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CFPB Issues Report on Mortgage Servicing Problems in 2013

By Anna DeSimone

January 30, 2014 the Consumer Financial Protection Bureau (CFPB) issued a report highlighting problems like unfair and deceptive practices in the mortgage servicing market uncovered through the Bureau's supervision program in 2013. The report also notes that, between July and October 2013, consumers received $2.6 million as result of overall non-public supervisory activities at the banks and nonbanks the CFPB oversees.

New rules went into place on January 10, 2014 by the CFPB designed to eliminate surprises and runarounds for homeowners. The rules require servicers to maintain accurate records, give troubled borrowers direct and ongoing access to servicing personnel, promptly credit payments, and correct errors on request. The rules also include new, strong protections for struggling homeowners, including those facing foreclosure.

Please refer to my article dated November 14, 2013: CFPB Clarifies Mortgage Servicing Rules

The January 30th report includes supervision work completed between July and October 2013. It focuses on the problems uncovered in mortgage servicing, at a time when the CFPB's new mortgage servicing rules were not yet in effect. The Bureau's previous supervision report similarly highlighted mortgage servicing problems. Both reports make clear that mortgage servicing misconduct continued to plague consumers throughout 2013.

The report describes several instances where servicers violated the Dodd-Frank Wall Street Reform and Consumer Protection Act's (Dodd-Frank Act) ban on unfair, abusive or deceptive acts and practices such as:

Unfair practices with servicing transfers: The rights to manage a loan are frequently bought and sold among servicers. Examiners found that two servicers engaged in unfair practices by failing to honor existing permanent or trial loan modifications after a servicing transfer, which resulted in borrowers being charged the wrong amount or being told to pay the wrong amount.

Waiving consumer rights: CFPB examiners found that two servicers were requiring borrowers to waive any existing claims in order to get a forbearance or loan modification agreement. The examiners found these broad waiver clauses to be unfair as they were done without regard to individual circumstances.

Poor payment processing: Servicers are responsible for processing loan payments and handling tax and insurance payments through escrow accounts. Examiners found that a servicer was marketing bi-weekly payment plans and misrepresenting how the plans worked. As a result, consumers did not save money the way they thought they would. Another servicer told some borrowers they would receive refunds from their escrow accounts, when in fact they would not.

Failing to provide correct information to consumer reporting agencies: Mortgage servicers generally provide data to consumer reporting agencies. CFPB examiners found cases where servicers were misreporting short sales as foreclosures, which have a much more negative impact on a consumer's ability to get certain types of credit. In all cases where CFPB examiners found these mortgage servicing problems, they alerted the company to their concerns and specified necessary remedial measures. When appropriate, the CFPB opened investigations for potential enforcement actions. The CFPB has already taken enforcement action against the nation's largest nonbank mortgage servicer, Ocwen, for its systemic misconduct at every stage of the mortgage servicing process. In December 2013, the CFPB ordered Ocwen to provide $2 billion in principal reduction to underwater borrowers and to refund $125 million to the nearly 185,000 borrowers who have already been foreclosed upon.

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