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**National Association of Federally-Insured Credit Unions**

November 15, 2017

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

RE: Mortgage Servicing Rules Under the Real Estate Settlement Procedures Act  
(Regulation X) (RIN 3170-AA77)

Dear Ms. Jackson:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), the only national trade association focusing exclusively on federal issues affecting the nation's federally-insured credit unions, I am writing in regard to the Consumer Financial Protection Bureau's (CFPB) amendments to Regulation X to resolve the timing issue for providing modified written early intervention notices to borrowers who have invoked their "cease communication" rights under the *Fair Debt Collection Practices Act* (FDCPA). NAFCU and its member credit unions support this change because it will provide more flexibility to servicers complying with the 180-day timing requirement for providing such notices. NAFCU encourages the CFPB to continue to reach out to stakeholders regarding difficulties they may be facing in the implementation of the 2016 amendments to the 2013 *Real Estate Settlement Procedures Act* (RESPA) and *Truth in Lending Act* (TILA) Servicing Final Rules (Mortgage Servicing Rules). Additionally, NAFCU requests that the CFPB update its guidance or issue a bulletin to include this new timing provision for early intervention notices.

After releasing its 2016 amendments to the Mortgage Servicing Rules, the CFPB received questions regarding the interaction between Section 1024.39(d)(3)(iii) and 1024.39(b)'s timing requirements. Section 1024.39(b) provides that if a borrower is 45 days or more delinquent at the end of any 180-day period after the servicer has provided written notice, a servicer must provide the written notice again no later than 180 days after the prior written notice. Regarding loans where borrowers have exercised their right under the FDCPA barring debt collectors from communicating with them, Section 1024.39(d)(3)(iii) prohibits a servicer from providing the notice more than once in any 180-day period. Read together, this provides servicers with only one day to provide a subsequent written notice: the 180<sup>th</sup> calendar day after the prior notice, regardless of whether it is a Saturday, Sunday, or public holiday. This interim final rule amends Section 1024.39(d)(3)(iii) so that if a borrower is 45 days or more delinquent at the end of any 180-day period after the servicer has provided the written notice, a servicer has 190 days to provide the written notice again.

Although this amendment will only affect a fraction of loans, NAFCU recognizes the potential benefits to both servicers and borrowers. NAFCU and its member credit unions support the change to Section 1024.39(d)(3)(iii), which extends to 190 days the time a servicer has to provide a subsequent written early intervention notice to borrowers who have invoked their cease communication rights. This will provide credit unions with the flexibility to provide borrowers these notices during the work week instead of worrying about providing them on weekends or holidays. Additionally, NAFCU agrees that this may allow borrowers a better opportunity to seek loss mitigation options with their credit union. NAFCU urges the CFPB to continue to look for potential amendments to the Mortgage Servicing Rules that benefit both servicers and borrowers and create a better mortgage market overall.

Furthermore, considering this amendment became effective on October 19, 2017, the CFPB should issue revised guidance or a bulletin to servicers to inform them of the new timing requirements. Credit unions deserve to know about additional flexibility in the Mortgage Servicing Rules so that they may better serve their members. NAFCU urges the CFPB to release such guidance or bulletin as soon as possible.

### **Conclusion**

NAFCU supports the CFPB's efforts to resolve timing issues related to the Mortgage Servicing Rules and encourages the CFPB to continue to find ways to reduce regulatory burden for credit unions. If you have any questions or concerns, please do not hesitate to contact me at [akossachev@nafcu.org](mailto:akossachev@nafcu.org) or (703) 842-2212.

Sincerely,

A handwritten signature in black ink, appearing to read "Ann Kossachev". The signature is fluid and cursive, written in a professional style.

Ann Kossachev  
Regulatory Affairs Counsel