

AFR Statement on CFPB Mortgage Servicing Rule (1/17/13)

Americans for Financial Reform released the following statement in response to the Consumer Financial Protection Bureau's publication of new rules on mortgage servicing:

With the issuance of these rules, the CFPB has begun to impose across the board standards for mortgage loan servicing. This is an important and welcome step. The key questions for our members are simple. First, are these standards meaningful and enforceable enough to finally change servicer behavior? Second, do they provide the tools to make sure that loan modifications that benefit borrowers, investors, and the economy as a whole actually happen on a large scale?

Unfortunately, we are concerned that while the final rule is an improvement over the proposed rule it does not go far enough to ensure fair treatment of borrowers. We urge the CFPB to immediately consider improvements, both on its own and through the interagency guidance process. In addition, CFPB supervision, enforcement, and its complaint system are crucial tools that must be used aggressively to change servicer behavior.

The final rule gives homeowners the chance to address a broader range of errors, not just a short list of specific errors, as the proposal did. This is a positive step. Homeowners must be able to hold servicers accountable for actually correcting errors in their own procedures, and a close reading of the rule will be necessary to see how well it meets this standard across the full range of errors. In a major gap, the rule fails to require loan modifications – leaving homeowners and investors without this core protection.

Dual tracking, where servicers proceed with a foreclosure while they still are (or should be) considering a loan modification, leads to unnecessary and preventable foreclosures. This is a serious and well documented problem. While the CFPB's final rule is better than its proposed rule on this score, it still only partly addresses the issue, leaving borrowers vulnerable to unnecessary foreclosures. The rule is also too restrictive about the time period during which servicers have to even consider loan modification requests.

In setting standards for mortgage loan servicers, the CFPB faces a daunting but crucial task. Servicer misconduct has been repeated and pervasive, and powerful industry players have pushed hard against enforceable rules. But solving the foreclosure crisis is of overwhelming importance to communities and to the economy. Throughout the housing crisis, servicers have ignored rules, programs, consent decrees, and their contractual obligations to modify loans so that borrowers can make monthly payments and save their homes. Millions of homeowners are counting on the CFPB to change this.

Americans for Financial Reform is a nonpartisan and nonprofit coalition of more than 250 civil rights, consumer, labor, business, investor, faith-based, and civic and community groups. Formed in the wake of the 2008 crisis, we are working for a safer and more transparent financial system, and one that helps rather than hinders America's efforts to achieve an equitable prosperity.