House Committee Looks at Mortgage Servicer Response to Pandemic

By: Jann Swanson | Thu, Jul 16 2020, 4:29 PM

The House Financial Service Committee's Subcommittee on Oversight and Investigations held a hearing on Thursday entitled, "Protecting Homeowners During the Pandemic: Oversight of Mortgage Servicers' Implementation of the CARES Act." Scheduled witnesses were Alys Cohen, staff attorney, National Consumer Law Center; Marcia Griffin, Founder and President, HomeFree-USA; Donnell Williams, President, National Association of Real Estate Brokers; and Ed DeMarco, President, Housing Policy Council and former acting director of the Federal Housing Finance Agency (FHFA).

The subcommittee's memorandum lays out **some of the issues** the hearing is designed to air concerning the servicer industry's response to the CARES (Coronavirus Aid, Relief, and Economic Security Act. Cares was enacted on March 27, 2020, in part to provide protections for homeowners facing economic hardships due to the pandemic.

As of the mid-June, nearly **33 million people claimed unemployment** benefits compared to 1.6 million a year earlier, and at the end of May 7.76 percent of mortgages were a month or more past due. While the protections in the CARES Act do not cover all residential mortgages in the United States, federally backed mortgages represent about 70 percent of outstanding single-family mortgages and increase opportunities for homeownership among low- and moderate- income borrowers. As of June 28, 8.39 percent of all mortgages in mortgage servicers' portfolios, were in forbearance.

The memorandum says that there has been at times **inconsistent and potentially confusing** guidance provided to those who must administer to protections afforded by the act which include an initial forbearance period of up to 180 days with a possible extension to one year and a moratorium on foreclosures. Fannie Mae and Freddie Mac have issued different guidance about the forbearance duration and there has been other guidance provided by the Consumer Financial Protection Bureau (CFPB) and the Conference of State Bank Supervisors.

A review of servicers websites conducted by the Housing and Urban Development (HUD) Office of Inspector General found many with **no consumer information** about the CARES Act and others with inconsistent or incorrect guidance. There is also concern that the requirement that servicers continue to advance principle and interest payments to investors and pay property taxes and insurance premiums for homeowners in forbearance will provide serious liquidity issues for servicers.

Each of the witnesses provided transcripts of their prepared testimony**. Highlights are summarized below.**

Cohen said she was appearing on behalf of a dozen or more consumer groups as well as the National Consumer Law Center. She called the forbearance provisions of the CARES Act "an important first step in preserving homeownership and helping struggling homeowners but called for additional action

- Renewed efforts to protect and expand Black and Latinx homeownership, as rates of Black and Latinx homeownership had not yet recovered from the Great Recession when the pandemic began.
- Collection of loan-level borrower, loan performance, and loss mitigation data on at least a quarterly basis, with public reporting.
- Expansion of CARES Act protections to prevent avoidable foreclosures, mitigate the impact of foreclosures that do occur, and limit spillover effects from the housing market to neighborhoods and the broader economy. These protections should include: standardized forbearance options for all mortgage loans, timely and accurate information to borrowers about loss mitigation options; affordable repayment options; a moratorium on negative credit reporting; targeted support for the hardest-hit communities; and measures to prevent neighborhood blight.
- Increased federal oversight, improved regulations, and future reforms in the mortgage servicing industry**.** This would include amending CFPB's one-sided relaxation of the mortgage servicing rules, clarifying and improving FHA loss mitigation policies; and revising FHFA programs to prevent avoidable foreclosures and support the origination market; She also suggested addressing needed mortgage servicing reform to better align servicer incentives with those of borrowers and investors.

Williams said the pandemic has had a crushing and devastating effect on black homeowners because of mass unemployment. Roughly 24 percent of them reported some difficulty in making their June mortgage payments and there is a 13-percentage point gap between white and Black homeowners in their rates of forbearance.

He urged Congress to take action to ensure that their actions and those of the government to maintain homeownership are equitable.

- Funds should be allocated specifically to the preservation of Black homeownership.

- Assistance should be provided to borrowers not covered by the CARES Act.
- Servicers must be required to notify borrowers of their rights to apply for forbearance and provide toll-free phone lines staffed with knowledgeable personnel to assist with the process.
- The federal government is allocating resources to build public awareness around the health risks associated with the pandemic. Similar efforts should go toward informing borrowers of their rights.

Griffin said three months after passage of the CARES Act, the housing counselors her organization represents are still hearing of serious problems with servicers. They include:

- Notwithstanding HUD and FHFA declarations to the contrary, consumers say they are being pressured to pay their arrearages in a lump sum. In extreme cases servicers have demanded that unemployment support be used to pay it.
- When calling to request a discussion about payment forbearance options, consumers report that servicer scripts start with a lump sum payment at the end of the forbearance period and/or that taking advantage of a forbearance could prevent them refinancing their loan in the future. This sometimes scares the consumer away from taking advantage of CARES Act relief.
- Counselors have had veterans who were denied forbearance of VA loans, consumers who claim that they have been denied forbearances for what they thought was a federally-backed loan, but was actually a portfolio loan and have seen challenges for homeowners who have recently gone through a loan modification or were delinquent heading into COVID-related furloughs.
- Much of counselor assistance to date has been assisting borrowers who were improperly denied forbearance, and only approved with the intervention of a housing counselor. More and specific guidance around recently impaired loans should be provided.
- Some consumers feel as though they are in limbo. After requesting forbearance, they have not been notified that their request for received or granted. This lack of communication may be partially responsible for the high (but recently declining) number of borrowers who have requested forbearances, but nonetheless paid their loan in April and May. There is also widespread confusion about the length of the payment forbearance that was granted.

The DeMarco organization's membership includes **mortgage servicers** and he said that industry is quite different from the one he encountered while administering the FHFA during the housing crisis. Its capacity and commitment to serve customers and the tools available to provide near-term relief and long-term solutions is far greater than it was twelve years ago. The challenges facing homeowners are different as well.

In the Great Recession, delinquency rates took six years to grow from the low point to the peak. With the pandemic rates have gone from record lows to a 9 percent forbearance rate in less than two months. In response, servicers:

- Shifted virtually all their operations out of call centers and office buildings to kitchens and family rooms.
- Trained their staffs remotely and modified technology to manage the enormous inflow of borrower inquiries.
- Set up automated on-line tools - in some cases in just a few days - for borrowers to educate themselves and request payment relief using efficient and streamlined processes.
- Offered homeowners forbearance options before the passage of the CARES Act.
- Extended forbearance to homeowners that do not have federally backed mortgages.
- Executed against an evolving series of program and regulatory announcements from FHA, VA, USDA, Ginnie Mae, the GSEs, FHFA, and the CFPB.

By late May, just two months since enactment of the CARES Act, nearly 4.8 million households were on a forbearance plan. This happened because servicers, both bank and nonbank, are better prepared and nimbler today than they were in the past crisis.

He added that 9.6 percent of non-federally backed mortgages were also in forbearance by the end of May. "This is a clear indication that bank portfolio lenders and other investors have also responded voluntarily, without a federal directive, providing borrower payment relief at an even greater rate than we see for GSE loans," he said.

DeMarco cautioned that there are many challenges remaining in the effort to quickly assist families facing disruptions to their financial circumstances. The two biggest are (1) the unknown duration of the pandemic and the consequent economic disruptions and (2) the transition from short-term payment relief to permanent solutions, which must be tailored to affected households. Prompt and effective borrower - servicer communication, combined with stability in program rules, will be key to successful resolution.

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