

2021 Mortgage Servicing Rule

CFPB Advisory Boards and Councils Meetings

August 2021



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2021 Mortgage Servicing Final Rule

- The final rule* aims to facilitate a smooth transition as federal foreclosure protections expire.
- All of the amendments are temporary.
- None of the amendments apply to small servicers.
- The final rule takes effect on August 31, 2021.
- Servicers may voluntarily comply with the new requirements early.

Four main amendments

1. Temporary special COVID-19 procedural safeguards
2. Streamlined loan modification exception
3. Expanded early intervention messages
4. Timing requirements for reasonable diligence contact at the end of forbearance

Special COVID-19 Procedural Safeguards

- Aims to help ensure that borrowers have a meaningful opportunity to be reviewed and considered for loss mitigation options before foreclosure referral
- Only applies if:
 - Mortgage loan obligation became more than 120 days delinquent on or after March 1, 2020
 - Applicable statute of limitations expires on or after January 1, 2022
- Sunsets on January 1, 2022

Special COVID-19 Procedural Safeguards

Before making the first notice or filing required for foreclosure due to delinquency, final rule requires the servicer to ensure that one of one of three procedural safeguards is met:

- Complete loss mitigation application review
- Property abandoned according to state or municipal law
- Unresponsive borrower
 - For 90 days before first notice or filing:
 - Servicer conducted specified outreach
 - Borrower did not communicate with servicer
 - If the borrower was in a forbearance program, servicer must not make the first notice or filing until 30 days after the forbearance ends

Streamlined loan modification exception

- Current mortgage servicing rules generally prohibit servicers from offering a borrower a loss mitigation option based on the evaluation of an incomplete loss mitigation application
- Final rule creates a new exception that permits servicers to offer certain streamlined loan modifications to borrowers with COVID-19 related hardships based on the evaluation of an incomplete application
 - Eligible loan modifications must satisfy certain criteria
- Similar exception for certain deferrals and partial claims adopted by June 2020 Interim Final Rule

Expanded Early Intervention Messages

- Existing rules require servicers to make good faith efforts to establish live contact with certain delinquent borrowers, but servicers have discretion about whether to discuss loss mitigation if they establish live contact
- Final rule requires servicers to discuss certain information with borrowers about their loss mitigation options if they establish live contact and:
 - Borrower is not in forbearance and a forbearance program is available from the owner or assignee of the borrower's mortgage loan for borrowers experiencing a COVID-19 related hardship
 - Borrower is near the end of a forbearance made available to borrowers experiencing a COVID-19 related hardships
- Servicers also must tell borrowers how to find contact information about HUD housing counselors
- Sunsets on October 1, 2022

Timing of Reasonable Diligence Contact

- Existing rules require servicers to contact delinquent borrowers near the end of a short-term payment forbearance program offered based on the evaluation of an incomplete application to determine if they want to complete a loss mitigation application
- Final rule specifies that servicer must make this contact no later than 30 days before the end of the forbearance period if the borrower is in a COVID-19 related hardship forbearance program made available to a borrower based on the evaluation of an incomplete application

Questions?