

# WILLIAMS MULLEN

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April 16, 2015

MSR Task Force  
Conference of State Bank Supervisors  
1129 20th St, NW, 9th Floor  
Washington, DC 20036

Dear Sir or Madam:

I am writing in response to the request for comments on the Conference of State Bank Supervisors' recently published "Proposed Regulatory Prudential Standards for Non-Bank Mortgage Servicers." Thank you for the opportunity to respond.

Although the goals behind these proposals are understandable, the standards fail to acknowledge that the market includes a significant number of smaller, niche servicers that would be unable to meet the proposed capital requirements, and thus may be forced out of business. In the proposal, these increased capital requirements are justified, almost dismissively, as the same standard proposed for Fannie and Freddie servicers. On behalf of my mortgage servicer clients, I remind you that not all mortgage servicers are agency servicers, and are thus not subject to that proposal.

Some smaller servicers either service or sub-service loans for small banks, housing agencies, non-profits and the like, and not for the agencies. In many cases, these small servicers do not originate loans, and often do not own the mortgage servicing rights to these loans. They do not need excess capital to accommodate investor repurchase demands. While state law capital requirements vary, many require a net worth at or near \$250,000 in order to obtain a mortgage servicer license. Mandating a 10-fold increase in the net worth requirement would be devastating to many of these small businesses.

Since the proposal requested comments to specific questions, please consider this letter as a response to question #7 – "Do any of the Baseline Standards threaten the viability of a servicer?" The answer to that question is clearly "yes." Small, non-agency servicers are not subject to the increased capital requirements proposed for the agencies, and have been operating largely without incident under the current far-lower state capital standards. This is especially true for servicers that were not the originators of the loans in their portfolio.

We would strongly suggest that the Baseline Standards include an exception to the proposed capital requirements for smaller, non-agency servicers that do not originate the loans in their servicing portfolio, and therefore have no repurchase risk. This "small servicer" exception should not mirror the "small servicer" definition in the Consumer Financial Protection Bureau's 2013 RESPA and TILA Mortgage Servicing Rules, as that exception only covers entities servicing 5,000 loans or less that the servicer itself originated. The 5,000 loan limit is too low, and limiting the exception to entities that service their own production eliminates any non-producing servicer or sub-servicer.

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In conclusion, we urge the CSBS to remember that small, niche servicers exist, and service a significant number of housing agency and non-profit mortgage loans. Mandating a \$2.5 million net worth will put most of these small servicers out of business, or force them to consolidate with larger industry participants. Create a meaningful exception for these servicers that will allow them to continue their high-quality and high-touch service to homeowners.

Thank you for the opportunity to comment, and should you have any questions please contact the undersigned.

Sincerely,

A handwritten signature in blue ink, appearing to read "A. Clark", written in a cursive style.

Alan B. Clark