

CFPB Reports Continued Mortgage Servicing and Other Violations of Consumer Financial Law

September 28, 2015

In its Supervisory Highlights released earlier this summer, the CFPB reported its examination observations in consumer reporting, debt collection, mortgage origination and servicing, fair lending, and student loan servicing. The report cited violations of mortgage servicing loan modification regulations, including dual tracking, lack of quality control by credit reporting agencies in generating accurate consumer reports, fair lending violations, and improper handling of complaints by debt collection companies. Specific violations identified included: Mortgage Servicing Violations The CFPB's new RESPA loss mitigation rules include detailed requirements for soliciting and evaluating loss mitigation applications (LMAs) from borrowers. Violations of loss mitigation rules mentioned in the report included failing to send required LMA acknowledgements five days after receipt, requesting additional documents from borrowers which had either been previously submitted, or were inapplicable, disclosing payment plan terms in a deceptive manner, and failing to honor trial modifications after servicing transfers, causing delays in converting trial modifications to permanent modifications and resulting harm to borrowers. Dual Tracking/Foreclosure Process "Unfair and deceptive practices" found in the foreclosure process included sending notices of intent to foreclose to borrowers previously approved for trial modification before the first payment under the trial modification was due, termed "dual tracking," by the Bureau, which "could mislead consumers to believe the servicer had abandoned the trial modification," and therefore found to be a deceptive practice. Fair Lending Violations Lenders who denied or discouraged mortgage applications from consumers because they would have relied on public assistance income in order to repay the loan, were identified as violating the Equal Credit Opportunity Act. Those institutions were required to change their policies and provide remediation to applicants. Debt Collection Complaints Disregarded Debt collection companies were found to have inadequate compliance management systems because they did not properly train personnel or log, record, or categorize consumer

complaints, including complaints that were resolved by agents, resulting in a failure to review or resolve the complaints. Debt collectors were also accused of failing to properly investigate disputes. While the entities that committed the alleged violations of consumer financial laws are unnamed in the report, the violations cited have resulted in actual enforcement orders providing injunctive and monetary relief. The CFPB continues its heavy reliance on the Consumer Financial Protection Act's prohibitions on deceptive and unfair practices in its enforcement actions; enforcement orders based on violations of those prohibitions represent half the monetary relief awarded during the report's period.

Related Practices

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