



**National Association  
of Federal Credit Unions**  
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NAFCU | Your Direct Connection to Advocacy, Education & Compliance

May 26, 2016

Monica Jackson  
Office of the Executive Secretary  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, D.C. 20552

RE: Periodic Statements for Borrowers who have filed a Bankruptcy (RIN: 3170-AA49)

Dear Ms. Jackson:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only national trade association focusing exclusively on federal issues affecting the nation's federally insured credit unions, I am writing to you regarding the Consumer Financial Protection Bureau's (CFPB) request for comment on its report on consumer testing of periodic statements for borrowers who have filed a bankruptcy petition. *See* 81 FR 24519 (April 26, 2016). NAFCU and our members urge the Bureau to establish an implementation period of at least 24 months after finalization in order to provide credit unions with the requisite time to adequately prepare for changes to mortgage servicing.

### **Mortgage Servicing Implementation**

NAFCU and our members remain concerned that the tidal wave of regulations in recent years is altering the financial services market in unintended ways. Every additional rulemaking affecting credit union operations adds to the regulatory burden felt by credit unions as they attempt to come into compliance. Financial institutions are already working diligently to overcome the inevitable growing pains of the complex framework created by rulemakings such as the *Truth in Lending Act* (TILA) and *Real Estate Settlement Procedures Act* (RESPA) Integrated Disclosure (TRID) Rule, the *Home Mortgage Disclosure Act* (HMDA) Final Rule, and the revised Uniform Residential Loan Application (URLA). The Bureau should recognize the substantial costs and resources credit unions are required to expend preparing systems to accurately and effectively come into compliance with these rules and more.

Therefore, NAFCU recommends the Bureau establish an implementation period of 24 months after finalization, at minimum, to avoid an effective date that is too close to the main implementation date of the HMDA Rule (i.e. January 1, 2018). This provision should provide credit unions with a barrier of at least six months between HMDA Rule implementation and the

mortgage servicing rule implementation. Such a buffer would provide credit unions with the opportunity to shift costs and staff time as needed to address these substantial regulatory requirements individually and mitigate the inevitable strain on compliance resources.

### **Sample Size**

As the discussion section to the Bureau's *Federal Register* notice indicates, research on the bankruptcy form report consisted of "three rounds of one-on-one cognitive interviews regarding the forms with a total of 51 participants in Arlington, Virginia, Fort Lauderdale, Florida, and Chicago, Illinois." Unfortunately, a 51-person sample size is not sufficient for the Bureau to draw concrete conclusions on the efficacy and usability of the sample periodic statement forms. NAFCU believes the Bureau could have benefitted from surveying a larger sample size of consumers in the development of the report.

In addition, the three testing locations can be identified as large metropolitan areas located in the South, Midwest, and Mid-Atlantic regions. The smallest area included in the study is Fort Lauderdale, Florida, which has a metro population of 2.7 million persons. NAFCU believes the Bureau should have considered sampling consumers in smaller communities throughout the country and included more geographic regions, in order to more fully capture the diversity of consumers.

### **Form Flexibility**

NAFCU also recommends that the CFPB develop model statements that are flexible and can be modified to reflect the appropriate bankruptcy chapter. Creating forms that are adaptable to local bankruptcy jurisdictions or future changes in law would afford credit unions the opportunity to work with individuals in a way that minimizes confusion. Such a simplification would also minimize the regulatory burden associated with using the model forms while still allowing the institution to take advantage of TILA's compliance safe harbor when using the appropriate model form.

### **"Successors-in-Interest" Comment Period**

In addition to the bankruptcy provisions discussed above, NAFCU and our members believe there are other provisions in the full mortgage servicing proposal that require additional comment. Specifically, the "successors-in-interest" aspect of the proposed rule would also require servicers to identify individuals that are potential successors in interest, and provide such individuals with periodic statements, regardless of whether the loan obligation has been legally assumed under state law. NAFCU remains concerned that this provision of the proposal and others incorporate unnecessary regulatory requirements into an already complicated regulatory framework. Credit unions pride themselves on working closely with members to resolve any difficulties that might arise out of servicing members' mortgages. Complicating the mortgage servicing regulations will inevitably make compliance more burdensome and costly for all institutions. Accordingly, NAFCU believes that Bureau should consider reopening the "successors-in-interest" aspect of the proposal for additional public comment.

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**Conclusion**

NAFCU appreciates the opportunity to share its thoughts on the model periodic statements for borrowers who have filed a bankruptcy petition. Should you have any questions or concerns, please feel free to contact me at [amonterrubio@nafcu.org](mailto:amonterrubio@nafcu.org) or (703) 842-2244.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Monterrubio', with a long horizontal stroke extending to the right.

Alexander Monterrubio

Director of Regulatory Affairs