Consumer Financial Protection Bureau
1801 L Street NW, Washington, DC 20036

PUTTING THE 'SERVICE' BACK IN MORTGAGE SERVICING
No Surprises, No Runarounds

The Consumer Financial Protection Bureau (CFPB) is considering new mortgage servicing rules to protect consumers from being hit by costly surprises or getting the runaround from their servicers. The CFPB plans to formally propose the rules this summer and finalize them by January 2013.

BACKGROUND

- **Mortgage servicers are responsible for collecting payments from the mortgage borrower on behalf of the owner of the loan.** They also typically handle customer service, escrow accounts, collections, loan modifications, and foreclosures.
- **In the vast majority of cases, consumers do not choose their mortgage servicer.** Servicers have had little incentive, to meet consumer needs. This lack of customer care can be disastrous for the consumer – it can lead to credit harm, financial harm, even foreclosure.
- **Problems in the mortgage servicing market are well-known.** Even before the crisis, there were problems with bad practices and systemic sloppy recordkeeping. As the number of homeowners who have run into hardship and who need help or special attention in paying their mortgage has skyrocketed, the industry's deficiencies have begun to inflict significant harm on an increasing numbers of borrowers.
- **The CFPB is working on rules to help fix the mortgage servicing market.** The rules under consideration by the Bureau are aimed at tackling two underlying servicing problems: lack of transparency and lack of accountability. In recent years, many borrowers have complained that they did not receive the information they needed to help them avoid foreclosure. Other borrowers' troubles worsened because they found it difficult to get answers from their servicers. The rules under consideration are designed to make servicer mistakes rare and quickly fixed, and to ensure that struggling homeowners get the information they need to find alternatives to unnecessary foreclosures.

NO SURPRISES

Mortgage borrowers deserve full transparency in dealing with their servicer. They should not be kept in the dark about how their payments are applied or when their interest rate will change, nor should they experience bill shock over an insurance charge they did not expect. The CFPB is considering rules that would provide consumers with clear and timely information about changes to their mortgages so they can avoid costly surprises.

Clear Monthly Mortgage Statements: The CFPB is considering a rule under which servicers would be required to provide clear monthly statements. These statements would have to include:

- A summary of the mortgage terms like interest rate and principal obligation;
- A breakdown of payments by principal, interest, fees, and escrow;
- The amount of and due date for the next payment;
- Recent transaction activity, including itemization of fees and charges;
- Late fee warnings; and,
- For delinquent borrowers, alerts and information about loss mitigation alternatives.

Warning Before Interest Rate Adjusts: The CFPB is considering a rule under which servicers would be required to provide earlier disclosures before the interest rate changes on most adjustable-rate mortgages. This requirement would provide greater clarity to the disclosure many borrowers currently receive. The new disclosure would include:

- An explanation of how the new rate payment would be determined and when the change will take effect;
- A good-faith estimate of the amount of the new monthly payment;
- The date of future interest-rate adjustments;
- A list of alternatives that the consumer may pursue if the new monthly payment is unaffordable;
- Contact information for housing counselors; and
- The amount of any pre-payment penalty.

Options for Avoiding Costly "Force-Placed" Insurance: To assure that servicers do not unnecessarily charge consumers for force-placed insurance, the proposed rule that the CFPB is considering would require that:

- In cases where the servicer thinks the borrower has allowed the property insurance to lapse, the servicer would have to ask the borrower to provide proof of insurance;
- This communication would have to occur twice before the servicer charges the borrower for the insurance -- at least 45 days before and again at least 15 days before;
- These notices would have to provide the consumer with a good-faith estimate of how much the force-placed insurance would cost;
- The servicer must accept from the borrower any reasonable form of confirmation that the property is insured;

- The servicer would terminate the insurance within 15 days if it receives evidence from the consumer that he has the necessary insurance and refund the force-placed insurance premiums; and
- Where the servicer has an escrow account to pay the consumer's insurance premiums, the servicer would continue the consumers' homeowner insurance, even if the borrower is delinquent, rather than purchasing force-placed insurance.

Early Information and Options for Avoiding Foreclosure: The CFPB is considering a rule under which servicers would be required to make good-faith efforts to contact delinquent borrowers and inform them of their options to help avoid foreclosure. Specifically:

- Servicers would be required to provide the borrower with information about the foreclosure process;
- Outreach would include informing borrowers about housing counseling; and
- If a borrower contacts the servicer because she is having difficulty paying the loan, the servicer would have to provide information about options.

NO RUNAROUNDS

When mortgage servicers make mistakes, too often the fallout is harm to the consumer. When records get lost, or the servicer has sloppy record-keeping and information-management practices, the consumer can wind up in trouble. The CFPB is considering rules that would require common-sense policies and procedures for handling consumer accounts and preventing runarounds.

Payments Immediately Credited: The CFPB is considering a rule under which servicers generally would have to credit a consumer's account the day that a monthly payment is received.

- If the consumer makes a partial payment, servicers would be permitted to retain such payment in a suspense account.
- Once the amount in the suspense account equals one full monthly payment, the servicer would have to apply the amount to the earliest delinquent payment.

Records Kept Up-to-Date and Accessible: The CFPB is considering a rule under which servicers would be required to establish reasonable information-management policies and procedures designed to minimize errors and help with quick corrections. These policies and procedures would:

- Provide accurate and timely disclosures and other information for borrowers;
- Minimize errors and facilitate prompt error correction;

- Maintain records of borrower contact, with possible exception for some small servicers;
- Facilitate loss mitigation by accepting, organizing, and managing documents and information submitted by or about borrowers in connection with loss mitigation requests;
- Ensure reasonable and timely access to such documents and information by all appropriate loss mitigation personnel; and
- Identify additional documents and information the borrower must provide to be considered for loss mitigation options.

Errors Corrected Quickly: The CFPB is considering a rule under which servicers would have to address consumer concerns about possible errors. They would have to acknowledge the notification of the error within five days and conclude an investigation within 30 days. Shorter timeframes would be imposed with respect to errors relating to foreclosures or payoffs. Many errors would fall under this rule, including:

- Incorrect calculations of amounts due, credits, or payments;
- Payments (or non-payments) of taxes and insurance out of escrow accounts;
- Inaccurate disclosures;
- Inaccurate information about how a borrower can avoid foreclosure; and
- The servicer starting or continuing foreclosure procedures when the borrower has met his obligations under a trial or permanent loan modification or other plan.

Direct and Ongoing Access to Servicer Foreclosure Prevention Team: The CFPB is considering a rule under which servicers would be required to provide delinquent borrowers (or borrowers who are asking for help to avoid delinquency) with direct, ongoing access to staff who are dedicated to servicing troubled borrowers.

- Servicers would be required to provide these employees with easy access to the borrower's records.
- Servicers would be required to give these employees access to underwriters who could evaluate the borrower to see if he is eligible for a loan modification or another option to avoid foreclosure.