Insights: Alerts

CFPB Finalizes Further Changes to Mortgage Servicing Rules

March 9, 2018

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On March 8, 2018, the Consumer Financial Protection Bureau (CFPB or Bureau) finalized certain changes to its mortgage servicing rules. The Bureau issued a final rule[1] to provide mortgage servicers with more flexibility and certainty regarding requirements to communicate with borrowers under the CFPB's 2016 mortgage servicing amendments.

Background

Regulation Z contains periodic statement and coupon book requirements when a person is a debtor in bankruptcy. It includes a single-billing-cycle exemption from the requirement to provide a periodic statement or coupon book in certain circumstances after one of several specific triggering events occurs, resulting in a servicer needing to transition to or from providing bankruptcy-specific disclosures. The single-billing-cycle exemption applies only if the billing cycle's payment due date is no more than 14 days after the triggering event.

The Bureau learned, through its outreach in support of the industry's implementation of the 2016 mortgage servicing rules, that certain technical aspects of the rule relating to the timing for servicers to transition to providing modified or unmodified periodic statements and coupon books in connection with a consumer's bankruptcy case may create unintended challenges in implementation. To alleviate any unintended challenges, the Bureau issued a proposed rule on October 4, 2017, to address the timing provisions. The Bureau has now finalized such proposed amendments without revision.

Final Rule

The CFPB has amended the Regulation Z mortgage servicing rules regarding the timing for servicers to transition to providing modified or unmodified periodic statements and coupon books for a consumer's bankruptcy case. The final rule replaces the single-billing-cycle exemption with a single-statement exemption. Specifically, the final rule provides a single-statement exemption for the next periodic statement or coupon book that a servicer would otherwise have to provide, regardless of when the triggering event occurs in the billing cycle.

These changes provide a clearer and more straightforward timing standard for the delivery of periodic statements containing important loan information to borrowers in bankruptcy. As such, the amendments offer greater certainty for implementation and compliance and more latitude to mortgage servicers in providing periodic statements to consumers entering or exiting bankruptcy.

Effective Date

The effective date for the rule is April 19, 2018, the same date that the other sections of the 2016 rule relating to bankruptcy-specific periodic statements and coupon books become effective.

[1]Consumer Financial Protection Bureau, Mortgage Servicing Rules Under the Truth in Lending Act (Regulation Z) (Mar. 8, 2018), available at https://files.consumerfinance.gov/f/documents/cfpb_mortgage-servicing_final-rule_2018-amendments.pdf.

[2]Consumer Financial Protection Bureau, Amendments to the 2016 Amendments to the 2013 Mortgage Servicing Rules Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z) (Oct. 4, 2017), available at http://files.consumerfinance.gov/f/documents/201710_cfpb_amendments-to-2016-Servicing-Rule_interim-final-rule.pdf.

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