Consumer Advocates to CFPB: Don't Destabilize the Mortgage Market in the Midst of a Pandemic

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Washington, D.C. – Today, the National Consumer Law Center (NCLC) and 13 other organizations sent a comment letter to the Consumer Financial Protection Bureau (CFPB) urging it not to revamp the rules governing the residential mortgage market—a step that could destabilize the mortgage market in the middle of the pandemic. The CFPB should focus its efforts on the effects of the pandemic and on ensuring that homeowners, especially the Black and Latinx homeowners hardest hit by both COVID-19 and the Great Recession, avoid a tidal wave of foreclosures from the pandemic.

The Dodd-Frank Act, passed in response to the last foreclosure crisis and the Great Recession, required the CFPB to adopt rules ensuring that mortgage lenders cease the risky and predatory practice of making loans without regard to the borrowers' ability to repay those loans. Now, the CFPB is proposing to revise these rules. The two proposals issued on July 10 have rushed comment deadlines: August 10 and September 8, respectively. The CFPB proposals seek to rewrite the basic standards the mortgage market has followed since the end of the last foreclosure crisis, and the CFPB hints that it plans to finalize the new rules—and require compliance with the new rules—by April 2021. By comparison, the original ability-to-repay rules took nearly three years to write and the CFPB allowed a full year for implementation.

"Now is the wrong time to change the rules of the game in the mortgage market," **said Alys Cohen, a staff attorney at the National Consumer Law Center.** "The challenges posed by the pandemic are very real, with a resurgence in cases across the country and projections of increasing economic hardship. The CFPB's focus of resources should be to respond to the pandemic, including the looming foreclosure crisis in Black and Brown communities, not on resetting mortgage rules in a way that can have unintended consequences.

Mandated changes to underwriting standards will inevitably further disrupt a market which the CFPB acknowledges is already disrupted by COVID-19, with more borrowers reporting they are missing payments than making arrangements with their mortgage servicer. Nor has the CFPB done the foundational research needed to ascertain the impact of the changes it proposes on the mortgage market or the larger economy, much less whether its proposal is an adequate measure of borrowers' ability to repay or only a poor proxy.

"Before we make decisions that will affect the financial health of our entire economy and impact the wealth of communities and families for generations to come, we should have adequate data and ample time to consider the consequences of our actions here," **said Cohen**. "Without further preparation and analysis, a proposal that appears to generously include underserved borrowers could in fact leave victims of predatory mortgage lending with no recourse. The CFPB must extend the comment period and maintain the current rules until the COVID-19 crisis and its economic fallout are better understood and addressed."