
INFORMATIONAL MEMORANDUM



April 17, 2017

To: Chief Executive Officer
All Farm Credit System Institutions

From: Samuel R. Coleman, Director and Chief Examiner
Office of Examination

Subject: CFPB's Mortgage Servicing Rule Amendments and Principles for the Future of Loss Mitigation

This Informational Memorandum provides information about the following:

- Amendments to the Consumer Financial Protection Bureau's (CFPB) residential mortgage servicing regulations; and
- The CFPB's Principles for the Future of Loss Mitigation.

Amendments to the CFPB's Residential Mortgage Servicing Regulations

The CFPB issued a final rule amending its residential mortgage servicing rules under Regulations X (Real Estate Settlement Procedures Act) and Z (Truth in Lending Act). The rule establishes new protections for consumers, including the following:

- Requiring servicers to provide certain borrowers with foreclosure protections more than once over the life of the loan;
- Expanding consumer protections to surviving family members and other successors in interest;
- Providing more information to borrowers in bankruptcy;
- Requiring servicers to notify borrowers when loss mitigation applications are complete;
- Protecting, during servicing transfers, borrowers who have applied for loss mitigation;
- Clarifying servicers' obligations to avoid dual-tracking and prevent wrongful foreclosures; and,
- Clarifying when a borrower becomes delinquent.

In addition, the rule:

- Increases the flexibility of servicers to comply with certain force-placed insurance and periodic statement disclosure requirements;
- Clarifies several requirements regarding early intervention, loss mitigation, information requests, and prompt crediting of payments, as well as the small servicer exemption; and,
- Exempts servicers from providing periodic statements under certain circumstances when the servicer has charged off the mortgage.

The rule was published in the Federal Register at [81 FR 72160](#) on October 19, 2016, and it will become effective on October 19, 2017, except specified provisions that will be effective on April 19, 2018.

In addition to the rule discussed above, the CFPB issued an interpretive final rule as an advisory opinion under the Fair Debt Collection Practices Act (FDCPA). This rule clarifies the interaction of the FDCPA and specified mortgage servicing rules in Regulations X and Z. The rule was published in the Federal Register at [81 FR 71977](#) on October 19, 2016, and it will become effective on October 19, 2017, except for one provision that will be effective on April 19, 2018.

Principles for the Future of Loss Mitigation

The CFPB issued a document that outlines four consumer protection principles to guide mortgage servicers, investors, government housing agencies, and policymakers as they develop new foreclosure relief solutions. The CFPB took this action as the Department of Treasury's Home Affordable Modification Program, a foreclosure relief program put in place in response to the financial crisis, neared its expiration date in January 2017. The principles are meant to provide a framework for discussion of potential options to help prevent avoidable foreclosures.

According to the CFPB, the principles build on, but are distinct from, the backdrop of the CFPB's mortgage servicing rules and its supervisory and enforcement authority. Moreover, the document does not establish binding legal requirements. In summary, the principles promote:

- **Accessibility:** Consumers should easily be able to obtain and use information about loss mitigation options, and how to apply for those options;
- **Affordability:** Repayment plans and mortgage loan modifications should generally be designed to produce a payment and loan structure that is affordable for consumers;
- **Sustainability:** Loss mitigation options used for home retention should be designed to provide affordability throughout the remaining or extended loan term; and,
- **Transparency:** Consumers should get clear, concise information about the decisions servicers make.

The document is accessible on the CFPB's website: [Principles for Future of Loss Mitigation](#).

CFPB Compliance-Related Information

The CFPB is constantly updating its website with information about implementation of and compliance with its rules and other guidance, and institutions should refer to it frequently to ensure they have the latest information. System institutions can also sign up on the website to receive updates about new rules and other guidance.

The Farm Credit Administration is providing this information as a courtesy to keep you informed of issues that may affect your institution. This information should not be seen as a replacement for reviewing the full regulation or for management's due diligence in monitoring issues that may affect your institution.

If you have any questions about this Informational Memorandum, please contact Jennifer A. Cohn, Senior Counsel, Office of General Counsel, at (703) 883-4028, or by email at cohnj@fca.gov; and/or Dan Fennewald, Director, Examination Policy Division, Office of Examination, at (952) 259-0432, or by email at fennewaldd@fca.gov.