



December 31, 2020

Mr. John Ryan
President and Chief Executive Officer
Conference of State Bank Supervisors
1129 20th Street, NW, 9th Floor
Washington, D.C. 20036

Re: Proposed Regulatory Prudential Standards for Nonbank Mortgage Servicers

Dear Mr. Ryan:

The Manufactured Housing Institute (MHI) appreciates the opportunity to submit comments in response to the prudential regulatory standards for non-bank mortgage servicers being proposed by the Conference of State Bank Supervisors (CSBS) for adoption by individual states.

MHI is the only national trade association that represents every segment of the factory-built housing industry. Our members include home builders, suppliers, retail sellers, lenders, installers, community owners, community operators, and others who serve the industry, as well as 49 affiliated state organizations. In 2019, our industry produced nearly 95,000 homes, accounting for approximately 10 percent of new single-family home starts. These homes are produced by 32 U.S. corporations in 129 plants located across the country. MHI's members are responsible for close to 85 percent of the manufactured homes produced each year.

Manufactured housing is the largest form of unsubsidized affordable housing in the U.S. and the only type of housing built to a federal construction and safety standard (HUD Code). It is also the only type of housing that Congress recognizes as having a vital role in meeting America's housing needs as a significant source for affordable homeownership accessible to all Americans. Today, 22 million people live in manufactured housing. The affordability of manufactured homes enables individuals to obtain housing that is often much less expensive than renting or purchasing a site-built home. Manufacturers deliver high-quality HUD Code homes with designs and features consumers want at lower price points than site-built homes, all without government subsidy.

MHI appreciates CSBS' leadership with respect to establishment of financial and corporate management requirements for non-bank mortgage servicers, with the goals of ensuring servicers' continuing solvency and liquidity, protecting investors in the serviced loans, and protecting borrowers. MHI also appreciates that the proposed requirements are largely based on existing comparable requirements for Fannie Mae/Freddie Mac servicers.

MHI is proposing changes to the CSBS requirements and their implementation by individual states that reflect the importance of minimizing unnecessary compliance burdens and costs, in order to avoid the need to pass along unnecessary mortgage loan cost increases to borrowers. Because most purchasers of manufactured homes have modest incomes, regulations that result in cost increases, even small ones, will price consumers out of homeownership. Therefore, it is critical that impacts on consumers of manufactured housing be considered.

Specifically, MHI recommends the following as CSBS finalizes this proposal:

1. The proposed Base Liquidity and Incremental NPL calculations should be revised to exclude servicing of portfolio loans owned by the servicer or an affiliate.
2. Corporate Management Requirements (Baseline Line Items 3 to 8) should be identical to, or align as much as possible with, existing Fannie Mae/Freddie Mac comparable requirements.
3. All states adopting CSBS requirements should adopt identical, uniform requirements.
4. The final CSBS proposal should include language encouraging states to establish exemptions for servicers with *de minimis* levels of loans or loan volume in that state. Individual states should adopt exemptions when implementing these requirements.

The following details our rationale for these four recommendations:

1. The proposed Base Liquidity and Incremental NPL requirements should be revised to exclude servicing of portfolio loans owned by the servicer or an affiliate.

The proposed capital requirements are identical to existing Fannie Mae/Freddie Mac requirements. Therefore, MHI has no objections to these financial requirements. The proposed liquidity requirements are similar to Fannie Mae/Freddie Mac requirements – except that the metrics apply to non-agency as well as agency loans.

One of the objectives CSBS cites in promulgating its proposal is the need to protect investors of the underlying mortgage loans. Arguably, the main purpose of the liquidity requirements is to ensure that such investors are protected – that servicers have the financial resources to meet obligations to advance funds, either for agency loans or for non-agency loans with third-party mortgage noteholder investors [e.g., in other structures, such as the private label securities (PLS) market]. For that reason, it is appropriate for the 3.5 basis points of servicing UPB requirement to apply both to federal agency loans and to non-agency loans held by third-party investors, such as in the PLS market. Similarly, it is appropriate to apply the add-on requirement for loans over 6% delinquent to non-agency loans held by third-party investors.

However, there is no reason to apply either of these calculations to loans held as portfolio loans by the same company or an affiliate as the servicer. Put simply, there is no third-party investor to protect. Portfolio holders of mortgage loans are already at risk for delinquencies – so there is no benefit, only an added cost to the investor of reserving for this possibility, which will likely be passed on as a cost to the manufactured home borrower.

Therefore, both calculations that refer to non-agency loans should be revised to exclude non-agency loans that are held in portfolio by the same company or affiliate as the servicer.

2. Corporate Management Requirements (Baseline Items 3 to 8) should be identical or align as much as possible with existing Fannie Mae/Freddie Mac comparable requirements.

Proposed CSBS baseline requirements 3 through 8 are generally similar to – but differ slightly from – Fannie Mae/Freddie Mac requirements. Moreover, the specific provisions of each of these requirements may vary from state to state as they are implemented (as explained in the next section). This is a cause for significant concern – not just for all non-bank servicers, but particularly for manufactured home loan servicers.

Manufactured home loan levels are significantly lower than levels for site-built homes, with typical loan amounts below \$100,000 compared to average site-built home loan amounts of many times that amount. Therefore, any new servicing regulatory compliance costs would have to be spread over a much lower loan cost basis. The result would be proportionately higher costs for manufactured home consumers and lenders than for site-built homes.

Secondly, manufactured home servicing is somewhat different than servicing of site-built homes, particularly for chattel loans. For this reason, there may be fewer options, particularly for portfolio lenders of chattel loans, to transfer servicing in response to a costly new servicing compliance regime.

This problem is compounded for smaller manufactured home lender/servicers that do not have the economies of scale to absorb new compliance costs over their loan base – both because they have fewer loans and because they have smaller loan sizes.

Therefore, it is critical that the new corporate management requirements align as much as possible with comparable and existing Fannie Mae/Freddie Mac requirements. Many manufactured home loan servicers are already Fannie Mae/Freddie Mac servicers. Therefore, slight variations from the Fannie Mae/Freddie Mac requirements serve little regulatory purpose – but could pose a substantial compliance and cost burden for servicers already complying with Fannie Mae/Freddie Mac requirements that have to comply with several or dozens of different sets of requirements.

For example, Fannie Mae and Freddie Mac have:

- 1) Detailed requirements for servicers that effectively require them to have extensive control over Risk Management [Baseline 3].
- 2) Information security requirements that ensure Data Protection [Baseline 5].
- 3) Internal controls and internal audit functions to ensure sound Corporate Governance [Baseline 6].
- 4) Change of Ownership and Control Requirements [Baseline 7].

CSBS and the states should make every effort to establish requirements that are identical to Fannie Mae and Freddie Mac for these four Baseline Requirements. Minor deviations by multiple states would serve little regulatory purpose – but could create significant compliance, reporting and exam burdens for servicers that are servicing loans in multiple states.

Finally, Data Standards [Baseline 4] appear identical to CFPB requirements, and Servicing Transfers [Baseline 7] would align with CFPB and Fannie Mae/Freddie Mac requirements. Therefore, both are fine – but as noted, should be harmonized across different states.

3. All states adopting CSBS requirements should adopt identical, uniform requirements.

Unlike the SAFE Act, where a majority of states adopted a Model Code creating uniformity, the CSBS proposal is in a form that is likely to result in deviations from state to state as this proposal is implemented. The variations from state to state will likely be of little consequence with regard to regulatory efficacy – but will compound the compliance burdens and costs for servicers that operate in multiple states (which a majority of non-bank servicers do) – particularly for smaller servicers.

Therefore, in its final proposal, CSBS should encourage all states to establish identical and uniform requirements – and individual states should do so. Minor deviations from state to state serve little or no regulatory benefit – but can impose a significant compliance burden on servicers.

4. The final CSBS proposal should include language encouraging states to establish exemptions for servicers that service *de minimis* levels of loans in that state. Individual states should adopt such exemptions when implementing these requirements.

The final adopted CSBS proposal should encourage individual states to establish a *de minimis* level of loans or loan volume serviced by a servicer in an individual state below which a servicer is exempt from the requirements in that state. More importantly, individual states should establish such a *de minimis* exemption level, based on the number of mortgage loans or loan volume in that state. This avoids compliance costs by individual servicers that outweigh the insignificant regulatory benefits in that state of detailed supervision over a small number of loans. Further, we assume states have limited financial and manpower resources to carry out this function; therefore, a *de minimis* exemption would target regulatory resources where it is needed most, with respect to consumer impact in that state.

We would also note that the need, justification, and numeric thresholds for such exemptions is directly related to the degree to which an individual state adopts requirements that are the same as Fannie Mae/Freddie Mac requirements and the degree to which requirements are uniform across all 50 states. Put simply, the need for exemptions - to avoid unnecessary compliance costs and burdens that serve little or no regulatory purpose – is diminished if a state’s requirements are identical to Fannie Mae/Freddie Mac and uniform nationwide.

Conclusion

Thank you for your consideration of MHI’s views. We welcome the opportunity to discuss our recommendations to achieve CSBS’ objectives while protecting the ability of consumers to achieve affordable homeownership through manufactured housing.

Sincerely,



Lesli Gooch, Ph.D.
Chief Executive Officer