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CFPB Examiners Find Mortgage Servicing Problems At Banks And Nonbanks

CFPB Report Also Finds Many Nonbanks Lack Robust Compliance Systems

WASHINGTON, D.C.— Today, the Consumer Financial Protection Bureau (CFPB) issued a report detailing mortgage servicing problems at banks and nonbanks. The report also found that many nonbanks lack robust systems for ensuring they are following federal laws.

"Our examinations of banks and nonbanks allow us to correct problems before more consumers are affected," said CFPB Director Richar Cordray. "Today's report highlights both the mortgage servicing problems throughout the industry and the challenges of making sure tha nonbanks are following federal law. Fixing both is a priority for us."

The Supervisory Highlights report is available at: http://files.consumerfinance.gov/f/201308_cfpb_supervisory-highlights_august.pdf

Under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank), the CFPB supervises depository institutions and credit unions with total assets of more than $10 billion, and their affiliates. The Bureau also has authority to supervise nonbanks regardless of size in certain specific markets: payday lenders; private education lenders; and mortgage companies including originators, brokers, and servicers. For other nonbank markets for consumer financial products or services, the CFPB has the authority to supervise "larger participants." As directed by Dodd-Frank, the Bureau must define such larger participants by rule. To date, the Bureau has issued rules for the debt collection and credit reporting markets.

Today's report is part of a series of supervision reports that the CFPB issues regularly. It highlights examination work completed between November 2012 and June 2013.

Mortgage Servicing Problems

Since the CFPB launched its supervision program, it has focused much of its work on mortgage servicing. Mortgage servicers are responsible for collecting payments from mortgage borrowers on behalf of loan owners. They also typically handle customer service, escrow accounts, collections, loan modifications, and foreclosures. In supervising both bank and nonbank servicers, CFPB examiners hav uncovered problems that can be harmful to consumers. These include:

- **Sloppy account transfers:** The rights to manage a loan are frequently bought and sold among servicers. With these transfers among institutions, the CFPB discovered several risks that can cause consumers to miss payments, delay important processes, or affect the good standing of a mortgage borrower's loan. For example, examiners found:
  - Disorganized and unlabeled paperwork, including important loss mitigation documents
  - Failures by mortgage servicers to tell consumers when the servicing of the loan is transferred to another company; and
  - A lack of protocols related to the handling of key documents, such as trial modification agreements.
- **Poor payment processing:** Servicers are responsible for processing loan payments and handling tax and insurance payments through escrow accounts. If they do not perform their duties correctly, it can result in extra costs and hassles for the consumer. In i exams, the CFPB found:
  - Inadequate notice to borrowers of a change in address to send payments, resulting in late payments;
  - Excessive delays in handling the cancellation of private mortgage insurance payments, resulting in late fees; and
  - Property taxes being paid later than expected, resulting in borrowers' inability to claim a tax deduction for the year they

planned.

- **Loss mitigation mistakes:** Servicers are also responsible for helping qualified struggling borrowers with alternative plans for repayments, if such plans are available. So when servicers fall short of their responsibilities, consumers can be sent to foreclosure unnecessarily. CFPB examiners discovered several problems, including:
  - Inconsistent communications with borrowers, giving them conflicting instructions for loss mitigation processes;
  - Inconsistent loss mitigation underwriting, waiving certain fees and interest charges for some borrowers but not others;
  - Long application review periods, making the loss mitigation process especially hard on consumers whose accounts are also dual-tracked for foreclosure;
  - Incomplete loan files, making it challenging for consumers to find out about their loan modification applications when they call the servicer for help;
  - Poor procedures for requesting missing or incomplete information from consumers, making it difficult for consumers to provide the correct documentation; and
  - Deceptive communications to borrowers about the status of loan modification applications, leading some consumers to faster foreclosure.

In all cases where the CFPB found mortgage servicing problems, examiners alerted the company to its concerns, specified necessary remedial measures, and, when appropriate, opened CFPB investigations for potential enforcement actions. CFPB's corrective measures included making sure that important papers were filed appropriately, that servicers improved their policies and procedures governing th handling of loans in loss mitigation, and that consumers were treated according to the law.

The CFPB has also directed servicers to engage in specific corrective actions appropriate to the circumstances, such as: reviewing loss mitigation decisions and related fees or charges to borrowers to determine whether any reimbursement was appropriate; conducting periodic testing to monitor areas of concern; and providing reports to the CFPB on their progress completing the corrective actions.

Many Nonbanks Lack Compliance Management Systems

The CFPB expects the companies it supervises – regardless of size – to have fully developed compliance management systems to ensure a federal consumer financial protection laws are followed. A good system ensures that employees know about their responsibilities, creates structures for reviewing operations, and takes corrective actions when needed. A good system also lessens consumer risks and reduces th potential for violations.

Prior to the CFPB's existence, many supervised nonbanks had not been subject to federal or even state examinations. Perhaps because of this, CFPB examiners found that many nonbanks are more likely to lack robust compliance management systems. The Bureau found that many nonbank institutions are:

- **Missing a comprehensive consumer compliance program:** The CFPB found that often individual branches of a business were looking out for relevant federal laws without an overarching system in place at the company. This creates a lack of consistency in following the laws across products and across locations. The result can be erratic treatment of consumer problems. It can also mean that root causes of regulatory violations go undetected.

- **Lacking formal policies and procedures:** Not having formal, written documents that both detail consumer compliance responsibilities and instruct employees on the appropriate methods for executing these responsibilities can lead to inconsistencies, sloppy recordkeeping, and ultimately, consumer harm because nobody at the institution is clearly responsible to make sure laws ar being followed.

- **Forgoing independent consumer compliance audits:** Independent audits are a good way for a company to routinely conduc quality-control checks on its operations. A compliance audit program provides a board of directors or its designated committees with information about whether policies and standards are being implemented. Without such a program, it is difficult to recognize any significant deficiencies in an institution's compliance management system.

The CFPB is committed to helping industry establish good compliance systems and today's report also offers guidance in how to do so. In general, both banks and nonbanks have committed to improving their compliance management systems in the future.

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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 live. For more information, visit consumerfinance.gov.