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July 9, 2012

The Honorable Richard Cordray  
Director  
Consumer Financial Protection Bureau  
1700 G St., NW  
Washington, DC 20552

Dear Director Cordray:

The Consumer Financial Protection Bureau (CFPB) has released an outline of the proposals you are considering for a rulemaking to improve mortgage servicing. The National Association of Realtors® (NAR) supports this goal, and I am writing to convey our preliminary comments before you publish the proposed rule.

NAR is America's largest trade association, including our eight affiliated Institutes, Societies and Councils, five of which focus on commercial transactions. Realtors® are involved in all aspects of the residential and commercial real estate industries and belong to one or more of some 1,400 local associations or boards, and 54 state and territory associations of Realtors®.

As the CFPB outline of proposals under consideration notes, new requirements under the Dodd-Frank Act designed to protect homeowners will go into effect in January 2013 even if the CFPB has not yet issued a final rule. Implementation by servicers, without a final rule, based on their individual understandings of the statutory requirements, is a blueprint for confusion not just for consumers but also for the servicers and you as regulator. We urge you to publish the proposed rule at the earliest possible date so the final rule can make the January 2013 deadline, with an appropriate implementation period for servicers to adapt.

For the most part, the approaches the CFPB is considering to implement the new law and make other improvements make sense to us. Generally, servicers are in the best position to analyze the various approaches, identify ways to streamline implementation, and avoid unnecessary and expensive "red tape" while at the same time protecting homeowners and giving them the information and tools they need to manage their mortgage obligations.

REALTORS® are particularly concerned that families at risk of losing their homes too often find it impossible to find help in time to make a difference. For years, NAR has urged lenders to increase their capacity to work with families so these families can stay in their homes and, where this is not possible, make short sales a feasible alternative. In 2008, when we first urged lenders to increase their servicing capacity, we found that lenders did not yet fully understand the urgency or scope of the problem. They appeared to think that the problem would resolve itself, presumably with the help of a prompt return to a steady pattern of increases of home values. Everyone now recognizes the need for both government loan modification and short sale programs (HAMP, HARP, and HAFA) as well as the proprietary versions of these programs that lenders have developed, very often based on the principles of the government programs. But confusion and frustration continue to baffle homeowners and those that seek to help them, including REALTORS®.



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NAR strongly supports the Bureau's proposals for requiring early intervention by servicers to help troubled or delinquent borrowers. These homeowners are often overwhelmed by their financial situation and the inability to get help from a single knowledgeable source. It is crucial that these borrowers receive, as soon as problems arise, information about their options, available programs, and how and where to receive help.

We have long urged lenders to provide a single point of contact to assist borrowers. Now there is widespread, if not universal, acceptance of this idea. We believe that it should be implemented by teams and that borrowers should be informed in detail about how the servicer will handle their cases. Because no one individual will always be available to assist the borrower over many months, due to workload, temporary absences due to vacation or illness, and staff turnover, we believe the team approach is the most feasible.

We question whether the 45 day deadline the proposal discusses for requiring servicers to make a good faith effort to contact delinquent borrower is too long. Thirty days seems a more reasonable standard. The proposal to require servicers, within five days, to advise borrowers who notify servicers that they may have difficulty making payments would be a significant improvement over current reality.

In addition, borrowers who struggle to stay current are often told, even today, that they must default first to get assistance. NAR believes this policy, which is still quite common in the industry (e.g., the Freddie Mac HAFA program and the Fannie Mae proprietary short sale program), is wrong-headed. Families at risk who are committed to avoiding or delaying delinquency should not be denied assistance. We urge you to do whatever you can to change these policies.

NAR also strongly supports imposing firm deadlines for lenders to send accurate payoff balance information to avoid delays, and even cancellations, of closings. Having deals collapse because the payoff amount is not released in time should be removed from the list of challenges faced by the housing market.

In an attachment to this letter are comments on the various forms you have tested with consumers in Maryland, Tennessee, and California. Some approaches seem preferable and we want to share our reactions.

NAR commends your efforts to make servicers subject to requirements to help consumers manage their mortgages. We think that more uniformity and enhanced policies to help consumers avoid foreclosure or, where necessary, find a graceful exit to a mortgage they cannot afford will also help the servicing industry and the mortgage investors they represent. We would be pleased to discuss these issues and the state of the housing and mortgage markets in more detail at your convenience. If you have any questions, please contact Charlie Dawson, our Policy Representative for Financial Services, at [cdawson@realtors.org](mailto:cdawson@realtors.org) or 202.383.7522.

Sincerely,

A handwritten signature in black ink, appearing to read 'Moe', with a horizontal line underneath.

Maurice "Moe" Veissi  
2012 President, National Association of REALTORS®

## Comments on Alternative Servicing Forms Under Consideration by the CFPB

### Mortgage Statement

#### All Forms

- Under “Notice of Negative Information,” there may be confusion over whether a payment due on the 1<sup>st</sup> is treated as late if paid before a late penalty is due, such as for payments after the 15<sup>th</sup>. If a payment is made by the 15<sup>th</sup>, for example, do lenders report the account to the credit reporting agencies (CRAs) as late?
- Under “Automated Account Information,” the text requests the first five digits of the social security number. It is common in many contexts that consumers disclose the last four digits. The result could be a greater risk of identity theft.
- Under “Loans with Tax Escrow,” confusion may arise when borrowers receive a copy of a tax bill that indicates the servicer will pay. In that case, there is no need to send the bill to the servicer.

#### Maryland Form

- The Maryland form does not explain partial payments. Adding the explanation from the California form would help consumers.

#### Tennessee Form

- What is a property inspection fee? What is the basis for imposing such a fee?
- The explanation of partial payments from the California form would also improve the Tennessee form.

#### California Form

- Same question re property inspection fee as for the Tennessee form.

### ARM Reset Notice

#### All Forms

- Under “Possible Alternatives,” we recommend adding in the parenthetical the following: “and depend on the current value of your home”. The value of the home will ordinarily affect all of the options and is worth noting for consumers who often do not understand that lenders take into account the size of the potential loss in making decisions on the alternatives.
- In the introductory section of each form, it states that a change in rate “may” change the mortgage payment. This is misleading since a rate change in virtually all cases will change the mortgage payment (exactly off-setting changes in escrow payments are extremely rare). Sending consumers to the loan agreement will be little, if any, help.
- The link to HUD’s counseling page is [www.hud.gov/counseling](http://www.hud.gov/counseling). Giving consumers the direct path will avoid having to sort through the HUD home page.

#### Maryland Form

- The timing of the computation of the new payment is difficult to follow for the Maryland form. The approach taken for the Tennessee and California forms is clearer. For example, the Maryland form should state the date on which the new interest rate will be computed.

#### Tennessee Form

- Under “New Interest Rate and Monthly Payment,” the last sentence explaining a possible LIBOR rate change is helpful and should be included in the final form.

## **Force-Place Insurance Notices**

### All Forms

- The Maryland form implies notice is required before the lender may force place insurance. One Tennessee form indicates the policy has already been purchased and the other indicates it may be purchased. The California form indicates notice was required before the lender purchased the force place insurance in 2011. Does state law govern? Though there are very serious questions about the pricing and timing of the purchase of force place insurance, there is also a concern if there is a gap in insurance coverage. Such a gap could cause a huge financial loss to the borrower if the home is destroyed but the obligation to make mortgage payments continues. Clarity about force-place insurance would help consumers.

## **Attachment E, Error Resolution and Inquiry Procedures**

The procedures chart raises a few questions.

- Electronic contact could be written or even oral (e.g., Skype, not telephone). This distinction is confusing. For example, in the third row, the phrase “whether qualified written request or not” raises a question. If someone asserts an error electronically, is that not considered a qualified written request? Why can’t the servicer reply in writing, but by email, if the consumer contacted the servicer in writing by email or on the servicer’s website? Similar questions arise whenever the chart refers to the form of communication.
- The chart typically addresses the required form of communication. However, in the “Servicer Rights” row, it allows the servicer to request supporting documentation and provides for the servicer to notify borrowers of an extension, but does not address the format required.