



Colorado Mortgage Lenders Association

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Federal Housing Finance Agency
1700 G Street, NW, 4th Floor
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Submission to: Servicing_Comp_Public_Comments@FHFA.gov

On behalf of the Colorado Mortgage Lenders Association (CMLA), I would like to thank the Federal Housing Finance Agency (FHFA) for the opportunity to comment on its “Alternative Mortgage Servicing Discussion Paper,” released on September 27, 2011. The CMLA is a fifty six year old association made up of mortgage lending companies located throughout the State of Colorado. Our membership is comprised of Mortgage Bankers, Mortgage Brokers, Banks and Credit Unions. We represent over 100 companies who employ over 3,000 individuals engaged in mortgage lending to Colorado’s home buying consumers.

The mortgage servicing industry has undergone unprecedented stress in recent years. The industry, which has seen increasing consolidation of servicing into ever larger portfolios, was simply inadequate to deal with the onslaught of delinquencies, defaults and foreclosures that have resulted from the economic downturn and widespread lax underwriting and origination practices in the first few years of the new century. We at CMLA, appreciate the interest of FHFA and other regulators in ensuring that we collectively work to improve service to borrowers, reduce financial risk to servicers, ensure flexibility for guarantors to better manage non-performing loans, promote market liquidity and enhance opportunities for competition in the origination as well as servicing markets.

However, we do not believe that any change to the current servicing compensation model is necessary to accomplish these goals. The proposed fee for service model is a radical proposal as well as a historic departure from the formula used to calculate the servicing revenue on residential mortgages. The current compensation structure has been used for over 100 years and has worked well. The current issues faced by borrowers across the country are not a result of servicing compensation structures, they are rather the result of several years of lax underwriting and origination practices coupled with an economic downturn during the first decade of the 2000’s. Those underwriting and origination lapses, together with the increasing level of consolidation of servicing portfolios into ever larger entities created the situation the servicing industry finds itself in today. Congress has already addressed many of those underwriting and origination issues with the passage of the Dodd-Frank Act and the creation of the Consumer Financial Protection Bureau (CFPB). The CFPB in turn, has undertaken rule making on the Ability to Repay rule

as a first step towards addressing those origination and underwriting practices and continues to work towards other rules and enforcement practices intended to curb the problems of the early 2000s. While this whole process of legislation and rule making was underway, the market reacted to the excesses of the origination process, and most of the loan products that were at the root of the origination and underwriting issues during the first six years of the 2000's are no longer available at all. Additionally, underwriting and origination standards for the remaining more conservative loan products have tightened considerably over the past five years.

CMLA believes that any consideration of changing mortgage servicing compensation is premature in light of the ongoing process of developing national servicing standards. The CFPB has made it clear that it will be addressing the issue of national servicing standards as a part of its regulatory mandate under Dodd-Frank. CMLA believes it is unreasonable to propose changing servicing fee compensations such as is proposed in the fee for service model without specific knowledge of what those national servicing standards might be. Furthermore, both Fannie Mae and Freddie Mac, the master servicers under the fee for service model proposed by FHFA are in conservatorship and facing the prospect of a winding down process in the coming years, further contributing to the uncertainty surrounding servicing in the future.

Nothing in the FHFA's proposals in the "Alternative Mortgage Servicing Compensation Discussion Paper" addresses the number one goal set out in the paper, to "Improve service for borrowers". One of the main causes of poor service to the borrower over the past decade has been the concentration of mortgage servicing into ever larger, ever fewer portfolios serviced by very large bank owned mortgage companies. The capacity of these large mega servicers to respond to the rapidly increasing delinquency and borrower default problems of the last five years was simply inadequate to deal with the scale of the problems facing the housing industry. We feel that it is important to note that Fannie Mae and Freddie Mac facilitated the concentration of servicing into these large portfolios through volume discounts on guaranty fees. Some of the lenders with the lowest guaranty fees are no longer in business, having been merged into other institutions, sold or closed outright and their servicing assets sold to others. Many of the portfolios those institutions accumulated have the record of the poorest performance, exactly the opposite of what was no doubt expected when those lower guaranty fees were negotiated. CMLA believes that the best way to improve service for borrowers over the long term is to encourage diversification in the servicing arena and the entry of new smaller servicers into the marketplace.

As we stated earlier in this letter, we believe the FHFA's fee for service proposal is a radical change to the current servicing model. The fee proposed (\$10 per month for a performing loan) is below the cost of servicing for most small to mid-sized serving companies. Lowering the fees received by servicers is hardly the way to encourage small to medium sized companies to undertake or expand their servicing capabilities. A further complication of the fee for service proposal is that we believe it removes the skin in the game that servicers have as a result of the current servicing compensation model and it would disadvantage the investors who invest in mortgages and mortgage backed securities and rely on the servicing industry to facilitate and administer the loans that make up those investments. In our opinion, much of the fee for service proposal set forth in the discussion paper seems contrary to the administration's stated goal to eliminate or reduce "*too big to fail*" and to increase competition in the broad array of financial services.

While CMLA does not believe that a change to the current servicing model is necessary, if FHFA is insistent on change, then CMLA believes you should implement the Cash Reserve Proposal alternative set forth in your discussion paper of September 27, 2011. While we favor the cash reserve proposal, CMLA believes that it is important that the minimum servicing fee be set at the higher end of the range and we also recommend to the FHFA that you consider expanding the range to as much as 37.5 basis points on the upper end given the uncertainty of the cost of implementing the national servicing standards likely to be established in the future. We believe that such an action would do much to contribute to new small to medium size servicers entering the servicing arena in the future. Currently, a combination of market and regulatory forces are creating a trend towards reversing the concentration of servicing into a few very large mega servicers.

CMLA believes that because the Cash Reserve Proposal creates a reserve account specifically for the increased costs associated with servicing non performing loans, but permits the unused portion of the reserve to revert to the servicer if not needed, it creates a further incentive for the servicer to manage their delinquencies carefully. Under this structure, use of the reserves should be the exception, not the rule, and would not be expected to occur under normal market conditions. The Cash Reserve Proposal also benefits the investor in mortgage loans by preserving the servicer's skin in the game while at the same time, maintaining the value of the servicing asset should it become necessary for the investor to move the servicing to an alternative servicer in the event the original servicer fails to perform adequately. Finally, the Cash Reserve Proposal, particularly if minimum servicing fees are set towards the higher side of the range or expanded to 37.5 basis points on the upper end, encourages new servicers to enter the arena as the mega servicers pull back, thus promoting a wider range of smaller servicing portfolios where CMLA believes, a better level of customer (borrower) service will be provided.

We believe that the Cash Reserve approach is the best of the options presented, though we would reiterate: the fact remains that despite the issues in the mortgage servicing market and the need for investment and training in servicing, the current mortgage servicing compensation structure is appropriate and suitable to meet the needs of the market.

Thank you for your consideration of our comments. If you have any questions, please contact me at your convenience.

Cordially,

The Colorado Mortgage Lenders Association

By: 

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