal contains model and sample forms that servicers could use.

Application of loan payments. Section 1464 of the Dodd-Frank Act requires servicers must promptly credit payments from borrowers, generally on the day of receipt. If a servicer receives a payment that is less than a full contractual payment, the payment may be held in a suspense account. When the amount in the suspense account covers a full installment of principal, interest, and escrow (if applicable), the proposal would require the servicer to apply the funds to the oldest outstanding payment owed. A servicer also would be required to send an accurate payoff balance to a consumer no later than seven business days after receipt of a written request from the borrower for such information.

Lender/Servicer-placed insurance. Section 1463 of the Dodd-Frank Act prohibits servicers from charging a borrower for force-placed insurance coverage unless the servicer has a reasonable basis to believe the borrower has failed to maintain hazard insurance and has provided required notices.

A servicer would be required to send several notices to borrowers before obtaining insurance on a consumer's home. A servicer would be required to send a first notice to the borrower at least 45 days prior to charging for forced-place insurance coverage, and a servicer would be required to send a second notice to the borrower no earlier than 30 days after the first notice. The Bureau appends model forms to the Servicing Proposal that a servicer could use.

If a borrower provides proof of hazard insurance coverage, then the servicer would be required to cancel any force-placed insurance policy and refund any premiums paid for periods in which the borrower's policy was in place. In addition, if a servicer makes payments for hazard insurance from a borrower's escrow account, a servicer would be required to continue those payments rather than force-placing a separate policy, even if there is insufficient money in the escrow account. The rule would also provide that charges related to forced place insurance (other than those subject to State regulation as the business of insurance or authorized by federal law for flood insurance) must relate to a service that was actually performed. Also, such charges would have to bear a reasonable relationship to the servicer's cost of providing the service.

Error resolution and information requirements. Section 1463 of the Dodd-Frank Act shortens the timeline for services to respond to qualified written requests. However, the Bureau is also proposing to require servicers to meet certain procedural requirements for responding to information requests or complaints of errors. The Servicing Proposal defines specific types of claims which constitute an error, such as a claim that the servicer misapplied a payment or assessed an improper fee.

For purposes of this requirement, the term "error" means the following categories of covered errors:

(1) Failure to accept a payment that conforms to the servicer's written requirements for the borrower to follow in making payments;

(2) Failure to apply an accepted payment to principal, interest, escrow, or other charges under the terms of the mortgage loan and applicable law;

(3) Failure to credit a payment to a borrower's mortgage loan account as of the date of receipt, where such failure has resulted in a charge to the consumer or the furnishing of negative information to a consumer reporting agency;

(4) Failure to pay taxes, insurance premiums, or other charges, including charges that the borrower and servicer have voluntarily agreed that the servicer should collect and pay, in a timely manner, or to refund an escrow account balanced;

(5) Imposition of a fee or charge that the servicer lacks a reasonable basis to impose upon the borrower;

(6) Failure to provide an accurate payoff balance amount upon a borrower's request;

(7) Failure to provide accurate information to a borrower for loss mitigation options and foreclosure;

(8) Failure to accurately and timely transfer information relating to the servicing of a borrower's mortgage loan account to a transferee servicer.

(9) Failure to suspend a scheduled foreclosure sale in the circumstances described in § 1024.41(g).[2]

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[2] Proposed section 1024.41(g) provides that a servicer shall not conduct a foreclosure sale if a borrower has provided a complete loss mitigation application to the servicer for a loss mitigation option within a deadline established by the servicer (generally no earlier than 14 days after loss mitigation options are communicated to the borrower, unless:

(1) The servicer has provided the borrower a notice (stating the servicer's determination of whether it will offer loss mitigation) that the borrower is not eligible for a loss mitigation option and a proposed appeals process is not applicable, the borrower has not requested an appeal, or the time for requesting an appeal has expired;

A borrower could assert an error either orally or in writing.

Servicers would be allowed to designate a specific phone number and address for borrowers to use. Servicers would be required to acknowledge the request or complaint within five days. The servicer would have to correct or respond to the borrower with the results of the investigation, generally within 30 to 45 days. Further, servicers generally would be required to acknowledge borrower requests for information and either provide the information or explain why the information is not available within a similar amount of time. A servicer would not be required to delay a scheduled foreclosure sale to consider a notice of error unless the error relates to the servicer's improperly proceeding with a foreclosure sale during a borrower's evaluation for alternatives to foreclosure.

Information management policies and procedures. The Bureau proposes, outside of a specific statutory directive from Congress under Title XIV the Dodd-Frank Act, to require servicers to establish reasonable information management policies and procedures. The reasonableness of a servicer's policies and procedures would take into account the servicer's size, scope, and nature of its operations. A servicer's policies and procedures would satisfy the rule if the servicer regularly achieves the document retention and servicing file requirements, as well as certain objectives specified in the rule. Examples of such objectives include providing accurate and timely information to borrowers and the courts or enabling service personnel to have prompt access to documents and information submitted in connection with loss mitigation applications. In addition, a servicer must retain records relating to each mortgage until one year after the mortgage is discharged or servicing is transferred and must create a mortgage servicing file for each loan containing certain specified documents and information.

Early intervention with delinquent borrowers. The Bureau proposes, outside of a specific statutory directive from Congress under Title XIV the Dodd-Frank Act, to require servicers to make good faith efforts to notify delinquent borrowers of loss mitigation options. If a borrower is 30 days late, the proposal would require servicers to make a good faith effort to notify the borrower orally and to let the borrower know that loss mitigations options may be available. If the borrower is 40 days late, the servicer would be required to provide the borrower with a written notice with certain specific information, including examples of loss mitigation options available, if applicable, and information on how to obtain more information about loss mitigation options. The notice would also provide information to the borrower about the foreclosure process. The rule contains model language servicers could use for these notices.

Continuity of contact with delinquent borrowers. The Bureau proposes, outside of a specific statutory directive from Congress under Title XIV the Dodd-Frank Act, to require servicers to provide delinquent borrowers with access to personnel to assist them with loss mitigation options where applicable. The proposal would require servicers to assign dedicated contact personnel for a borrower no later than five days after providing the early intervention notice. Servicers would be required to establish reasonable policies and procedures designed to ensure that the service personnel perform certain specified functions where applicable, such as access the borrower's records and provide the borrower with information about how and when to apply for a loss mitigation option and about the status of the application.

Loss mitigation procedures. The Bureau proposes, outside of a specific statutory directive from Congress under Title XIV the Dodd-Frank Act, to require servicers that offer loss mitigation options to borrowers to implement procedures to ensure that complete loss mitigation applications are reasonably evaluated

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(2) The servicer denies the borrower's appeal, as applicable;
(3) The borrower rejects the servicer's offer of a loss mitigation option;
(4) The borrower fails to perform under an agreement on a loss mitigation option.

before proceeding with a scheduled foreclosure sale. The proposal would require servicers to exercise reasonable diligence to secure information or documents required to make an incomplete loss mitigation application complete. In certain circumstances, this could include notifying the borrower within five days of receiving an incomplete application. Within 30 days of receiving a borrower's complete application, the servicer would be required to evaluate the borrower for all available options, and, if the denial pertains to a requested loan modification, notify the borrower of the reasons for the servicer's decision, and provide the borrower with at least a 14-day period within which to appeal the decision.

The Servicing Proposal would require that appeals be decided within 30 days by different personnel than those responsible for the initial decision. A servicer that receives a complete application for a loss mitigation option could not proceed with a foreclosure sale unless (i) the servicer had denied the borrower's application and the time for any appeal had expired; (ii) the servicer had offered a loss mitigation option which the borrower declined or failed to accept within 14 days of the offer; or (iii) the borrower failed to comply with the terms of a loss mitigation agreement. The proposal would require that deadlines for submitting an application for a loss mitigation option be no earlier than 90 days before a scheduled foreclosure sale.

Comments

As a preliminary comment, 99.9% of reverse mortgages originated in the market today are FHA-insured Home Equity Conversion Mortgages (or HECMs). FHA has very robust rules and requirements for the servicing of FHA-insured loans. Prior to 2008, approximately 16% of reverse mortgages originated on a dollar volume basis were non-FHA insured, jumbo or proprietary loan programs. Prior to 2008, one of the proprietary programs available on the market was the Fannie Mae Home Keeper reverse mortgage loans program. Fannie Mae created the Home Keeper program as an alternative to the HECM program, and provided model loan documents, and origination, selling and servicing guidelines. Servicers that continue to service Home Keeper loans must follow the Fannie Mae Servicer Guide still in effect for such Home Keeper loans.

Fourteen entities service reverse mortgages in the United States today. We are informed by our members, that historically, and for legacy proprietary portfolios that exist today, servicers have more or less adopted FHA HECM servicing standards for such proprietary reverse mortgage loans due to ease of administration, efficacy and stream-lining of training, systems and operations.

<u>Periodic Statement</u>. The Bureau proposes to exempt reverse mortgages from the periodic statement requirement of the Servicing Proposals, and we agree with this particular proposal.

FHA HECM regulations require HECM servicers to provide seniors with statements regarding loan information, as well as information each time a draw is made by the borrower. Further, for HECM structured as open end credit, HECM servicers must follow the open end credit periodic billing statements required of home equity lines of credit under Regulation Z.[3] We understand from reverse mortgage industry participants that, for ease of administration, servicers provide HECM borrowers with monthly statement on closed end reverse mortgages, also. Further, FHA HECM regulations require HECM servicers to provide the mortgagor with the name of the mortgagee's employee who has been specifically designated to respond to inquiries concerning the HECM mortgage. Such information shall be provided annually and whenever the servicer or the designated employee changes.[4] Nonetheless, we have been advised by HUD personnel on multiple occasions in public forums that HUD plans to publish a proposed rule to change this requirement in order to allow a HECM servicer to designate one of its departments,

[3] FHA Single Family Handbook 4330.1, REV-5: Administration of Insured Home Mortgages, ¶ 13-18(B).
[4] 24 C.F.R. § 206.203.

instead of a specific person, for answering questions from HECM borrowers, as opposed to providing the "name" of a servicer employee as a HECM borrower contact.

ARM Adjustment Notices. The Bureau's ARM adjustment proposal is overly and unnecessarily complex. As stated, above, 99.9% of reverse mortgages offered in the market today are FHA-insured HECM loans. Most, if not all, HECM loans offered with a variable rate are structured as open-end credit as defined under Regulation Z. As stated above, for HECMs structured as open end credit, HECM servicers must follow the open end credit periodic billing statement requirements for home equity lines of credit specified under Regulation Z.[5]

However, given the complexity of the proposed ARM disclosure rules in the Servicing Proposal, we are concerned that such rules would stifle the current developments underway of a so-called "hybrid HECM" whereby the initial draw accrues interest at a fixed rate, and the borrower may draw the remainder of the available loan proceeds at a later date, and the rate assessed on such subsequent draws would bear a variable rate of interest. Such products may be structured as closed-end credit as currently defined under Regulation Z. Requiring an initial interest rate adjustment disclosure at 210 to 240 days prior to the new "payment due date", along with an estimate of the new rate and payment, raises concerns on our part that that such estimates made so far in advance will be inaccurate and meaningless because rates could change frequently. This also is likely to lead to consumer confusion and complaints. Because reverse mortgages do not carry regular monthly installment repayment obligations, such disclosures would not appear to us to be required, and if provided would be meaningless, and thus should not be required of closed-end variable rate reverse mortgages.

For this reason, and because FHA regulations already require HECM servicers to provide servicing disclosure statements to borrowers, we request that the Bureau exempt HECM reverse mortgages from the ARM adjustment disclosure provisions in the Servicing Proposal.

Application of loan payments. While reverse mortgages do not require regular monthly repayment obligations, seniors can repay their reverse mortgages loans, in whole or in part, prior to maturity. Further, after a maturity event, the borrower's heirs or estate administrator can use separate proceeds to satisfy the loan.

Such repayments may be large, and if made with a personal check, the depository institution may place a hold on the check for a longer period of time. For this reason, and because reverse mortgages do not require regular monthly installment repayment obligations, we request that the Bureau exempt HECM reverse mortgages from the application of loan payments provisions in the Servicing Proposal.

Regarding the requirement in the Servicing Proposal that a servicer provide a consumer with an accurate payoff balance no later than seven business days after receipt of a written request from the borrower for such information, we note that, because a reverse mortgage is non-recourse, and the lender or servicer ultimately can only look to the property to recover the loan, the amount due on a reverse mortgage reverse mortgage can be the lesser of the then outstanding principal balance and accrued interest, or the value of the property, it may take a reverse mortgage servicer much longer than seven days to determine the value of the property.

Indeed, FHA HECM regulations provide that a mortgagee shall obtain an appraisal of the property no later than 30 days after the mortgagor is notified that the mortgage is due and payable, or no later than 30 days after the mortgagee becomes aware of the mortgagor's death, or upon the mortgagor's request in

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[5] FHA Single Family Handbook 4330.1, REV-5: Administration of Insured Home Mortgages, ¶ 13-18(B).

connection with a pending sale.[6] Further, whether or not a HECM mortgage is due and payable, the mortgagor may sell the property for at least the lesser of the mortgage balance or the appraised value.[7] The time line to obtain an adequate appraisal could take more than one week.

For the foregoing reasons, we respectfully request that the Bureau exempt reverse mortgages from the pay off statement timing requirement.

Lender/Servicer-placed insurance.

Regarding lender-placed insurance issues, we believe that a borrower's proof of insurance documentation must be written and must include the borrower's existing insurance policy number, effective dates, limits of insurance and identify of, and contact information for, the insurance carrier and/or agency that issued the policy. Once logged, this information can be used to pursue missing evidence of insurance directly with the insurance carrier and/or agency.

We note further that, based on National Association of Insurance Commissioners (NAIC) suggested processes, many mortgage servicers and tracking providers follow the suggested practice of sending two notices to alert the borrower as to their responsibility to maintain, and the consequences of not maintaining, voluntary insurance prior to the force placement of insurance.

Most mortgage servicers and insurance tracking providers utilize technology to streamline processes and automate actions to minimize errors and maximize efficiency. In the case of voluntary insurance and lender placed policy termination, the NAIC suggested a standard of 15 days as a voluntary standard to refund lender placed insurance premiums should a voluntary policy be received from the borrower.

The Bureau should be cognizant that there are many procedural steps in a comprehensive hazard insurance tracking program employed by the typical mortgage servicer. Simple costs such as postage, printing and staffing on a large scale to handle portfolios must be included in the assessment of bona fide and reasonable fees.

Further, in the case of renewing a borrower's existing voluntary insurance policy, there may be concerns on the part of the voluntary agent or carrier in continuing the borrower's policy. Circumstances of lapsed policies or unpaid premiums may signal a situation that points to changed conditions where a borrower is no longer living at the property or no longer cares for the property in question, leaving the insurer with a higher risk than that which was originally contemplated. This is an area that is not fully tested in the risk management arena and may be subject to rejection by the insurance industry. Although it might be more favorable to the borrower to continue the voluntary policy, agents and carriers may not want to accept the higher risk under the current situation.

In the case of continuing a borrower's existing insurance and even in the lender-place circumstance, the question of amount of coverage is important for reverse mortgage lenders and servicers. Due to the increasing balance of a reverse mortgage, it is not feasible to utilize the outstanding balance as a measure for required coverage amounts and it is especially important to allow for this situation to be adequately covered. It is of equal importance to the lender or servicer that the borrower understands that lender-placed insurance provides less protection than voluntary insurance and the borrower notification letters clearly state this difference.

[6] 24 C.F.R. § 206.125(b).
[7] 24 C.F.R. § 206.125(c).

While most reverse mortgage programs and loans do not carry escrow accounts, the impact of funding escrow accounts in advance for premiums could have significant impact on the balance sheet and ongoing fiscal integrity of the company. We recognize the intent of the Bureau to act in the most favorable manner for the borrower, however, such a burden on the servicer could lead to a financial impact that would have dire consequences for the industry. We ask the Bureau to strike a balance between the interests and realize that the lender-place insurance industry must be healthy in order to protect the lenders and the security of their assets.

Error resolution and information requirements.

We are extremely concerned about the proposal to require servicers to treat ***oral*** notices of error with the same procedures as qualified written requests ("QWRs"). The volume of oral complaints received by servicers could be very high, making this process unduly burdensome for servicers. Most oral complaints can be resolved either during the phone call or soon thereafter and are discussed with the customer, so there should be no need for follow-up or confirming letters.

Regarding the definition of "error" under proposed section 1024.35(b), we believe that most of these items are irrelevant and do not apply to reverse mortgages. We are concerned that the combination of procedures proposed elsewhere in the Servicing Proposal, in conjunction with the definition of "error", will place unnecessary and undue burden on reverse mortgage services.

As outlined above, the Bureau proposes to defined "error" is proposes to mean the following categories of covered errors:

(1) Failure to accept a payment that conforms to the servicer's written requirements for the borrower to follow in making payments;

(2) Failure to apply an accepted payment to principal, interest, escrow, or other charges under the terms of the mortgage loan and applicable law;

(3) Failure to credit a payment to a borrower's mortgage loan account as of the date of receipt, where such failure has resulted in a charge to the consumer or the furnishing of negative information to a consumer reporting agency;

(4) Failure to pay taxes, insurance premiums, or other charges, including charges that the borrower and servicer have voluntarily agreed that the servicer should collect and pay, in a timely manner, or to refund an escrow account balanced;

(5) Imposition of a fee or charge that the servicer lacks a reasonable basis to impose upon the borrower;

(6) Failure to provide an accurate payoff balance amount upon a borrower's request;

(7) Failure to provide accurate information to a borrower for loss mitigation options and foreclosure;

(8) Failure to accurately and timely transfer information relating to the servicing of a borrower's mortgage loan account to a transferee servicer.

(9) Failure to suspend a scheduled foreclosure sale in the circumstances described in § 1024.41(g).[8]

[8] Proposed section 1024.41(g) provides that a servicer shall not conduct a foreclosure sale if a borrower has provided a complete loss mitigation application to the servicer for a loss mitigation option within a deadline

With respect to reverse mortgages and the proposed definition of "error" as outlined above, we note the following:

(1) Reverse mortgages do not carry regulator monthly installment repayment obligations.

(2) Reverse mortgages do not carry escrow accounts.

(3) For the reasons stated herein under our "application of payment" comments, pay-off on reverse mortgages may be submitted in large sums and may require special processing beyond normal mortgage servicing remittance processing.

(4) The FHA-insured HECM program has its own very detailed and specific rules on the payment of a senior's so-called "property charges (i.e., taxes, insurance premiums, or other charges; and, as stated above, reverse mortgages do not carry escrow accounts).

(5) FHA guidelines, and state law allow the imposition of certain fees or charges, and not all fees need be listed in the loan documents. If a fee is otherwise allowable by law, or required to be in the loan contract, and is so contained, we believe that is should be reasonable for a servicer to assess such a fee.

(6) As stated under our "Application of loan payments" comment above, requiring a servicer to provide a consumer with an accurate payoff balance no later than seven business days after receipt of a written request from the borrower is not always practical or possible with a reverse mortgage loan.

(7) As stated under our "Loss mitigation procedures" comments, below, FHA HECM regulations and directives contain very detailed requirements for loss mitigation producers for FHA-insured HECM loans.

(8) We do not comment on the Bureau's proposal to define as an error under the Servicing Proposal the failure to accurately and timely transfer information relating to the servicing of a borrower's mortgage loan account to a transferee servicer.

(9) The requirement to suspend a scheduled foreclosure sale is tied to proposed loss mitigation that are not germane or application to reverse mortgages.

For the foregoing reasons, we request that the Bureau exclude reverse mortgages from the definition of "error" under proposed section 1024.35(b),

For the reasons stated above with regard to pay-off generally, we are also concerned about the five-day response period for payoff-related complaints. The volume of complaints related to payoffs is generally

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established by the servicer (generally no earlier than 14 days after loss mitigation options are communicated to the borrower, unless:

(1) The servicer has provided the borrower a notice (stating the servicer's determination of whether it will offer loss mitigation) that the borrower is not eligible for a loss mitigation option and a proposed appeals process is not applicable, the borrower has not requested an appeal, or the time for requesting an appeal has expired;
(2) The servicer denies the borrower's appeal, as applicable;
(3) The borrower rejects the servicer's offer of a loss mitigation option;
(4) The borrower fails to perform under an agreement on a loss mitigation option.

low. However, when such inquiries are raised, they are often complex and involve obtaining information from third parties, such as appraisers. Obtaining this information from third parties within such a short window of time without at least allowing for an extension of the deadline will prove extremely challenging to servicers.

Information management policies and procedures.

We are significantly concerned about a requirement placed on servicers in the Servicing Proposal to include collection notes or data elements regarding automated and manual calls in servicing files to be produced to borrowers. The call history can be very voluminous, and this proposal would require production of literally hundreds of pages of information that would very costly to copy and send to the borrower. Servicing notes often are written in shorthand, and would not be understandable to borrowers and could be misinterpreted and lead to frivolous lawsuits.

Further, since many of the reasonable information practices will be defined based on error resolution process, and the definition of "error" as outlined above, , we request that the Bureau exclude reverse mortgages from the information management practices and procedures required under proposed section 1024.38.

Early intervention with delinquent borrowers.

As stated above, reverse mortgages do not carry regular monthly repayment obligations. The Bureau should be cognizant of and take into account the differences in servicing forward and reverse mortgages.

The Bureau should note that there are not as many loss mitigation options available in the reverse mortgage servicing realm as those available in the forward mortgage servicing realm.

Note that specific HUD requirements require HECM servicers to take certain actions when a senior borrower does not timely pay his or her property taxes or hazard insurance.

HUD Mortgagee Letter 2011-01 (ML 11-01) states that when the mortgagor fails to pay a property charge as required by the provisions of the mortgage, the mortgage is deemed to be out of compliance with FHA requirements and FHA considers the mortgage to be delinquent. Mortgagees must begin working with the mortgagor to bring the mortgage back into compliance at the earliest possible point. The only home retention loss mitigation options for a reverse mortgage loan are:

1) Establishing a realistic repayment plan for the delinquent property charge(s);
2) Contacting a HUD-approved Housing Counseling Agency (HCA) to receive free assistance in finding some viable resolution to the borrower's delinquency, or identifying local resources available to provide funds or homestead exemptions; and,
3) Refinancing the delinquent HECM to a new HECM if there is sufficient equity to satisfy the existing mortgage and outstanding property charges.

Please note that under ML 11-01, Deeds in Lieu and Short Sales are non-retention loss mitigation options and should be offered to the mortgagor(s) as appropriate.

The Mortgagee Letter continues to instruct the servicer in the Issuance of Property Charge Delinquency Letter which must be mailed within 30 days of the missed payment if the mortgagee is aware it was missed, but no later than 30 days from notification of the missed payment.

The Letter must:

1) Provide a thirty (30) day period in which the mortgagor must respond and arrange to cure the delinquency;
2) Encourage mortgagors to seek the assistance of an HCA; and,
3) Provide a list of all loss mitigation options available to mortgagors to cure the delinquency.

When referring mortgagors to an HCA, the mortgagee must also provide:

1) The contact information for person(s) at the mortgagee's office who the counselor may contact directly to make inquiries or discuss the mortgagor's loan and financial circumstances;[9] and,
2) The length of time the counselor has to identify a viable solution that may assist the borrower with curing the delinquency, or any alternative step to address the unpaid property charges.

Consistent with the purposes and intentions of the HECM program, mortgagees are encouraged to make every effort to assist mortgagors in correcting delinquencies and retaining their homes. Foreclosure is and must remain a method of last resort for the resolution of unpaid property charges. Mortgagees should be proactive and pursue early intervention to avoid future delinquencies.

We believe that these HUD guidelines are more appropriate for HECM reverse mortgages, and that the Bureau should exempt FHA-insured HECM loans from the loss mitigation requirement under a final servicing rule.

Continuity of contact with delinquent borrowers.

FHA regulations already require that HECM servicers provide the mortgagor with the name of the mortgagee's employee who has been specifically designated to respond to inquiries concerning the HECM mortgage of the senior. Such information must be provided annually and whenever the servicer or the designated employee changes.[10] Because this portion of the Servicing Proposal is not directly mandated by the Dodd-Frank, that the Bureau should exclude reverse mortgages from this requirement.

Loss mitigation procedures.

Regarding loss mitigation procedures, as described above, HUD has very detailed and specific procedures that HECM servicers must take when a senior borrower does not pay his or her property taxes and/or hazard insurance, including advances such amounts on behalf of the senior if not available loan proceeds are available under the loan. We believe that because reverse mortgages are so fundamentally different form forward mortgages in this area, and that this portion of the Servicing Proposal is not directly mandated by the Dodd-Frank, that the Bureau should exclude reverse mortgages from the detailed forward mortgage loss mitigation procedures, requirements and processes outlined in the Servicing Proposal.

Effective Dates

The Bureau solicits comment on whether the final rule implementing the Servicing Proposal. As we note above, the reverse mortgage industry is tied to the forward mortgage industry. Any impact, confusion,

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[9] As noted above, however, we have been advised by HUD personnel on multiple occasions in public forums that HUD plans to publish a proposed rule to change this requirement in order to allow a HECM servicer to designate one of its departments, instead of a specific person, for answering questions from HECM borrowers, as opposed to providing the "name" of a servicer employee as a HECM borrower contact.
[10] 24 C.F.R. § 206.203(c).

dis-locations or disruptions in the forward mortgage industry will have a negative impact on the reverse mortgage industry.

Further, as we indicate above, not all of the changes proposed by the Bureau under the Servicing Proposal are specifically mandated by Congress under Title XIV of the Dodd-Frank Act.

In this regard, we would request that the Bureau utilize its authority to either extend the effective date of any finalized servicing rule to the greatest extent possible, without a sunset date, until further consideration can be had. Along these lines, given all else that is underway with Dodd-Frank Act implementation and Bureau proposed rules, we do not think it unwarranted for the Bureau to provide an exemption from a final servicing rule of up to 24 or 36 months after the statutory effective date specified in section 1400(c)(1)(B) of the Dodd-Frank Act for certain Title XIV changes.

Conclusion

While we commend the Bureau on a comprehensive regulatory proposal, as stated above, we are concerned about the Bureau going outside of the specific statutory directive of Congress with regard to several items of the Servicing Proposal. The Bureau should provide a sufficient exemption period as NRMLA suggests above, in order to alleviate, as much as possible, the disruptive impact of this and other multiple rulemakings and proposals underway.

We trust that the Bureau will find our comments to this portion of the Servicing Proposal both helpful and informative.

Very truly yours,

Steve Irwin, EVP, NRMLA

Cc: Peter Bell, President & CEO, NRMLA
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