Addressing the CFPB’s New Consumer Mortgage Loan Servicing Requirements

**Issue**

In January 2013, the Consumer Financial Protection Bureau (CFPB) published new rules establishing uniform minimum national standards for consumer mortgage loan servicing. Several of the new requirements implement provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act (DFA), requiring mortgage loan servicers to:

1. Provide periodic billing statements to closed-end mortgage loan borrowers.
2. Provide additional and earlier disclosures to closed-end, adjustable rate mortgage loan borrowers in advance of the initial interest rate adjustments.
3. Credit payments from mortgage loan borrowers promptly.
4. Provide an accurate and timely payoff balance to mortgage loan borrowers.
5. Provide notification to mortgage loan borrowers in advance of forcibly placing hazard insurance, and cancel and refund any premiums charged if the borrower subsequently provides evidence of coverage.
6. Respond in a timely manner to mortgage loan borrower information requests or complaints of errors received verbally or in writing.

Pursuant to its discretionary authority to promulgate new servicing protections under the DFA, the CFPB proposed additional requirements that address perceived failures of mortgage loan servicers during the recent financial crisis, including requiring mortgage servicers to:

1. Establish reasonable information management and retention policies and procedures for providing timely and accurate information regarding loss mitigation activities as requested, evaluating loss mitigation applications and transferring servicing accurately.
2. Make good faith efforts to intervene early by notifying delinquent borrowers of loss mitigation options.
3. Provide delinquent borrowers with access to dedicated contact personnel for loss mitigation proceedings.
4. Establish procedures sufficient to evaluate loss mitigation applications completely, notify applicants of reasons for decisions and process customer appeals timely, as well as cease “dual tracking” (whereby servicers continue foreclosure proceedings against customers in workout programs).

**Challenges and Opportunities**

The new standards are more prescriptive than existing regulations, affect all mortgage servicers (large or small, bank and non-bank) and, of course, contain regulatory penalties for noncompliance. Mortgage servicers will need to take steps as early as possible to overcome potential implementation challenges, such as:

- Poorly documented, inadequate and inconsistent servicing processes, particularly related to borrower communication and record retention
- Inadequate systems and personnel resources to enhance existing mortgage servicing systems as well as implement new or enhanced workflows required to meet the regulatory objectives
- Inadequate or incomplete monitoring and quality control processes, servicing-related metrics to identify performance gaps and potential noncompliance, and oversight of vendors involved in default servicing activities

Lastly, mortgage servicers are challenged to coordinate implementation of the CFPB’s standards with other relevant servicing requirements and changes, such as any servicing-related consent orders, the multistate attorneys general settlement, and other investor servicing and loan modification standards.
**Our Point of View**

Mortgage servicers should take the following steps to address the new standards:

- Compare the changes required by the CFPB with other mortgage servicing-related consent orders, settlement agreements, investor loan modification requirements, and regulatory requirements to develop common processes to meet all applicable requirements.
- Re-evaluate existing and planned loan servicing workflow, realigning personnel, redefining roles and responsibilities, and identifying resource needs.
- Manage systems infrastructure changes to implement enhancements to existing, or develop new, disclosures and statements, automate workflows required to manage the new standards, and strengthen record retention practices and provide personnel with ready access to key documentation and communication.
- Redesign policies and procedures to address the requirements and internal processes and controls, and provide robust training to employees.
- Implement risk-based, regular monitoring of third-party or affiliate service providers.

**PROVEN DELIVERY**

**How We Help Companies Succeed**

Our Risk and Compliance professionals can help your institution comply with these standards in numerous ways:

**Compliance program design** – We can assist with the design and implementation of the mortgage servicing requirements by providing implementation project management support and structure; documenting processes and identifying opportunities to address inefficiencies; and developing new and/or enhancing existing policies, procedures, monitoring programs, key metrics and training.

**Compliance program evaluation** – We can assist by reviewing internal controls and processes for consistency with regulatory objectives; evaluating the reasonableness and consistency of policies, procedures, and internal controls and practices; reviewing the sufficiency of internal monitoring processes, vendor management and management reporting; and testing compliance with regulatory requirements on a transaction basis.

**Internal audit services** – We can provide internal audit support, including an assessment of compliance management programs as well as transaction-level compliance, with recommendations to enhance your program and minimize regulatory criticism.

**Example**

A regional bank requested an independent review of its residential mortgage loan foreclosure activities and third-party vendor, itself a large U.S. mortgage loan servicer. We assessed the adequacy of the design of the vendor’s risk management practices and internal controls related to foreclosure, loss mitigation and vendor management (including attorney network) activities. We performed comprehensive transaction testing of accounts referred to foreclosure to verify the effectiveness of controls surrounding the foreclosure process and validate that foreclosures were performed in compliance with state, federal and regulatory requirements. We uncovered deficiencies in the third party’s mortgage servicing process that the bank and its vendor remediated, allowing them to meet heightened regulatory expectations.

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