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SMALL BUSINESS REVIEW PANEL AND COST OF CREDIT CONSULTATION FOR MORTGAGE SERVICING RULEMAKING

Discussion issues for small entity representatives

To help frame the small entities' discussions on issues before the SBREFA panel and on cost of credit matters, we list below questions on which the CFPB seeks your advice, input, and recommendations. For a summary of the proposals under consideration, please see the "Outline of Proposals Under Consideration and Alternatives Considered" (the Outline of Proposals) enclosed along with this document. You may find it helpful to refer to the Outline of Proposals as you think about these questions.

Please note that the questions below were designed to assist you in identifying the type of information you may need to effectively participate in the discussion with the panel and other small entity representatives. We recognize that some of these questions may not apply to you. When a topic is relevant to you, please discuss it based on either your own experience or your knowledge of the experience of other small entities in your same line of business. It may also be useful to the discussion to provide specific examples of issues that have arisen in your servicing activities.

We are not asking the participating small entities to provide detailed data during the discussion with the SBREFA panel. The panel, however, wants to understand the potential economic impacts of the particular proposals under consideration by the CFPB. The panel's understanding may be enhanced if you can provide a general sense of what might be your costs to comply with the proposals. Some of the questions suggest ways in which you might want to consider those costs as you prepare for the general discussion. The CFPB welcomes any quantitative information you may choose to provide in response to those questions, either during the meeting or afterward, but those questions should not be treated as data requests. If you find that company-specific information may be helpful to the discussion, we encourage you to frame your response in a manner that protects your company's proprietary information, as your responses will be included in a public report.

As you prepare for the discussion, then, please think about the following general issues as they relate to the proposals under consideration and to the questions below:¹

- The potential effects of the proposed requirements and alternatives on your company's operations and compliance costs.
- The amount of time you would need to make any changes to your systems or operations or take other actions you believe would be required in order to comply with the proposals under consideration.

¹ Please note that the terms "business" and "company" include "organization," as appropriate.

- The number or percentage of transactions conducted by your company that may be impacted.
- The potential costs and savings for your company.
- Based on any direct knowledge or experience you may have, how your or other small companies' anticipated compliance costs may differ from those of larger entities, and the characteristics of small companies compared to larger companies that may contribute to these differences.

A. Periodic Statements

The Dodd-Frank Act requires all mortgage servicers to provide borrowers with a periodic statement. The proposed periodic statement includes general loan information, billing information, and information about how the borrower may dispute and resolve errors.

1. Do you currently provide borrowers with a periodic statement? If so, how do you distribute it (mail, email, web site, portal, other)?
2. Take a look at the information that may be required on the proposed periodic statement disclosure. If you provide a periodic statement disclosure, what information on this list do you not currently provide? Why not?
3. What actions would you need to take to develop, produce and send a periodic statement disclosure with all of the proposed information? What would these actions cost? Which costs would be one-time costs and which would be ongoing costs?
4. What format do you store the information that would be provided in a periodic statement? What format do you store records of your periodic statements, if you already provide them? What actions would you need to take to store the information in a machine readable form (not a PDF, but rather an electronic form in which the information contained in the disclosures could be analyzed automatically)? What would these actions cost?
5. If you provide a periodic statement disclosure, what would your normal schedule be for the next update of the processes and systems through which you generate the disclosure?
6. Do you provide borrowers with coupon books for making payments? To what fraction of borrowers do you provide coupon books?

B. Adjustable Rate Mortgage Statement

Some servicers provide Adjustable Rate Mortgage (ARM) disclosures 25 to 120 days before any ARM interest rate adjustment. The Dodd-Frank Act requires all servicers to provide an additional disclosure six to seven months before the initial ARM interest rate adjustment, but only for certain types of ARMs.

The CFPB is considering a proposal to harmonize these provisions. The proposal may require all servicers to provide borrowers who have any kind of ARM an additional interest rate adjustment disclosure six to seven months before the initial adjustment. The proposal may mitigate the cost of this disclosure by no longer requiring the disclosure that currently may be given before the initial adjustment. The proposal may also require all of these disclosures to contain the same information.

Note: in the questions below, an “ARM reset notice” means an ARM interest rate adjustment disclosure that pertains to the initial interest rate adjustment.

1. If you currently provide ARM interest rate adjustment disclosures, how much in advance of the first adjustment do you send the disclosure? Is the timeframe different for adjustments that are subsequent to the first?
2. Take a look at the information that may be required on the proposed ARM reset notice. If you currently provide ARM reset notices, what information on the list do you not currently provide? Why not?
3. What actions would you need to take to develop, produce and send an ARM reset notice with all of the proposed information? What would these actions cost? Which costs would be one-time costs and which would be ongoing costs?
4. If you provide ARM reset notices, what is your normal schedule for the next update of the processes and systems through which you generate the disclosure?
5. Some ARMs provide borrowers with years of fixed payments before an initial reset may occur. Others provide borrowers with only a short period of fixed payments before an initial reset may occur. In your experience, is the first interest rate reset generally more problematic for borrowers than subsequent resets?

C. Force Placed Insurance

The Dodd-Frank Act requires servicers to provide borrowers with up to two new disclosures before charging them for force-placed insurance. The Dodd-Frank Act also requires servicers to refund the premiums paid by homeowners for all periods in which hazard insurance was in place, although the CFPB understands that this is generally done

already. The CFPB is considering a proposal that incorporates these requirements and certain others.

1. Do you have any vendor costs associated with force-placed insurance (*e.g.*, providing disclosures to borrowers, communicating with borrowers, monitoring the insurance coverage on properties in your portfolio, placing force-placed insurance). If so, which ones?
2. Take a look at the information that may be required on the force placed insurance disclosures. If you, your insurance provider, or your insurance agent or broker communicate with borrowers with respect to placing coverage on the borrowers' behalf, what information on the list is not currently provided?
3. What are your current practices with respect to notifying borrowers whose force-placed insurance policies are coming up for renewal? What costs would be imposed on you by a proposal that required you to provide written disclosures to borrowers prior to renewing their force-placed insurance policies?
4. What actions would you need to take to ensure that a force placed insurance disclosure with all of the proposed information is provided to borrowers? What would these actions cost you? Which costs would be one-time costs and which would be ongoing costs?
5. Do you (or your provider) currently refund premiums paid by homeowners for all periods in which hazard insurance is also in place?
6. The proposed force-placed insurance rules may amend Regulation X by proposing that servicers must make timely disbursements from escrow funds to pay a borrower's insurance premiums even if the borrower is 30 days past due and even if the servicer has to advance the funds, unless the borrower's policy was canceled for reasons other than non-payment of premiums. What costs might this provision impose on you? Keep in mind that the CFPB may exclude from the force-placed insurance rules servicers who repurchase a borrower's pre-existing policy and may also provide that the term "force-placed insurance" does not apply in these situations.

D. Prompt Crediting And Requests for Payoff Amounts

The CFPB is considering a proposal that addresses the way partial payments by borrowers are handled.

1. How do you currently handle partial payments from borrowers?
2. If you currently place partial payments in suspense accounts, when do you credit the borrower with a payment?

3. If you do not credit the borrower with a full payment once a full payment is in the suspense account, what actions would you need to take in order to do so? What would those actions cost? Which costs would be one-time and which would be ongoing?

E. Error Resolution and Response to Inquiries

The CFPB is considering a proposal that addresses error resolution procedures. The proposal may contain a list of mortgage loan servicing errors and procedures for handling these errors.

1. Take a look at the list of errors that the CFPB may propose. If a borrower contacts you in writing and claims that one of these errors has occurred, how do you currently respond? If a borrower contacts you orally, is your response different? Does your response depend on the type of loan the borrower has? What consumer matters or errors do you currently respond to that are not on the list?
2. Take a look at the time frames that the CFPB may propose for responding to alleged errors from consumers. Are there any alleged errors to which you do not currently respond in the stated time frames? If so, what actions would you need to take in order to respond within these time frames? What would those actions cost? Which costs would be one-time and which would be ongoing?

F. Reasonable information management policies and procedures

Take a look at the proposed reasonable information management policies and procedures. They are organized around important servicer duties.

1. Would you say that the way you currently manage information allows you to meet the duties stated in the policies and procedures?
2. If there are certain duties you cannot meet because of the way you currently manage information, what actions would you need to take in regards to how you manage information to meet these duties? What would these actions cost? Which costs would be one-time and which would be ongoing?

G. Early Intervention for Troubled or Delinquent Borrowers

The CFPB is considering proposing an early intervention procedure designed to help troubled borrowers. Servicers will have to make good faith efforts to contact borrowers no later than 45 days after the onset of delinquency.

1. How long after delinquency do you currently attempt to contact borrowers? Would you ever wait longer than 45 days before attempting to contact the borrower? Why?
2. If your procedure is different from the proposed early intervention procedure, what actions would you need to take in order to comply with the proposed procedure? What would those actions cost? Which costs would be one-time and which would be ongoing?
3. The proposed procedure may require servicers to contact a delinquent borrower in writing. Would the costs of complying be substantially mitigated if you did not have to contact a delinquent borrower in writing if you originated the delinquent loan and held it in portfolio?

H. Continuity of Contact

The CFPB is considering proposing to require servicers to provide delinquent or troubled borrowers with direct and ongoing access to staff with ready access to key borrower information.

Take a look at the key borrower information.

1. How much staff do you currently provide to work with troubled borrowers? How do you provide access to this staff?
2. If you do not currently provide troubled borrowers with direct and ongoing access to staff (e.g., a dedicated phone number that is staffed during business hours), what actions would you have to take to do so? What would these actions cost?
3. Does the staff that works with troubled borrowers have ready access to the information described in the proposal? If not, what information is not readily available? What actions would you need to take in order to make sure that staff has access to this information? How much would these actions cost?

I. Effect, If Any, On the Cost of Credit For Small Entities

The proposals under consideration would apply to *consumer mortgage loans*. These are mortgage loans that are used *primarily* for personal, family, or household purposes.

1. Look back at the eight topics addressed by the proposals under consideration.
 - a. Which proposals, if any, do you believe may impact the cost of credit for small entities? Why might this occur?

- b. Are there significant alternatives to any of the proposals that may minimize the impact on the cost of credit for small entities while accomplishing the statutory objectives addressed by that proposal?
2. Do you extend consumer mortgage loans that are used *secondarily* to finance a small business?
 - a. If so, what percentage of all of your consumer mortgage loans are such loans, *i.e.*, loans used secondarily for business purposes by a small business? What is the average amount of the credit extended on such loans? What percentage of the credit extended is actually used for a business purpose?
 - b. Would the proposals under consideration cause you to increase the rates or fees you charge for such credit? If yes, please describe the increase that you anticipate, your basis for anticipating that increase, and any feasible alternatives to the proposals under consideration you would recommend to minimize that increase.
 - c. Do you believe these borrowers could instead obtain home-secured business loans (*i.e.*, a home-secured loan used *primarily* for business purposes) from you or another lender?
3. In the past year, have you, as a small entity, taken out a consumer mortgage loan that you also used secondarily to finance your small business?
 - a. If so, in the past year, what percentage of your business costs did you fund through such credit?
 - b. Do you believe that the proposals under consideration would cause you to pay higher rates or fees for such loans? If yes, why might this occur?
 - c. If yes, please describe any feasible alternatives to the proposals under consideration you would recommend to minimize the increase.
 - d. As an alternative to this type of credit, could you obtain a home-secured business loan (*i.e.*, a home-secured loan used *primarily* for business purposes)?

J. Additional Feedback

1. Are there any feasible alternatives to the proposals under consideration that would minimize any significant economic impact on your business while accomplishing the CFPB's statutory mandate and objectives? The CFPB is particularly interested in learning whether adjustments may be called for in the case of small servicers that originate loans for their customers and self-service

those loans either while held in portfolio or after selling the loans (servicing retained) to Government-Sponsored Enterprises (“GSEs”) or other investors. The CFPB seeks to understand how consumers would be protected in those cases where adjustments are suggested.

2. Are there any other federal rules that you believe may duplicate, overlap or conflict with the proposals under consideration?