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CFPB Metrics Report Shows Increased Scrutiny of Borrower Access to Servicers, Information, and Loss Mitigation Opportunities

This GT Alert covers the following:

- CFPB report on mortgage servicing COVID-19 pandemic response metrics for May-December 2021;
- Report metrics: Servicing Portfolio, Call Metrics, COVID-19 Hardship Forbearance Enrollments, COVID-19 Hardship Forbearance Exits, Delinquency, Borrower Profiles;
- CFPB encourages mortgage servicers to enhance outreach to borrowers exiting forbearance and closely monitor data on borrower demographics and outcomes.

On May 16, 2022, the Consumer Financial Protection Bureau (CFPB or Bureau) issued a report regarding COVID-19 response metrics based upon its “observations from data obtained by 16 large mortgage servicers” from May through December 2021 (Report). This report is a follow-up to an August 2021 report regarding the Bureau’s observations from data obtained from December 2020 through April 2021 (Reporting Period).

In a press release accompanying the Report, CFPB Director Rohit Chopra opined, “[w]hile many mortgage servicers are successfully assisting borrowers to avoid foreclosure, today's report highlights that some servicers are lagging their peers and are less well-equipped to assist borrowers who have exited pandemic housing protections." Director Chopra stated, "[w]e will be closely monitoring mortgage servicer performance to ensure that they are meeting their obligations under the law."

Relevant Background

As we previously reported in April, May, and June 2021, the CFPB heightened its supervisory and enforcement scrutiny of mortgage servicers and finalized its pandemic mortgage servicing rules.

The stated purpose of the Report is "to identify areas of risk in the servicers' COVID-19 pandemic response." The Report examines servicing portfolios, call metrics, COVID-19 hardship forbearance enrollments and exits, delinquency, and borrower profiles for the period May through December 2021 from a "broad cross-section of the mortgage servicing industry."

Analysis of the Report

The Report analyzes six key data points and provides insight into the performance of mortgage servicers serving borrowers in need of COVID-19 mortgage repayment assistance.

- Servicing Portfolios. The servicing portfolios the Report examines contain a mix of both federally backed loans (86%) and private loans (34%).
- Call Metrics. The Report analyzes the number of consumer inquiries to servicer call centers. In the relevant period, the servicers reported, in aggregate, a monthly call volume ranging between 3.32 and 3.64 million inquiries.

  In addition to call volume, the Report focuses on three additional key metrics: average speed to answer, abandonment rates, and average handle time. In analyzing the data, the Bureau notes that most servicers reported stable call metrics throughout the reporting period. However, the Bureau has found several servicers reported spikes in both average speed to answer and abandonment rates. These servicers had average hold times exceeding 10 minutes and abandonment rates above 30%. These metrics indicate borrowers may face challenges obtaining telephonic assistance from certain servicers, especially if these metrics remain elevated.

- COVID-19 Hardship Forbearance Enrollments and Exits. COVID-19 hardship enrollments have been on the decline since the peak in mid-2020. In the Reporting Period, enrollments dropped from 163,000 to 68,000 for federally backed loans and from 42,000 to 17,000 for private loans.

  COVID-19 hardship exits ranged monthly from 60,000 to 90,000 for federally backed loans and 10,000 to 19,000 for private loans. The Report aggregates data regarding loan status at the time of exit, including delinquent with no loss mitigation in place, modification, foreclosure, short sale, and deed in lieu of foreclosure. For all servicers, 15.2% of borrowers exited their forbearance in default without loss mitigation in place. As the Bureau notes, exiting forbearance in default without a loss mitigation solution puts borrowers at an increased risk of foreclosure, negative credit reporting, and further delinquency.

- Delinquency. Delinquency is a new metric the CFPB has not previously tracked with respect to COVID-19 forbearances. Delinquency rates among federally backed loans remained consistent between 0%-15%. There was one notable exception – a sub-prime servicer of federally backed loans – that reported delinquency rates consistently exceeding 20%. Delinquency rates for private loans were generally consistent, with most servicers reporting rates below 15%. However, several private loan servicers reported rates exceeding 30%. In aggregate, delinquent forbearance exits increased from 9,000 in May to 21,000 in October, before dropping to 14,000 in December.

- Borrower Profiles. The CFPB requested borrower language preference and demographic information to gain an understanding of limited English proficiency (LEP) borrowers and racial minorities. The Report notes that completeness and quality of this data varied widely by servicer. With respect to race, the data variances were so great among servicers that the Bureau was unable to run comparisons.

  Notwithstanding limited data on LEP borrowers, the information demonstrates an increasing trend of borrowers who were delinquent after forbearance without loss mitigation in place. The Report notes this may indicate greater challenges in obtaining in-language information for accessing available loss mitigation options. The CFPB cautions that a failure to serve LEP borrowers and provide access to information and access to financial products and services for which they qualify could give rise to Equal Credit Opportunity Act (ECOA) violations. The Bureau "encourages servicers to ensure that LEP borrowers in need of loss mitigation after exiting forbearance are served in a manner commensurate with services provided to all other borrowers" and to "enhance their data collection and retention of borrowers' language preferences" to improve communications and access to information and property retention opportunities. The Bureau's current position that servicers must employ robust LEP services runs counter to existing CFPB LEP guidance, issued during the past administration, that suggested that adequate disclosure to consumers of gaps in LEP coverage during the product life cycle would be a significant compliance risk mitigant.

Conclusion

In sum, the Report shows potential areas of concern regarding availability of telephonic assistance for all borrowers and in-language information and access for LEP borrowers. It signals the CFPB is monitoring borrower access to assistance both generally and specifically with respect to in-language resources. The Report further demonstrates CFPB's focus on ECOA compliance, especially when read in conjunction with the May 9, 2022 Advisory Opinion and the Bureau's prior statements, guidance, and rulemaking concerning pandemic mortgage servicing standards dating back to April 2021.

The CFPB closes its press release on the Report by advising servicers, "[t]he CFPB's continued monitoring and supervision of the mortgage market shows borrowers are still struggling with the after-effects of the pandemic, and the CFPB is encouraging mortgage servicers to enhance outreach to borrowers exiting forbearance and closely monitor data on borrower demographics and outcomes."

Authors

This GT Alert was prepared by:

- Tonya M. Esposito | +1 202.331.3111 | Tonya.Esposito@gtlaw.com
- Benjamin M. Saul | +1 202.331.3123 | saulbe@gtlaw.com
- Anne V. Dunne | +1 617.310.5207 | Anne.Dunne@gtlaw.com
- Michael E. Jusczyk | +1 617.310.5297 | Michael.Jusczyk@gtlaw.com

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