

Mortgage Servicing Efforts in Response to the COVID- 19 Pandemic

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Executive Summary¹

While most of the roughly 7.6 million homeowners who entered a COVID-19 related forbearance² have been able to resume making regular payments and have successfully exited mortgage forbearance, there are still approximately 1.25 million homeowners who remain in COVID-19 related forbearance plans as of October 2021.³ Most of these homeowners will have been in forbearance for more than a year without making payments on their mortgages. Furthermore, the majority of the 1.25 million homeowners will exit their forbearance plan by the end of the year, causing uncertainty for these homeowners as their forbearance ends.⁴

Since the onset of the pandemic, the Consumer Financial Protection Bureau (CFPB) has been responding to the evolving needs of homeowners and CFPB supervised entities. The last housing crisis led to millions of homeowners losing their home, particularly in communities of color and the CFPB is committed to avoiding a repeat. To that end, we have adapted our supervision approach to hold servicers accountable, amended our mortgage servicing rules to provide specific COVID-19 protections and we continue to provide direct assistance to homeowners through complaint intake and distribution of information, including in-language information to make sure all homeowners have a chance to avoid foreclosure. As detailed in the following pages, the CFPB has also published research and information, leveraging our existing tools, such as our complaint database, to understand trends in the marketplace and has made those analyses public. The CFPB also launched a new public outreach campaign targeted at distressed homeowners and has engaged in additional targeted reviews of certain mortgage servicing complaints.

These pandemic response actions have been focused on ensuring borrowers have the time and opportunity to make informed decisions about the best course of action for them and their families and to prevent a repeat of the last crisis. Homeowners are not able to choose their mortgage servicer; they have little to no market power. As a result, the CFPB's regulatory scrutiny and careful oversight is imperative.

¹ This report was prepared by Beth Spring and Tiffany Tran.

² Black Knight Mortgage Monitor, August 2021, <https://blackknightinc.com/data-reports>, at 9.

³ Walden, Andy, *Another Week of Significant Forbearance Declines*, Black Knight Mortg. Monitor Blog (October 15, 2021), <https://www.blackknightinc.com/blog-posts/another-week-of-significant-forbearance-declines-2/>

⁴ Black Knight, *supra* note 2, at 10.

1. Supervision, Research, and Monitoring Efforts

The COVID-19 pandemic has had broad implications for homeowners and CFPB-supervised entities. The pandemic has deeply impacted homeowners with large income losses, and many households continue to struggle to meet their credit obligations. In the early months of the pandemic, homeowner requests for assistance climbed sharply.⁵ At the same time, supervised entities were adapting to several operational challenges, which included state stay-at-home orders, staffing shortages, transition to partial or total remote work, and business closures. The CFPB encouraged supervised entities to focus on assisting struggling homeowners and has been monitoring the mortgage market during the pandemic through targeted supervision activities, expansive research, and analyzing consumer complaint data for trends.

To assist in protecting homeowners from elevated risks of harm related to the pandemic, the CFPB undertook Prioritized Assessments (PAs) beginning in May of 2020.⁶ Specifically, these assessments were designed to obtain real-time information from entities that operate in markets that pose elevated risk of consumer harm due to pandemic-related issues. The assessments allowed the CFPB to gain a greater understanding of how industry was responding to homeowners facing challenges. Examiners' review of mortgage servicers' prioritized assessment responses indicated several issues that raised the risk of homeowner harm. For example, several servicers provided incomplete or inaccurate information to consumers regarding CARES Act forbearances.⁷ The CFPB followed up with those servicers to ensure consumer harm was addressed. This work remains ongoing and the CFPB will be following up further on those inquiries this year to ensure that servicers have enhanced processes and provide adequate training materials.

The CFPB continues to monitor for law violations as the pandemic continues. A report issued in August 2021 from the CFPB's Office of Supervision Policy, highlighted the CFPB's key observations from data collected from 16 servicers.⁸ According to the supervisory report, some servicers struggled more than others to assist borrowers during the pandemic. For example, while many servicers successfully managed the anticipated high call volume, others reported

⁵ Black Aug. 2021 Report, *supra* note 2, at 6.

⁶ See Bureau of Consumer Fin. Prot., *Supervisory Highlights COVID 19 Prioritized Assessments Special Edition*, https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-23_2021-01.pdf

⁷ Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, 134 Stat. 281 (March 27, 2020).

⁸ See CFPB Report: *Mortgage Servicers' Pandemic Response Varies Significantly* (Aug. 2021), https://files.consumerfinance.gov/f/documents/cfpb_mortgage-servicing-covid-19-pandemic-response-metrics_report_2021-08.pdf

significantly higher wait times and call abandonment rates. Using data from 16 large servicers, the CFPB reported key metrics measuring servicers' COVID-19 pandemic response, including: call center data; forbearance requests, denials, and exits; delinquency; and borrower profiles. The report also highlighted the disproportionate potential risk of harm to vulnerable populations of borrowers despite the wide availability of COVID-19 hardship forbearances, repayment plans, and other loss mitigation options.

The CFPB will continue targeted data collection and evaluation efforts to assess how individual servicers performed for consumers exiting forbearance. The CFPB's Office of Supervision Policy will hold servicers accountable for complying with existing Regulation X requirements, as well as the COVID-19 protections adopted in the CFPB's June 2021 rulemaking.

To further emphasize servicers' responsibilities for assisting homeowners during the pandemic, in April of this year the CFPB issued a Compliance Bulletin and Policy Guidance (Bulletin) on Supervision and Enforcement priorities regarding housing insecurity. The CFPB issued the guidance in consideration of the heightened risks to homeowners needing loss mitigation assistance in the coming months as the COVID-19 foreclosure moratoriums and forbearances end.⁹ The guidance urged servicers to dedicate enough resources and staff to ensure they can communicate clearly with homeowners, effectively manage borrower requests for assistance, promote loss mitigation, and ultimately reduce avoidable foreclosures and foreclosure-related costs.

To understand better the impacts of the COVID-19 pandemic on homeowners, especially its impact on low income and minority households, the CFPB conducted and published research in addition to the supervisory data discussed above. The CFPB published the "Housing insecurity and the COVID-19 pandemic" report in March 2021 and the "Characteristics of Mortgage Borrowers During the COVID-19 Pandemic" datapoint in May 2021. The housing insecurity report summarized some of the relevant data and research on the impact of the pandemic on the rental and mortgage market.¹⁰ The datapoint described the characteristics of homeowners, including demographics, during the COVID-19 pandemic and focused on homeowners with loans that were in forbearance or delinquent as reported through March 2021.¹¹ One of the key findings from the datapoint was that homeowners in forbearance or

⁹ See Bureau of Consumer Fin. Prot., *Supervision and Enforcement Priorities Regarding Housing Insecurity* (April 1, 2020), https://files.consumerfinance.gov/f/documents/cfpb_bulletin-2021-02_supervision-and-enforcement-priorities-regarding-housing_WHcae8E.pdf

¹⁰ Kristin Wong, Bureau of Consumer Fin., *Housing insecurity and the COVID-19 pandemic* (Sept. 2021), https://files.consumerfinance.gov/f/documents/cfpb_Housing_insecurity_and_the_COVID-19_pandemic.pdf

¹¹ Durbin E, Li G, Low D, Ricks J. CFPB Office of Research Special Issue Brief, *Characteristics of Mortgage Borrowers During the COVID-19 Pandemic* (May 2021), https://files.consumerfinance.gov/f/documents/cfpb_characteristics-mortgage-borrowers-during-covid-19-pandemic_report_2021-05.pdf

delinquent are disproportionately Black and Hispanic. For example, 33 percent of homeowners in forbearance (and 27 percent of delinquent homeowners) are Black or Hispanic, while only 18 percent of the total population of mortgage debtors are Black or Hispanic.¹²

The CFPB has also been monitoring the impacts of the pandemic on homeowners through CFPB's complaint database. The CFPB uses the complaint data to gain insights into problems homeowners are experiencing because of the COVID-19 pandemic. Consumer complaint information assists the CFPB in regulating consumer financial products and services through our supervisory work under existing federal consumer financial laws, enforcing those laws judiciously, and educating and empowering borrowers to make informed financial decisions. While the volume of all mortgage complaints has been decreasing since March 2021, forbearance complaints remain at their highest percentage share of mortgage complaints since May 2020.¹³

As part of its continued efforts related to consumer protections, the CFPB's Office of Consumer Response conducts reviews of high-risk complaints, such as when a homeowner indicates that a foreclosure date has been scheduled within a certain period. The Office of Consumer Response determines if follow-up with the servicer is warranted, and, if appropriate, sends an information request to the servicer. The Office of Consumer Response also performs coordinated complaint reviews of mortgage servicers prioritized in the supervisory process.

The CFPB put additional resources into reviewing complaints related to COVID-19 forbearances, including forbearance exits, to spot potential issues and patterns with servicers. The CFPB conducted a special, additional targeted review of high-risk complaints related to COVID-19 forbearances. These issues were raised with servicers and other federal agencies, as appropriate.

The CFPB continues to empower consumers to use their voice and ensure companies engage with homeowners who are at heightened risk of foreclosure. The CFPB recognizes that its role is particularly important because consumers have little choice or market power. The CFPB will continue to monitor the mortgage market through these efforts, and others, as homeowners exit their forbearance plan this winter and next spring.

The CFPB will be closely monitoring homeowner outcomes, as homeowners continue to transition out of COVID-19 forbearances, using complaints, supervisory information, and other

¹² *Id.*

¹³ See Bureau of Consumer Fin. Prot., Office of Consumer Response, *Complaint Bulletin: COVID-19 issues described in consumer complaints*, https://files.consumerfinance.gov/f/documents/cfpb_covid-19-issues-described-consumer-complaints_complaint-bulletin_2021-07.pdf

available data. The CFPB will take further supervisory and enforcement action where appropriate.

2. Regulatory Efforts

The forbearance programs offered under the CARES Act have assisted homeowners in a meaningful way by providing a mortgage lifeline during the COVID-19 pandemic. However, with an estimated 1.25 million homeowners still in forbearance, homeowners with prolonged hardships may need additional assistance when their forbearance ends.¹⁴ To help prevent avoidable foreclosures, the CFPB has issued rules to facilitate the evaluation of homeowners for post-forbearance solutions other than foreclosure. The rules generally help ensure that homeowners have time before foreclosure to explore their options, to allow mortgage servicers to help homeowners faster by permitting servicers to offer certain streamlined loss mitigation options without collecting a complete application, and to improve servicers' communication to homeowners.

The CFPB recognizes not all homeowners will recover uniformly and notes that communities of color have disproportionately felt the economic effects of the pandemic. Homeowners who are in forbearance, or behind on their mortgages and not in forbearance, are disproportionately Black and Hispanic.¹⁵ As homeownership plays a critical role in wealth creation in the United States, a wave of foreclosures due to the current health crisis could have a lasting impact on these borrowers' ability to maintain and accumulate wealth.¹⁶

The CFPB issued regulatory amendments to assist mortgage borrowers affected by the COVID-19 emergency in a June 2020 interim final rule (IFR), and in a June 2021 final rule. On June 23, 2020, the CFPB issued an interim final rule (IFR) that made it easier for homeowners to transition out of financial hardship caused by the COVID-19 pandemic and easier for mortgage servicers to assist those consumers. The interim final rule made clear that servicers do not violate Regulation X by offering certain COVID-19-related loss mitigation options based on an evaluation of limited application information collected from the homeowner(s), as long as the

¹⁴ Walden, Andy, *Another Week of Significant Forbearance Declines*, Black Knight Mortg. Monitor Blog (October 15, 2021), https://www.blackknightinc.com/blog-posts/another-week-of-significant-forbearance-declines-2/?utm_term=Another%20Week%20of%20Significant%20Forbearance%20Declines&utm_campaign=An%20Update%20from%20Vision%20%5Cu2013%20Black%20Knight%27s%20Blog&utm_content=email&utm_source=Act-On_Software&utm_medium=RSS%20Email

¹⁵ Bureau of Consumer Fin. Prot., *Characteristics of Mortgage Borrowers During the COVID-19 Pandemic* at 5 (May 2021), https://files.consumerfinance.gov/f/documents/cfpb_characteristics-mortgage-borrowers-during-covid-19-pandemic_report_2021-05.pdf

¹⁶ Nat'l Ass'n of Home Builders, *Homeownership Remains Primary Driver of Household Wealth*, NAHB Now Blog (Feb. 18, 2021), <https://nahbnow.com/2021/02/homeownership-remains-primary-driver-of-household-wealth/>.

option meets certain conditions.¹⁷ Among other criteria, options meeting the conditions in the IFR generally involve moving missed payments to the end of the loan. This type of deferred payment has been a primary path for homeowners exiting forbearance.¹⁸

In spring of 2021, the CFPB further amended Regulation X to assist mortgage borrowers affected by the COVID-19 emergency. The final rule established temporary procedural safeguards to help ensure that borrowers have a meaningful opportunity to be reviewed for loss mitigation before the servicer can make the first notice or filing required for foreclosure on certain mortgages.¹⁹ It also allowed servicers to offer certain streamlined loan modifications based on the evaluation of an incomplete loss mitigation application, potentially allowing homeowners, including those exiting forbearance, to enter affordable solutions faster. Finally, the rule required servicers to increase their outreach to borrowers before initiating foreclosure and tell borrowers key information about their repayment or other options when they communicate with borrowers who are exiting forbearance or struggling to make mortgage payments. The CFPB will be monitoring for compliance with these rules.

The CFPB will continue compliance monitoring and will look for other opportunities to assist homeowners as they make their transition from forbearance to permanent workout solutions throughout the rest of this year and 2022. The CFPB will look to build upon the lessons learned from this crisis in future regulatory efforts.

¹⁷ See Regulation X § 1024.41. Normally, with certain exceptions, Regulation X would require servicers to collect a complete loss mitigation application before making an offer. The IFR also provided servicers relief from certain requirements under Regulation X that normally would apply after a borrower submits an incomplete loss mitigation application. Once the borrower accepts an offer for an eligible program under the IFR, the servicer need not exercise reasonable diligence to obtain a complete application and need not provide the acknowledgment notice that is generally required under Regulation X when a borrower submits a loss mitigation application.

¹⁸ Mortgage Bankers Association, MBA's Weekly Forbearance and Call Volume Survey, Results for Period from September 13 through September 19, 2021.

¹⁹ The final rule was effective August 31, 2021. See [Federal Register: Protections for Borrowers Affected by the COVID-19 Emergency Under the Real Estate Settlement Procedures Act \(RESPA\), Regulation X](#).

3. Outreach and Consumer Efforts

Across the United States, approximately 1.5 million homeowners were three months behind on their mortgage payments as of August 2021 and were at risk of losing their homes due to the financial hardships created by the COVID-19 pandemic.²⁰ While state and federal homeowner protections were established early into the pandemic, many homeowners initially lacked awareness and understanding of their mortgage options and of the processes to access assistance. For many, the pandemic has been one of the most disruptive long-term events of their lifetime. In response to this health and financial economic crisis, the CFPB has sought to improve homeowner awareness of mortgage relief options, and to educate homeowners on available resources and protections to ensure homeowners have accurate, up-to-date information on mortgage assistance.

Shortly after the CARES Act was passed, millions of homeowners were reaching out for mortgage assistance or information about mortgage relief and servicers began offering forbearance programs to homeowners with federally backed mortgages.²¹ At that time, there was a lot of confusion about what forbearance was, what it meant to pause mortgage payments, and when those missed payments would have to be paid back. In an effort to educate borrowers, the CFPB and other federal agencies independently issued statements clarifying that homeowners with federally backed mortgages are generally not required to repay the missed payments in one lump sum.²² The statement also instructed servicers of federally backed mortgages to contact a homeowner before the end of the forbearance period to see if the temporary hardship had been resolved and to discuss a variety of repayment options. The CFPB incorporated information on ways homeowners could make up their missed payments on the Housing Assistance Website for Americans Impacted by COVID-19.²³ The CFPB continues to

²⁰ Black Knight, *supra* note 2, at 4.

²¹ The number of mortgages in active forbearance plans peaked in May 2020, with over 4.5 million homeowners in active forbearance plans at that time. *Supra* note 2, at 6.

²² See COVID Help for Homeowners Page, <https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance/help-for-homeowners/repay-forbearance/>; CARES Act Forbearance Fact Sheet for Borrowers with FHA, VA, or USDA Loans, <https://www.hud.gov/sites/dfiles/SFH/documents/IACOVID19FBFactSheetConsumer.pdf>; Federal Housing Finance Agency News Release (April 27, 2020), “No Lump Sum Required at the End of Forbearance,” <https://www.fha.gov/Media/PublicAffairs/Pages/No-Lump-Sum-Required-at-the-End-of-Forbearance-says-FHFAs-Calabria.aspx>

²³ See COVID Housing Assistance Landing Page, <https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance/>

educate homeowners related to mortgage assistance through various channels such as webinars, targeted outreach, and collaborations with other Federal agencies.

In 2020, CFPB, the Federal Housing Finance Agency (FHFA), Veterans Affairs (VA), the US Department of Agriculture (USDA) and Housing and Urban Development (HUD) launched the Joint Mortgage and Housing Assistance Website for Americans Impacted by COVID-19.²⁴ The joint website consolidates information on the CARES Act, protections for homeowners, how to find a housing counselor, and how homeowners can avoid COVID-19 related scams. The website also provides a lookup tool for homeowners to determine if their mortgage is federally backed. Since its inception in May 2020, there have been approximately 5.3 million users who have accessed the site.²⁵ The CFPB updates the website with information on important deadlines that homeowners should be aware of as COVID-19 related policy changes.

In addition to providing resources for homeowners, the CFPB has worked with its industry and consumer advocate partners to provide homeowner outreach materials that servicers and housing counselors can use to help homeowners affected by the COVID-19 pandemic. These efforts included the “Not OK, That’s OK” campaign, which launched in November 2020 by a broad coalition of stakeholders.²⁶ The campaign was targeted toward helping servicers and counselors communicate with and increase homeowner awareness of mortgage payment relief and loss mitigation options among two target groups: (1) delinquent borrowers who have not requested forbearance assistance, and (2) borrowers who are nearing the end of their CARES Act forbearance period and are not in touch with their servicer.²⁷ More recently, the CFPB also began an outreach campaign to equip homeowners with the information they need to understand their options, exercise their rights, and, where possible, stay in their homes as they work to stabilize their finances. The CFPB has provided materials for use by housing counselors and mortgage servicers in Spanish, Chinese, Vietnamese, Korean, Tagalog, and Arabic, as well as English.

²⁴ See Bureau of Consumer Fin. Prot., *CFPB, FHFA, & HUD Launch Joint Mortgage and Housing Assistance Website for Americans Impacted by COVID-19* (May 2020), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-fhfa-hud-joint-mortgage-housing-assistance-website-covid-19/>

²⁵ Bureau of Consumer Fin. Prot., *Analysis of Web Traffic* (May 2020 through September 2021), <https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance/>

²⁶ See Mortgage Bankers Association Newslinks, ‘Not Ok? That’s Ok.’ Financial Services, Consumer Coalition Launches Borrower Awareness Campaign (Dec. 2020), <https://newslink.mba.org/mba-newslinks/2020/december/mba-newslink-wednesday-dec-2-2020/not-ok-thats-ok-financial-services-consumer-coalition-launches-borrower-awareness-campaign/>

²⁷ See COVID Help For Home Landing Page, <https://www.covidhelpforhome.org/>