Habitat. We build.

June 23, 2015

MSR Task Force
Conference of State Bank Supervisors
1129 20th St, NW, 9th Floor
Washington, DC 20036
Email: NBMS@csbs.org

Re: Options for Regulatory Prudential Standards for Nonbank Servicers

Dear Sirs and Madams:

We at Habitat for Humanity International (HFHI) appreciate the efforts of the Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) to establish a comprehensive prudential regulatory framework for nonbank mortgage servicers. In general, we support the intent of the proposed framework because we believe that such standards will contribute to economic stability as well as the reliability of nonbank servicers.

Charles G. Cooper, Commissioner of the Texas Department of Banking and Vice Chairman of CSBS, recently spoke about the importance of applying the proper level of regulation on the appropriate type of entity based on its size, complexity, and risk profile.[1] HFHI believes that this approach should also apply to this proposed framework; there are many, small specialized nonprofit mortgage servicers, like the local affiliates of Habitat for Humanity, that would be incapable of carrying out their charitable purpose and continuing the 40-year-old mission of providing decent affordable housing to so many families throughout our country.

Habitat for Humanity's vision is a world where everyone has a decent place to live. Anchored by the conviction that housing provides a path out of poverty, Habitat has helped more than 5 million people since 1976 through home construction, rehabilitation and repairs, and by increasing access to improved shelter through products and services. Habitat also advocates to improve access to decent and affordable shelter and offers a variety of housing support services that enable families with limited means to make needed improvements on their homes as their time and resources allow. As a nonprofit Christian housing organization, Habitat works in more than 70 countries and has more than 1,400 local affiliates here in the United States.

---

[1] Conference of State Bank Supervisors, CSBS Vice Chairman Calls for Right-Sized Regulatory Framework for Community Banks, at http://www.csbs.org/news/press-releases/pr2015/Pages/pr042315.aspx (Apr. 23, 2015).

The proposed framework, among other things, requires nonbank servicers to have a base net worth of $2.5 million with an escalator of 0.25 percent of the unpaid principal balance of the serviced portfolio. This standard alone would shutdown local Habitat affiliates, terminating their service to low-income families in their communities. HFHI estimates that only 80 of its 1,400 local affiliates could meet the net worth standard, and that it would be extremely challenging if not impossible for 1,200 local affiliates to reach the minimum standard.

The financing model for Habitat affiliates and most nonprofits does not and cannot include raising capital in ways that would be done by other nonbank servicers. By their very nature and restrictions of the IRS codes for 501(c)(3) nonprofit corporations, they cannot have individual, corporate, or other owners. Therefore they are unable to sell stock or raise capital. The only way they might have sufficient net worth and liquidity takes years of operation. As the assets and retained earnings grow, and are used to create more homes and thus more mortgages, their net worth grows. Whatever limited assets an affiliate has are used to build more homes, rehabilitate existing homes, make repairs, and revitalize neighborhoods. They are insufficient to meet even a small percentage of the prudential standards for net worth or liquidity. Even if these assets were adequate, it would probably be perceived by the public as a misuse of their assets/funds. Most donors/funders would not donate or offer grants if an affiliate had to restrict the use of its assets and cash in order to meet the prudential standards. Affiliates rely upon philanthropic donations and some grants from their municipality, state and federal government. Typically these sources only provide a portion of the funds necessary for the affiliate to build more homes. This funding model necessitates that a Habitat affiliate and other nonprofits use their existing assets and liquidity to leverage the grant.

Local Habitat for Humanity affiliates have enabled tens of thousands of Americans to become homeowners because of our model that involves sweat-equity, volunteer labor and low-cost construction, and zero-interest financing. However, these low-income borrowers (which are typically 20-80 percent area-medium income) are much harder hit by financial obstacles than higher-income earners. When they run into life's challenges, such as job loss, divorce, health care costs and other financial pressures, they can weather the storm as a Habitat for Humanity homeowner better than if they were renting, because, in most cases, the local affiliate owns and services the loan. The Habitat homeowner's partnership with the local affiliate and the affiliate's commitment to provide post-closing support often results in loss mitigation options and workouts that are difficult or impossible for private servicers to accomplish, particularly lengthy forbearance periods. Also, the loans of Habitat affiliates and other homeownership nonprofits don't present the same risk to the

financial markets or the economy as might be the case with mortgages from other types of entities.

The other provisions included in the proposed framework would also impair the ability of local Habitat for Humanity affiliates to fulfill their mission. For example, nonbank servicers would be expected to establish a risk management program that incorporates appropriate processes and models to measure, monitor, and mitigate financial risks and changes to the risk profile of the servicer and assets being serviced. Even though the risk management program may be "scaled to the complexity of the organization", managing the risks of the serviced asset under such a framework would fundamentally change the decision making of the local affiliate's mission which might not allow the affiliate to serve the best interests of their borrowers. For instance, it may lead to fewer loss mitigation options and increase the likelihood of pursuing the foreclosure option. Also, the board change-of-control requirement, which requires that the state regulator be notified of a change of 10 percent or more in ownership in the company, does appear to apply to nonprofits, but in terms of governance, the board could change 10 percent every year.

While we agree that the spirit of the proposed framework makes good sense for the for-profit nonbank mortgage servicing market, we also believe that the proposed framework would have severely negative consequences on nonprofit mortgage servicers like Habitat for Humanity and the families we serve. For these reasons, we ask that any effective issuance from the states should clearly state that the prudential standards for nonbank servicers do not apply to nonprofit servicing organizations, like Habitat for Humanity. Alternatively, if CSBS and AARMR desire, a nonprofit carve-out or exemption to the proposed framework could parallel the small servicer exemption under the Consumer Financial Protection Bureau's servicing rule.[2]

Again, we appreciate the opportunity to comment on the proposed framework, and we look forward to answering any questions that you may have.

Sincerely,

Andrew Szalay, AMP
Director, State and Local Relations
Office of Government Relations and Advocacy

[2] 12 CFR § 1026.41(e)(4) (2015).