NATIONAL ASSOCIATION OF REALTORS®

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May 10, 2021

Mr. Dave Uejio
Acting Director
Consumer Financial Protection Bureau
1700 G Street, NW

Washington, DC 20552

Re: Protections for Borrowers Affected by the COVID-19 Emergency Under the Real Estate Settlement Procedures Act (RESPA), Regulation X (Docket No. CFPB-2021-0006)

Submitted electronically via: http://www.regulations.gov/

Dear Director Uejio:

On behalf of the 1.4 million members of the National Association of REALTORS® (NAR), the following letter is submitted in response to the Consumer Financial Protection Bureau's (CFPB) notice of proposed rulemaking (NPRM) on *Protections for Borrowers Affected by the COVID-19 Emergency Under the Real Estate Settlement Procedures Act (RESPA), Regulation X.*

NAR appreciates the CFPB's tremendous efforts to mitigate the impact of the pandemic on homeowners, homebuyers and renters. As the economy recovers in light of rising vaccinations and the housing market begins its transition away from forbearance programs, REALTORS® believe that every effort should be made to keep viable homeowners in their homes.

The National Association of REALTORS® is America's largest trade association, including NAR's five commercial real estate institutes and its societies and councils. REALTORS® are involved in all aspects of the residential and commercial real estate industries and belong to one or more of some 1,200 local associations or boards, and 54 state and territory associations of REALTORS®. NAR represents a wide variety of housing industry professionals, including approximately 25,000 licensed and certified appraisers, committed to the development and preservation of the nation's housing stock and making it available to the widest range of potential homebuyers.

Servicing is vital to America's housing finance system that supports the American Dream of homeownership. Thoughtful and proactive servicing has made a tremendous difference during this pandemic and its effectiveness will decide the fate of many distressed owners as the nation emerges from forbearance. The ability of the servicing industry to gain consumers' trust and execute optimal outcomes for consumers will affect both the current homeowners and the next generation of homebuyers.

Need for an Orderly Transition from Forbearance and Options

REALTORS® greatly appreciate the efforts the CFPB has taken to consolidate information about loss mitigation options from all federal channels in a single location. Working with the FHFA to harmonize servicers' messages to distressed homeowners has worked well. To this end, NAR supports the CFPB's efforts as it turns its focus to aiding the housing market to transition with the economy as states and localities ease and remove restrictions related to the spread of COVID-19.

In particular, NAR appreciates the CFPB's explicit direction for servicers to provide distressed homeowners with all of their options that include both a sale with equity and a short sale. Home price growth has been robust in recent years and through the pandemic reflecting the nearly 3.5 million residential unit shortage in the market. This shortage will keep the number of underwater homeowners low, allowing those distressed owners who have exhausted modification alternatives the means to exit homeownership in a manner that will minimize the impact on their credit score, equity, and time to return to homeownership.

If a sale with equity is not an option, a short sale generally has a much smaller impact on the distressed owner and costs the lender less than a foreclosure; therefore, it can be a viable alternative to mute the impact of distressed sales. Furthermore, academic research has shown little to no spillover effect from a short sale on local home prices, whereas an REO or foreclosure can reduce nearby home values by as much as eight percent[1], harming not just the distressed owner, but the community as a whole. The effects of foreclosures are devastating, resulting in vacant properties in communities that lower taxpayers' property values and shrink the tax bases of local governments muting their ability to build and maintain infrastructure. The human toll is worse compounded by lost equity and damaged credit.

Time is of the Essence

During the great recession, the number of short-sale offers that servicers allowed to dissolve due to the length of time required to render a decision or their unrealistic views of current home values was not only devastating to the homebuyers, but was also preventable. Unfortunately, this all too often circumstance would result in the potential home buyer canceling the purchase contract, the property ending in foreclosure, and the distressed household suffering long-term harm.

Enormous amounts of time are spent on potential short sales, but there is a limited amount of time to work with a distressed owner before they become disillusioned with the process. Even if successful, the process still takes many months and countless hours and often requires re-marketing of the property because buyers lose patience and terminate the contract. Establishing a timeframe for servicers and investors to respond to buyer's offers will help streamline the short sales process. This change will reduce the amount of time it takes to sell the property, improve the likelihood the transaction will close, and reduce the number of foreclosures. This will benefit the seller, the buyer, and the community.

Limbo Adds to Seller Credit Freeze

Both Fannie Mae and Freddie Mac limit access to mortgage credit to households who have experienced a short sale or foreclosure. This freeze-out period begins when the foreclosure action is completed. However, in many instances, lenders recognize the start of this period as when the lender or investor sells the distressed property rather than when the distressed owner ceases to have title to the property. This limbo period is effectively added to the credit freeze-out period, extending it by months and sometimes years. While the CFPB does not have authority over practices of the GSEs or state foreclosure laws, NAR urges CFPB to use its ability to investigate the issue and to clarify for lenders when a consumer has satisfied their obligation under the foreclosure.

Conclusion

Servicing is critical for the stability of the housing finance system. It is imperative that the CFPB and industry continue to work toward a clear, robust, and holistic approach to supporting distressed owners making the transition out of forbearance during this crisis. To this end, REALTORS® recommend that the CFPB continue with its proposals to reform the servicing process, to create a timeframe for investors to respond to a short-sale offer, and to identify how to reduce the pre-foreclosure limbo period that can adversely affect distressed sellers and weigh on the future of housing. NAR appreciates the opportunity to provide input and looks forward to

[1] Nasser Daneshvary & Terrence M. Clauretie & Ahmad Kader, 2011. "Short-Term Own-Price and Spillover Effects of Distressed Residential Properties: The Case of a Housing Crash," Journal of Real Estate Research, American Real Estate Society, vol. 33(2), pages 179-208.

continuing to work together on these important issues. If you have any questions, please contact me or NAR Senior Policy Representative, Ken Fears, at 202-383-1066 or KFears@Nar.Realtor.

Sincerely,

Charlie Oppler
2021 President, National Association of REALTORS®