COMMUNITY MORTGAGE LENDERS AMERICA

PRESERVING FAIR STANDARDS FOR COMMUNITY LENDERS

June 22, 2015

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

Dear Sir or Madam:

The Community Mortgage Lenders of America (CMLA) represents a nationwide membership of community-based residential mortgage lenders, both banks and non-banks. On behalf of our member companies, CMLA writes to comment on the proposed prudential standards for non-bank, mortgage loan servicers.

CMLA believes, as we discuss below, there is strong justification for a specific exemption for servicers with portfolios composed of traditional, government-related mortgages that are already subject to ample government oversight and regulation.

CMLA is aware of the work that has been done by the Conference of State Bank Supervisors (CSBS) to implement the SAFE Act and to strengthen and expand oversight of state-regulated lenders. We appreciate that this work has engendered confidence in the marketplace that non-bank lenders are subject to effective regulatory oversight of their operations.

In turn, non-bank lenders have experienced an increase in their share of both mortgage originations and loan servicing, which has given rise to questions about the ability of the non-bank sector to live up to their responsibilities in both arenas.

Unfortunately, in the mortgage loan servicing area, a significant driver of these questions has been the alleged compliance shortcomings of a small number of large non-bank mortgage loan servicers. What has drawn little media attention, however, is the significant differences in terms of the composition of the servicing portfolios and the scope and complexity of operations between large, national organizations and non-bank servicers that are small and mid-sized community-based companies.

The CMLA is concerned that the CSBS proposal fails to take into account these significant differences, particularly since the proposal lacks any sort of an exemption for community-based lenders with servicing portfolios composed largely of traditional mortgages.

This failure to differentiate creates significant challenges for community-based lenders in terms of a cost burden to comply with regulations that are more appropriate to very large non-bank servicers. This cost burden, in turn, ultimately creates higher costs for consumers; reduced access to credit and fewer choices of lenders to serve the consumer's financing needs.

We therefore recommend that CSBS include an exemption for servicers that meet the following criteria:

- Servicers with servicing portfolios where at least 95 percent of the loans are FHA insured, VA guaranteed, Rural Housing Agency guaranteed or are owned or securitized by either Fannie Mae or Freddie Mac;

- Servicers with less than 2,500 serviced loans that do not meet any of the criteria in the first bullet point; or

- Servicers with less than $500 million in serviced loans that do not meet any of the criteria in the first bullet point.

The CMLA believes there is strong justification for such an exemption for the following reasons:

- Servicers with portfolios comprised almost exclusively of FHA/VA or GSE loans are subject to the net worth, liquidity and leverage requirements of Ginnie Mae, Fannie Mae and/or Freddie Mac. Any state requirements would be duplicative and unduly burdensome;

- There is no overriding public policy concern requiring additional and duplicative state regulation of servicing firms that meet the suggested traditional servicer exemption, particularly since the failure of such a firm would not pose any sort of systemic risk;

- A failure to exempt such firms from the proposed state criteria would in fact have the unintended result of hastening the consolidation of the loan servicing industry into fewer larger mortgage servicers, creating a greater degree of concentration and a higher risk of a systemic failure.

CMLA believes the impetus for state regulation of mortgage loan servicers is largely attributable to the actions of the few very large non-bank servicers that have portfolios with concentrations of high-risk loans. These loans are high risk either because the borrowers have demonstrated an inability to meet their financial obligations, the design of the loan products makes it difficult for borrowers to meet those obligations and/or a combination of these two factors.

By choice, some large non-bank lenders have decided to specialize in such servicing. We can understand how state regulators could reach a conclusion that a non-bank servicer with such a high-risk business model should receive a greater degree of regulatory oversight than is currently being exercised. However, we do not agree that such regulatory oversight should be extended to community-based mortgage servicers that have chosen a much lower risk business model consisting largely, if not exclusively, of traditional government insured or conventional conforming residential loans.

We agree that all mortgage loan servicers should have regulatory oversight, due to the potential impact on consumers from servicers that perform poorly or are not sufficiently observant of regulatory requirements. However, there is ample existing regulatory oversight from FHA, VA, Ginnie Mae, Fannie Mae and Freddie Mac, for those servicers whose portfolios are largely, if not exclusively, composed of those types of loans. These federal agencies or federally chartered companies have a strong and direct financial incentive to conduct diligent regulatory oversight of the operations of these servicers. In addition, as CSBS is no doubt aware, all non-bank servicers, no matter how small their operations are currently subject to CFPB oversight and examination as well. From a safety and soundness, as well as a consumer protection, standpoint, there is already ample and effective oversight of lenders with mortgage servicing portfolios consisting of largely traditional mortgages insured, guaranteed, owned or securitized by federal agencies or federally chartered mortgage intermediaries.

Finally, CMLA would like to respond to one of the questions posed by CSBS that is not covered by our proposal for a small, traditional servicer exclusion:

Question 5: ***What is a reasonable ownership percentage threshold to trigger a change in control event?***

CMLA Response: The trigger should be 50.1%.

Thank you for your consideration of our views. Please contact me and/or the CMLA Director Glen Corso with any questions.

Sincerely,

Paulina McGrath
Chair
Community Mortgage Lenders of America