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CFPB Takes Action Against Flagstar Bank for Violating New Mortgage Servicing Rules

Flagstar to Pay $37.5 Million for Blocking Mortgage Borrowers' Attempts to Save Their Homes

Washington, D.C. – Today the Consumer Financial Protection Bureau (CFPB) took action against Michigan-based Flagstar Bank for violating the CFPB's new mortgage servicing rules by illegally blocking borrowers' attempts to save their homes. At every step in the foreclosure relief process, Flagstar failed borrowers. The bank took excessive time to process borrowers' applications for foreclosure relief, failed to tell borrowers when their applications were incomplete, denied loan modifications to qualified borrowers, and illegally delayed finalizing permanent loan modifications. The CFPB is ordering Flagstar to halt its illegal activities, pay $27.5 million to victims, and pay a $10 million fine.

"Because of Flagstar's illegal actions and unacceptable delays, struggling homeowners lost the opportunity to save their homes," said CFPB Director Richard Cordray. "The Bureau has been clear that mortgage servicers must follow our new servicing rules and treat homeowners fairly. Today's action signals a new era of enforcement to protect consumers against the cost of servicer runarounds."

Flagstar is a federal savings bank and mortgage servicer based out of Troy, Michigan. Flagstar administers foreclosure relief programs provided by the owner of the loan. Foreclosure relief programs mitigate losses for both the borrower and the owners of the loans by providing alternatives to foreclosure. These alternatives are known as "loss mitigation" programs. Flagstar is responsible for soliciting borrowers for these programs, collecting their applications, determining eligibility, and implementing the loss mitigation program for qualified borrowers.

The Bureau's examinations and investigation found that from 2011 to the present, Flagstar failed to devote sufficient resources to administering loss mitigation programs for distressed homeowners. For example, in 2011, Flagstar had 13,000 active loss mitigation applications but only assigned 25 full-time employees and a third-party vendor in India to review them. For a time, it took the staff up to nine months to review a single application. In Flagstar's loss mitigation call center, the average call wait time was 25 minutes and the average call abandonment rate was almost 50 percent. And Flagstar's loss mitigation application backlog numbered well over a thousand. When the CFPB's new mortgage servicing rules went into effect in January 2014, Flagstar committed violations of the new rules with respect to loss mitigation.

At every step in the foreclosure relief process, Flagstar failed consumers. Specifically, the Bureau found that Flagstar:

- **Closed borrower applications due to its own excessive delays:** Flagstar took excessive time to review loss mitigation applications, often causing

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application documents to expire. To move its backlog, Flagstar would close applications due to expired documents, even though the documents had expired because of Flagstar's delay.

- **Delayed approving or denying borrower applications:** Under the new CFPB mortgage servicing rules, Flagstar must evaluate a complete loss mitigation application within 30 days, if it receives the complete application more than 37 days before a foreclosure sale. Flagstar also failed to adhere to these timelines.
- **Failed to alert borrowers about incomplete applications:** Flagstar is responsible for reviewing borrowers' initial loss mitigation applications to determine what documents are missing. It must then tell borrowers what documents are missing, usually by sending a "missing document" letter. Flagstar failed to send, or delayed sending, missing document letters to borrowers.
- **Miscalculated incomes:** Eligibility for some loss mitigation programs, such as a loan modification, is highly dependent on borrower income. If borrowers have too much or too little income, they do not qualify. Flagstar routinely miscalculated borrower income and wrongfully denied loan modifications.
- **Denied applications for unspecified reasons:** Under the CFPB's new rules, mortgage servicers must provide the specific reason a complete loan modification application is rejected. Flagstar's policy was to say only "not approved for loss mitigation options by the investor/owner of the loan," even though Flagstar's internal systems contained the true reason for the denial.
- **Misinformed borrowers about their appeal rights:** Under the CFPB's new rules, Flagstar must provide certain borrowers the right to appeal the denial of a loan modification. But Flagstar failed to provide this notice, and it wrongly stated that borrowers have an appeal right only if they reside in certain states.
- **Put borrowers in trial period purgatory:** Flagstar needlessly prolonged trial periods for loan modifications. This caused some borrowers' loan amount under the modified note to increase and, in some cases, jeopardized borrowers' permanent loan modification.

Flagstar's failures as a mortgage servicer hurt homeowners. In many cases, Flagstar deprived borrowers of the ability to make an informed choice about how to save or sell their home, caused borrowers to drop out from the loss mitigation process entirely, and drove borrowers into foreclosure.

Enforcement Action

Under the Dodd-Frank Wall Street Reform and Consumer Protection Act, the CFPB has the authority to take action against institutions violating the January 2014 mortgage servicing rules, and it has authority to take action against institutions engaging in unfair, deceptive, or abusive practices. The CFPB's order requires Flagstar to:

- **Pay $27.5 million in redress to victims:** Flagstar must pay $27.5 million to the approximately 6,500 consumers whose loans were being serviced by Flagstar and who were subject to its unlawful practices. At least $20 million of this will go to the approximately 2,000 victims of foreclosure. Borrowers who receive payments will not be prevented from taking individual action on their claims as a result of this settlement.
- **End all loss mitigation mortgage servicing violations:** Flagstar is prohibited from engaging in violations of the loss mitigation provisions of the CFPB's mortgage servicing rules and unfair, deceptive and abusive acts or practices in connection with loss mitigation. Among other things, this means Flagstar must properly review, acknowledge, and evaluate loss mitigation

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applications and cannot improperly deny loss mitigation applications or improperly prolong the trial period for a loan modification.

- **Stop acquiring default servicing rights from third parties:** Flagstar is prohibited from acquiring servicing rights for default loan portfolios until it demonstrates it has the ability to comply with laws that protect consumers during the loss mitigation process.
- **Engage in efforts to help affected borrowers preserve their home:** For borrowers affected by Flagstar's unlawful practices who were not foreclosed on, Flagstar must engage in outreach, including a door knocking campaign and translations services, to contact borrowers and offer them loss mitigation options. And Flagstar must halt the foreclosure process, if one is happening, during this outreach and qualification process for these borrowers. For affected borrowers who were previously denied a loss mitigation option, Flagstar must do an independent review to determine whether they were offered all loss mitigation options for which they qualified. If they were not, Flagstar must offer the borrower those loss mitigation options.
- **Pay $10 million civil penalty:** Flagstar will make a $10 million penalty payment to the CFPB's Civil Penalty Fund.

The consent order is available at:
http://files.consumerfinance.gov/f/201409_cfpb_consent-order_flagstar.pdf

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The Consumer Financial Protection Bureau is a 21st century agency that helps consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives. For more information, visit consumerfinance.gov.