



September 9, 2024

Mortgage Servicing  
c/o Legal Division Docket Manager  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, DC 20552

**RE: MHI Comments**  
**“Streamlining Mortgage Servicing for Borrowers Experiencing Payment Difficulties”**  
**CFPB Proposed CFPB Regulation X (Servicing) Changes**  
**Docket No. 2024-0024. RIN 3170-AB04**

The Manufactured Housing Institute (MHI) is pleased to submit comments in response to changes to Regulation X Servicing rules being proposed by the Consumer Financial Protection Bureau (the “Bureau”).

MHI is the only national trade association that represents every segment of the factory-built housing industry. Our members include builders, suppliers, retail sellers, lenders, installers, community owners, community managers, and others who serve our industry, as well as 48 affiliated state organizations. Our industry is on track to build more than 100,000 homes this year, accounting for approximately 9 percent of new single-family home starts. These homes are produced by 36 U.S. corporations in 148 homebuilding facilities located across the country. Today, MHI members represent over 90 percent of all manufactured homes constructed and we are pleased to submit the following comments on behalf of this important industry.

Manufactured housing is the most affordable homeownership option for American families. Last year, the price for an average manufactured home was \$124,300, while the average site-built home was around \$409,000 (excluding land). The average income for a manufactured home buyer was about \$61,000 while the average income for a site-built home buyer was over \$136,000.

MHI appreciates the priority that the Bureau places on mortgage servicing and on servicers fully pursuing appropriate loss mitigation options for distressed borrowers, in order to keep them in their homes. MHI lender/servicers are predominately portfolio lenders, and therefore have not just a desire to serve their borrowers, but also have a financial interest in pursuing all possible loss mitigation options before resorting to foreclosure. That is because foreclosure of units is more costly than executing a loss mitigation option.

The proposed rule makes a number of changes to loss mitigation requirements for distressed borrowers, replacing the current framework with a “loss mitigation review cycle,” modifying dual tracking protections, prohibiting recoveries of certain servicing fees, and new Limited English Proficiency requirements. MHI believes that servicing rules should balance the goals of borrowers receiving the benefits of effective loss mitigation efforts with a streamlined process that does not unnecessarily add servicing costs that serve no or very limited loss mitigation consumer benefits.

Following are MHI comments about certain provisions in this draft rule. In all cases, we believe our recommendations streamline and improve the process, without undermining the Bureau’s key objectives of protecting borrowers and maximally encouraging loss mitigation.

### **Loss Mitigation Timeframes and Requirements**

Current Regulation X rules limit the number of loss mitigation requests a defaulted borrower could make during a delinquency cycle [current Section 1024.41(i)] – referred to as “one bite at the apple.” The proposed rule significantly increases the number of allowable loss mitigation requests (and therefore the time frame), prohibiting the foreclosure process from moving forward unless:

- (1) the borrower has not communicated with the servicer for 90 days despite the servicer regularly having taken steps to communicate about the loss mitigation review and determination, or
- (2) the servicer has reviewed the borrower for all loss mitigation options and no available loss mitigation options remain, the servicer has sent the borrower all required notices, and the borrower has not made an appeal of a decision made with one of the required time periods.

These changes would allow a borrower to be able to contact the servicer to request loss mitigation assistance with loan payments an unlimited number of times in a single delinquency period. Each borrower request would repeatedly re-start the clock on the requirements for a servicer to engage in loss mitigation – and freeze the foreclosure process - with no overall time limit.

This would have a number of adverse consequences. This option to indefinitely extend the foreclosure process reduces the incentive for a borrower to engage in serious efforts to complete a workable loss mitigation plan in circumstances where there are reasonable prospects for a successful loss mitigation. Loss mitigation is not a one-way street; it involves the active participation of both the borrower and servicer. Alternatively, for borrowers without the financial capability to pursue a successful loss mitigation plan, this creates the opportunity for the borrower to indefinitely extend the foreclosure period and add unnecessary costs to the servicing of their mortgage loan without any real prospect of success. This will unnecessarily increase loan losses and, where applicable, a borrower’s loan deficiency. Inevitably, lenders will have to price this increased loan loss risk into loan pricing, which could adversely affect all new mortgage borrowers. Further, while we understand the borrower’s potential interest in indefinitely postponing foreclosure when there is no prospect for loss mitigation, it is arguably better for such borrowers to reach an agreement with the servicer to exit the property in a way that does not exacerbate the damage to their credit report history and reduces to overall repossession and recovery cost to the lender.

To address these concerns, MHI proposes that the new requirements be modified to replace the proposed unlimited number of requests for loss mitigation and the resulting open-ended time uncertainty with a more clearly defined completion timeline, with a finite end.

First, dual tracking protections should end based on certain bright line points, for example based on the borrower not responding or not accepting a loss mitigation option within a defined, reasonable timeframe or on the borrower having been reviewed and denied all loss mitigation options, with one clearly defined and reasonable appeal timeframe. If the borrower can document significant intervening changes in their financial capability that warrant a re-review of loss mitigation eligibility or if the servicer fails to follow the underlying requirements to engage in loss mitigation, an extension of the timeline would be appropriate.

Additionally, the proposed rule appears to create a presumption that any contact by the borrower with the servicer constitutes a request for loss mitigation. Arguably, under the proposed rule, any communication by the borrower to the servicer – e.g., to ask a technical question about their loan or to make a payment – could be construed as a request for loss mitigation. This is far too broad.

Therefore, the Bureau should provide clear guidelines to ensure that the borrower is clearly and specifically requesting loss mitigation, so that the loss mitigation review process is not triggered simply because of some inadvertent communication.

### **Limited English Proficiency**

The rule establishes a new set of required translated disclosures and additional mandatory services for borrowers with Limited English proficiency (LEP).

MHI appreciates and shares the Bureau's desire to have borrowers with limited capabilities to communicate in English have access to documents in their preferred language. In fact, MHI member lenders want to facilitate this, since they want to have a productive loss mitigation and servicing process.

The proposal mandates early intervention/determination notices in English and Spanish for all borrowers, as well as notice regarding the end of forbearance and loss mitigation notices. The servicer then chooses 5 additional languages. These new requirements would add significant costs and burdens to servicers - which will clearly exceed the marginal borrower benefits that these new requirements might achieve. Moreover, the requirements are overly broad and lack sufficient guidance.

First, we would note that no model forms have been provided. The lack of guidance exacerbates regulatory compliance problems and adds to the burdens of the proposed increased LEP requirements.

Second, MHI believes that these new requirements are not necessary to provide the protections that are needed for non-English speaking borrowers. Thus, we request that the Bureau revise these requirements to make provision of translations more tailored to situations where the borrower requests such translations.

Third, any requirements that impose additional LEP servicing requirements should meet a cost benefit analysis. The proposed requirements significantly increase servicing compliance costs to servicers, which will inevitably be added to the pricing of new loans. The benefits of any new required LEP requirements should outweigh such costs.

In conclusion, MHI believes that more work is needed on these new LEP requirements. Therefore MHI urges the Bureau to withdraw the proposed LEP requirements and take more time to explore a more targeted and effective process to achieve the Bureau's goals without unnecessarily increasing loan origination costs.

Moreover, any such changes should then be considered through a formal rulemaking with clear regulatory text provided for notice and comment.

### **Inability of servicers to recover additional servicing costs**

The proposed rule provides that servicers cannot recover administrative and technology costs to cover higher processing expenses incurred during the cycle when consumers request assistance (and potentially do so numerous times, again with no clear completion date.) While we appreciate the desire to protect borrowers from additional costs, this prohibition, combined with the open-ended timeline of allowable multiple appeals, will increase servicing costs, which will likely be passed along to consumers in the pricing of new home loans.

These costs are incurred by the servicer because of the borrower's failure to make mortgage payments and due to the loss mitigation rights and timelines mandated by the Bureau under Regulation X.

Therefore, MHI asks the Bureau to reconsider this prohibition against recovery of costs, to permit recovery of foreclosure fees during the loss mitigation review cycle.

### **Conclusion**

Manufactured homes are the most attainable homeownership option in the market today and MHI appreciates the opportunity to offer our recommendations here to ensure this proposal does not inadvertently hinder the willingness of lenders to make loans for manufactured homes. MHI believes that manufactured housing can help address America's current affordable housing supply challenges and will continue to do so well into the future. A supervisory environment that is sensitive to the manufactured housing space will help achieve these goals. We thank you for your consideration of these comments and recommendations.

Sincerely,

A handwritten signature in black ink that reads "Lesli Gooch". The signature is written in a cursive, flowing style.

Lesli Gooch, Ph.D.  
Chief Executive Officer