

CFPB PROPOSES CHANGES TO MORTGAGE SERVICING RULES*

On July 10, 2024, the CFPB proposed amendments to existing mortgage servicing rules through a proposed rule titled “Streamlining Mortgage Servicing for Borrowers Experiencing Payment Difficulties” (Proposed Rule). 89 FR 60204. According to the CFPB, the Proposed Rule would streamline existing requirements when borrowers seek payment assistance in times of distress and add safeguards when borrowers seek help.

To help homeowners avoid foreclosure, the CFPB proposed removing the existing application-based loss mitigation framework in Regulation X, focusing instead on implementing new procedural safeguards in the foreclosure process and prohibiting certain fees.

The Proposed Rule introduces several changes to defined terms and modifies certain loss mitigation, early intervention, and error resolution requirements under Regulation X. It also adds foreclosure procedural safeguards and language access requirements involving oral and written communication in languages in addition to English.

The Proposed Rule eliminates some defined terms and adds others. The term “loss mitigation application” would be replaced by “loss mitigation review cycle.” Additionally, the Proposed Rule would add a new term, “request for loss mitigation assistance,” to describe the action a borrower must take to initiate a “loss mitigation review cycle.” The term “COVID-19 related hardship” would be removed under the proposal.

The Proposed Rule adds a general prohibition against denials of timely requests for loss mitigation assistance due to missing documents or information, with limited exceptions if the servicer is unable to determine a loss mitigation option for the borrower after meeting certain contact and timing requirements. As part of the CFPB’s shift in focus, the requirements for delivering written notices regarding loss mitigation and early intervention are enhanced, now encompassing expanded language and content requirements.

The Proposed Rule includes requests for comment on a number of other issues, including credit reporting, “zombie” mortgages, disclosures of deferred amounts, successors in interest, and servicing practices related to state laws.

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Comments in response to the Proposed Rule are due by September 9, 2024, although industry advocates have requested an extension of this period. If finalized, the Proposed Rule will take effect 12 months after publication in the Federal Register. Additionally, the proposed language access requirements would become effective 18 months after publication.

While the rule is still in the proposal stage, BCG Members are encouraged to review and comprehend its potential implications for their financial institution. The Proposed Rule and other updates will be discussed in this month's Mortgage Lending Compliance Seminar.

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