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CFPB Urged to Strengthen Rules to Stem the Tide of Foreclosures

WASHINGTON—The National Consumer Law Center (NCLC) called on the Consumer Financial Protection Bureau (CFPB) to go back to the drawing board and come up with stronger rules requiring mortgage companies to work with borrowers to save homes before plunging ahead with a foreclosure. NCLC attorneys urged the CFPB to withdraw a proposed regulation – part of new regulations governing mortgage servicers – on loss mitigation unless it is significantly strengthened, criticizing the proposed loss mitigation regulations as a step backwards.[1] The CFPB's proposed mortgage servicing rules will not stop harmful servicer practices or stem the tide of avoidable foreclosures, according to attorneys at the NCLC in comments filed with the CFPB yesterday. NCLC, however, praised the proposed rules that would give homeowners more advance warning before a rate hike kicks in, require servicers to advance premiums from escrow accounts to avoid force-placed insurance, and improve information sharing by servicers.

"The proposed foreclosure rules need to reflect the most basic lesson from the foreclosure crisis: the rules must mandate that before foreclosing, servicers must take specific, enforceable steps to evaluate homeowners for affordable and sustainable loan modifications," said Margot Saunders, of counsel to the National Consumer Law Center. "Requiring reviews for affordable loan modifications for homeowners who have suffered hardships is essential. And providing better disclosures, even if they are improved as we suggest, are not a substitute for enforceable consumer protections."

Significant problems with the proposed regulations include:

- No standards are required for loan modification or loss mitigation efforts to save homes before starting a foreclosure;
- The practice of dual tracking (simultaneously pursuing a foreclosure while evaluating a homeowner for a loan modification) is specifically permitted;
- Only limited protections are proposed against force-placed insurance on mortgage loans on which there are no escrow accounts;
- The proposal *reduces* current consumer protections that require servicers to respond to homeowner inquiries (known as "qualified written requests or QWRs"). The proposed regulations limit the grounds upon which a homeowner can insist that a servicer resolve an error, despite a clear Congressional mandate and the urgent need to maintain and improve homeowners' rights to resolve errors with servicers.

NCLC Comments to the CFPB:

1. Regarding the Truth in Lending Act (Regulation Z) Mortgage Servicing Proposal, including payment processing

2. Regarding Real Estate Settlement Procedures Act (Regulation X) Mortgage Servicing Proposal, including loss mitigation and error resolution

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[1] http://www.consumerfinance.gov/blog/putting-the-serviceback-in-mortgage-servicing/