via electronic submission

December 30, 2020

Comment Intake – Prudential Standards for Nonbank Servicers
Conference of State Bank Supervisors
1129 20th Street NW
Washington, DC 20036

Re: Proposed Regulatory Prudential Standards for Nonbank Mortgage Servicers

Dear Sir or Madam,

The Independent Community Bankers of America (ICBA)[1] appreciates the opportunity to provide comments on the Proposed Regulatory Prudential Standards for Non-Bank Mortgage Servicers. The Conference of State Banking Supervisors (CSBS) recognizes that the majority of mortgage servicing has moved away from prudentially regulated financial institutions to non-prudentially regulated entities over the past decade. This concentration of mortgage servicing activity has been driven by changes in capital requirements for depositories holding servicing rights and is largely a consequence of the increased regulatory oversight of large mortgage servicers from the Consumer Financial Protection Bureau (CFPB) following the financial crisis.

The 2012 National Mortgage Settlement and the subsequent CFPB mortgage servicing rules were focused primarily on the treatment of consumers in the mortgage servicing process with

[1] *The Independent Community Bankers of America® creates and promotes an environment where community banks flourish. ICBA is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education, and high-quality products and services. With nearly 50,000 locations nationwide, community banks constitute 99 percent of all banks, employ more than 700,000 Americans and are the only physical banking presence in one in three U.S. counties. Holding more than $5 trillion in assets, over $4.4 trillion in deposits, and more than $3.4 trillion in loans to consumers, small businesses and the agricultural community, community banks channel local deposits into the Main Streets and neighborhoods they serve, spurring job creation, fostering innovation and fueling their customers' dreams in communities throughout America. For more information, visit ICBA's website at www.icba.org.*

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an emphasis on foreclosure prevention and improved communication between the mortgage servicer and consumer. Both the Settlement and the mortgage servicing rules mandated certain processes and strict timeframes to be followed by most mortgage servicers, resulting in added cost and complexity of the mortgage servicing business and in many cases rendered it unprofitable for many smaller depository institutions to remain in this space

As a result, non-bank mortgage servicers have grown to control almost 70 percent of the $11 trillion mortgage servicing market as depositories have exited or greatly reduced their ownership of mortgage servicing rights. This concentration of mortgage servicing in non-prudentially regulated institutions raises systemic risk concerns at the Federal Housing Finance Agency (FHFA), Department of Housing and Urban Development (HUD), Government National Mortgage Association (GNMA), and the banking agencies. While non-bank servicers are required to meet state and agency capital and liquidity requirements, there is no one prudential regulator for this sector, and each state can set its own capital and liquidity requirements. Unlike insured depositories, there is no standard resolution process when a non-bank servicer fails.

The CSBS is attempting to develop a set of uniform prudential-like regulatory standards which state banking supervisors will use to examine non-bank mortgage servicers, subject to state approval. As proposed, these standards seek to combine the minimum capital and liquidity requirements from the government-sponsored enterprises (GSEs), GNMA, and HUD, along with enhanced reviews covering risk management, information technology, security, corporate governance, and operational risk management. The CSBS proposal establishes baseline requirements that will affect servicers with a smaller footprint, with mortgage servicing rights (MSRs) totaling less than $100 billion or making up less than 2.5 percent of market share. Servicers that exceed these amounts will be considered a “Complex Servicer” and subjected to heightened levels of oversight, liquidity management, and stress testing – in some ways similar to prudential requirements for larger depositories.

ICBA applauds the CSBS’s efforts to provide a uniform regulatory framework that emphasizes safety and soundness and accounts for the sizeable shifts in the mortgage servicing landscape in recent years. It is crucial to recognize that large nonbank mortgage servicers – or “Complex Servicers” – should adhere to a more stringent regulatory regime given their continual and relatively recent untested expansion, and the inherent volatility of the mortgage servicing industry. Moreover, we are generally supportive of an approach that aligns with FHFA’s

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Seller/Servicer requirements, as it underscores the importance of uniform and consistent supervision. While these entities will still not have one dedicated prudential regulator, establishing stronger and more consistent capital, liquidity, and management standards for state supervisors to enforce improves the safety and soundness of the mortgage servicing system and represents a solid foundation going forward.

ICBA encourages the CSBS to finalize the use of these standards by all state supervisors as soon as possible. The impacts of the mandatory forbearance provisions of the CARES Act has highlighted the need for strong prudential-like standards for non-bank mortgage servicers. While the mortgage servicing industry in general has weathered the COVID pandemic well, delinquencies in some sectors are at levels resembling the financial crisis and will likely result in elevated levels of foreclosures in the coming months once government-directed moratoriums expire. This will put additional strain on the capital and liquidity of all mortgage servicers, but those strains on the non-bank mortgage servicer sector will be more severe. There could be a failure of one or more of these non-bank servicers before the economy completely rebounds from the pandemic, resulting in an even greater systemic shock and made worse without a standard resolution process for these entities. ICBA therefore encourages CSBS to develop a resolution plan to be used for Complex Servicers.

ICBA appreciates the opportunity to comment on these proposed regulatory prudential standards for non-bank mortgage servicers, and we look forward to working with the CSBS, FHFA, GNMA, HUD as this process moves forward. Please contact the undersigned below if you have any questions regarding this letter.

Sincerely,

/s/

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