

Housing Advocates Praise CFPB's Focus on Helping Homeowners at Risk of Losing Homes but Urge a Different Approach

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Washington, D.C. – Housing advocates at the National Consumer Law Center, Americans for Financial Reform Education Fund, National Community Stabilization Trust, and the National Housing Law Project responded to the Consumer Financial Protection Bureau's (CFPB or Bureau) proposed rules issued today to impose a pre-foreclosure review period (essentially a moratorium) through Dec. 31, 2021 on mortgage loans for primary residences and to provide more outreach to homeowners who have faced COVID-19 hardships. The advocates encouraged the Bureau to replace its market-wide moratorium with an individualized requirement for servicers to comply with strict requirements before they can initiate a foreclosure, including reviewing borrowers for streamlined loan modifications that reduce the borrower's payment.

This proposed rule comes a week after the Bureau issued a Bulletin on its plans to enhance supervision and enforcement of mortgage servicing, including for homeowners who have limited English proficiency. The advocates welcomed this Bulletin as a step in the right direction and stressed the importance of the Bureau's heightened oversight of the mortgage market as millions of homeowners, including many people of color, seek sustainable arrangements with their mortgage companies. A particularly important role of the Bureau is to ensure that homeowners with mortgages that are not government-backed (including those with private loans, manufactured home loans, and land contracts) and homeowners with other financial challenges (including those facing tax foreclosures) have a chance to save their homes from foreclosure.

However, the Bureau's proposal announced today to impose a broad foreclosure moratorium through the end of the year is not the right solution and may make it more difficult for homeowners to know they should be seeking permanent solutions sooner, costing them substantial home equity and creating a risk of increased neighborhood blight. Instead of the moratorium, the groups urged the Bureau to prevent servicers from filing for foreclosure unless they first meet rigorous requirements to establish contact with the borrower and to review the borrower for each home retention solution for which the borrower qualifies, including streamlined modifications. These protections should be available to the crush of homeowners exiting forbearance in the coming months and also to homeowners who are seriously delinquent but have not made forbearance arrangements with their mortgage servicers.

Moreover, the Bureau's approach to increasing access to streamlined loss mitigation options fails to provide adequate consumer protections. The groups appreciate the Bureau's recognition of the importance of access to streamlined modifications, since hundreds of thousands of borrowers will be reaching out to their servicers during the same period. However, a borrower who tells their mortgage servicer they are unable to resume their regular monthly mortgage payment, whether or not they are exiting a forbearance, should have access to key consumer protections, including appeal rights and a halt to the foreclosure process.

Finally, the advocates encourage the Bureau to adopt additional protections, including clearly written notices laying out details about post-forbearance options, to ensure that homeowners know their options, can make payment arrangements prior to the start of foreclosure, and are not faced with demands for lump-sum repayments.

A letter sent to the CFPB on March 12, 2021, by the advocacy groups had urged more targeted action along the lines described above.

Additionally, 47 national, state and community housing, civil rights, and legal groups sent a letter to the CFPB this past January seeking a range of changes to protect homeowners from foreclosure.