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Deputy Director Steven Antonakes Remarks at the Mortgage Bankers Association

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Prepared Remarks of Steven Antonakes
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Good afternoon. Thank you for the invitation to be here with you today.

By way of background, I am a career bank regulator. I cut my teeth during the end of the S&L Crisis as an entry level bank examiner 24 years ago. I later served for seven years as the Massachusetts Commissioner of Banks. Under this purview, I had a mandate to ensure compliance with safety and soundness, consumer protection, community reinvestment, and fair lending laws and regulations. Moreover, I have supervised banks, credit unions, and nonbanks throughout my career.

In 2006, we were alarmed by the rate by which mortgage delinquencies and foreclosures were increasing in Massachusetts. I convened a housing summit to bring together housing counselors, industry, and local, state, and federal government officials in an effort to tackle these issues head on. We started seeking stays in foreclosure proceedings to build time into the process to connect homeowners and housing counselors and allow banks and servicers to consider appropriate alternatives to foreclosure. We asked servicers to increase the pace of loan modifications and engage in best practices. We sponsored regional forums for homeowners and servicers to meet. Finally, we worked to enact legislative changes to improve the foreclosure process and protect homeowners.

Nearly eight years have passed and I remain deeply disappointed by the lack of progress the mortgage servicing industry has made. There are encouraging signs with unemployment decreasing and the economy growing. However, many homeowners continue to struggle. Nationwide, one in ten homeowners remain underwater and two million households are at a high risk of foreclosure. Our work is far from over.

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Reforms after the financial crisis led to the creation of the Consumer Financial Protection Bureau. Our mission, quite simply, is to make markets for consumer financial products and services work for Americans. Above all, this means ensuring that consumers get the information they need to make financial decisions that are best for themselves and their families.

Congress provided us with five key tools: consumer complaint response, rulemaking,

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consumer education and engagement, supervision, and enforcement.

Since we opened our doors, our consumer response team has received over 289,000 complaints. Just last month we received more than 30,000 calls and handled more than 20,000 complaints. Debt collection is our largest source of these complaints. We receive approximately 5,900 debt collection complaints a month. Mortgage complaint volume, however, remains high and averages around 4,900 complaints per month. Complaints are not only opportunities for us to assist specific people; they also make a difference by informing our work and helping us identify problems, which then feed into our supervision and enforcement prioritization process.

One of our largest tasks has been to draft rules to restore confidence and common sense to our mortgage market. Our goal is quite straightforward. We want to ensure there are no debt traps, no surprises, and no runarounds.

In the lead-up to the crisis, many mortgage businesses failed to conduct the very due diligence necessary to safely and prudently underwrite mortgages. Some joined their customers in wishful thinking. Some tricked people into believing they could afford loans they could not. Some actually falsified documents. Certainly some consumers should have known better and made very bad choices. But too many consumers could not recognize the risks they were taking until it was too late.

Our mortgage origination work marks a return to traditional mortgage lending. Our Loan Originator Compensation rule restricts certain practices that created financial incentives to push people into loans with higher interest rates. Under our Ability to Repay (QM) rule, lenders must now make a reasonable, good-faith determination that the consumer can actually afford the mortgage before they make the loan. Now, obviously, mortgage lenders do not have a crystal ball: they cannot predict if someone will lose a job or have an unexpected financial emergency. But they must look at a consumer's income or assets, and at their debt, and must weigh them against the monthly payments over the long term. In other words, lenders must revert to responsible lending.

Our second back to basics approach affects the mortgage servicing industry. We recognize that servicers play a critical role in the mortgage market. Servicers collect and apply payments to loans. When necessary, they can work out modifications to the terms of a loan. And they handle the difficult foreclosure process. Because of all these things that servicers do, their effects on borrowers and communities can be profound. I saw firsthand how breakdowns in the foreclosure process can create chaos. Wrongful foreclosures are disruptive: homes were lost forever, families wrenched from their communities, children lost their friends, and the biggest financial asset for that family was taken with a process that sometimes ended with a sheriff. Of course, along with consumer harm, our court systems were clogged with frequently incomprehensible paperwork. Property values plummeted to the point that neighborhoods were torn apart by foreclosures, not unlike if a tornado had ripped through them. It is hard to overstate how painful this has been.

Markets work best when consumers can vote with their feet. All of us have been to a lousy restaurant or bad movie. We don't have to return to that restaurant. We can walk out of a movie. But when it comes to servicing, consumers have little choice in the matter. After a borrower chooses a lender and takes on a mortgage, the responsibility for managing that loan can be transferred to another servicer without any say-so from the borrower. So if consumers are dissatisfied with their servicer they have no opportunity to switch over to another provider.

This fundamental disconnect became starkly revealed during the financial crisis. When the tsunami of delinquencies hit, servicers were unprepared to work with borrowers. The existing low-cost, high-volume servicing model was ill equipped to help individual

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homeowners deal with their problems. People did not get the support they needed, such as timely and accurate information about their options for saving their homes. Servicers failed to answer phone calls, lost paperwork, and mishandled accounts. Consumers missed out on much-needed help due to the repeatedly inadequate service.

Communication and coordination were so poor that many consumers thought they were on their way to a solution, only to find their homes being foreclosed upon. Sometimes people arrived home to find they had been unexpectedly locked out. Sometimes people found themselves stuck in a nightmare of lost paperwork even as the clock ticked on toward foreclosure.

Unfortunately, tragic stories like these are not isolated instances. They have been commonplace since delinquencies first began increasing over 8 years ago. In fairness, there have been some improvements. Since 2007 nearly 6.8 million loans have been modified. But despite these advances too many customers continue to receive erratic and unacceptable treatment. Our nation's mortgage servicers manage a debt portfolio of nearly $10 trillion for millions of American homeowners. This kind of continued sloppiness is difficult to comprehend and not acceptable. It is time for the paper chase to end.

Our new rules of the road have been in effect since last month. Like our mortgage origination regulations, they embody a back to basics approach. Simply put, consumers should not be hit with surprises by those responsible for collecting their payments. If a consumer takes out a mortgage, our rules require servicers to keep the consumer informed about their loan and to investigate and fix errors which are brought to their attention. Consumers must be able to see how payments are applied. They cannot be caught off-guard when interest rates adjust.

Our new rules will help borrowers know where they stand. Servicers now must send monthly statements showing how they applied the monthly payment. The statement puts all the important information in one place, showing the interest rate, loan balance, escrow account balance, and how the payments are applied.

To clean up the mortgage servicing market, we also are taking aim at practices that have given too many consumers the runaround. Our rules require mortgage servicers to treat consumers fairly – when things are going well and also when people get into trouble. If there was any ambiguity before about how to treat consumers, now servicers know that they must perform basic customer-service functions such as returning phone calls or answering customer inquiries.

For consumers in trouble, getting the runaround is not just frustrating, it can be disastrous. So our rules require mortgage servicers to let consumers know about available options to save a home or to work out a problem in making payments. We are also restricting "dual tracking" by barring servicers from starting foreclosure proceedings until the borrower has been delinquent for more than 120 days. If the borrower timely submits a complete application for loss mitigation more than 37 days before a scheduled foreclosure sale, no foreclosure sale can occur until all other options available through the owner of the loan have been considered, such as loan modifications, short sales, and deeds-in-lieu of foreclosure. And servicers cannot foreclose on a property once a loss mitigation agreement has been reached, unless the borrower fails to perform under that agreement. We expect these simple protections to help prevent needless foreclosures, which is best for borrowers, lenders, and our entire economy.

We mean to end a failed process in which too many struggling homeowners have been kept in the dark about where they stand. American consumers deserve better; they are entitled to be treated with respect, dignity, and fairness.

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Servicers have had more than a year now to work on implementation. We put out plain-language summaries of the rules and posted video guidance. We issued readiness guides. And, we worked with our fellow regulators to publish inter-agency procedures on the new rules to familiarize industry stakeholders with our expectations.

In addition, as we became aware of critical operational or interpretive issues with our rules, we addressed them. We issued amendments and bulletins, where warranted, over the course of the year with a single aim in mind: to ensure the effectiveness of our rules and facilitate compliance.

What we are requiring of servicers are the kind of basic practices of customer service that should have been implemented long ago. We have said that in the early months we will look to see that those subject to the rules have made a good faith effort to comply. A good faith effort, however, does not mean servicers have the freedom to harm consumers. It has felt like "Groundhog Day" with mortgage servicing for far too long.

So let me very clearly lay out our expectations. In these very early days, technical issues should simply be identified and corrected. More substantively: We expect you to conduct outreach to ensure that all consumers in default know their options. We expect you to assess loss mitigation applications with care, so that consumers who qualify under your own standards get the loss mitigation that saves them – and the investor – from foreclosure.

We expect you to pay exceptionally close attention to servicing transfers and understand we will as well. This process should be seamless for consumers. Our rules mandate policies and procedures to transfer "all information and documents" in order to ensure that the new servicer has accurate information about the consumer's account. We're going to hold you to that. Servicing transfers where the new servicers are not honoring existing permanent or trial loan modifications will not be tolerated. Struggling borrowers being told to pay incorrect higher amounts because of the failure to honor an in-process loan modification – and then being punished with foreclosure for their inability to pay the incorrect amounts – will not be tolerated. There will be no more shell games where the first servicer says the transfer ended all of its responsibility to consumers and the second servicer says it got a data dump missing critical documents.

We expect you to turn to force-placed insurance as a last resort, rather than using it as a profit center that feeds off consumers' distress. At the end of the day, foreclosures are an important part of the business, but they shouldn't happen unless they're necessary and they must be done according to relevant law. We expect the new rules to go a long way to reduce consumer harm for all consumers with mortgages, especially as these rules work in concert with the existing prohibition against unfair, deceptive, and abusive practices.

Our new mortgage servicing rules are now subject to federal supervision and enforcement across the entire marketplace. Our enforcement actions to date have already ordered the return of more than $1 billion to consumers and mandated another $2 billion in foreclosure relief. Mortgage servicing rule compliance is a significant priority for the Bureau. Accordingly, we will be vigilant about overseeing and enforcing these rules.

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My message to you today is a tough one. I don't expect a standing ovation when I leave. But I do want you to understand our perspective. I would be remiss if I did not share it with you.

In our view, the intense human suffering inflicted on American consumers by an all-too-

frequently indifferent mortgage servicing system has required us to change the paradigm in mortgage servicing forever. Frankly, the notion that government intervention has been required to get the mortgage industry to perform basic functions correctly – like customer service and record keeping – is bizarre to me but, regrettably, necessary. I recognize that many of you in this room have put in countless hours and spent millions of dollars preparing your businesses for our new rules. The Bureau has valued your input and engagement in the rulemaking and implementation process. It's that kind of investment in compliance that was sorely lacking in the response to the financial crisis and it speaks well of fundamental changes in the financial services industry in general.

But please understand: if you choose to operate in this space, the fundamental rules have changed forever. It's not just about collecting payments. It's about recognizing that you must treat Americans who are struggling to pay their mortgages fairly before exercising your right to foreclose. We have raised the bar in favor of American consumers and we are ready, willing and able to vigorously enforce that bar.

Ultimately, these profound changes will be good for all Americans, including industry. But please understand, business as usual has ended in mortgage servicing. Groundhog Day is over. Thank you.

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The Consumer Financial Protection Bureau is a 21st century agency that helps consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives. For more information, visit consumerfinance.gov.