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Feds warn mortgage servicers to stop 'shell games'

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Mortgage servicers who play "shell games" with homeowners and fail to follow new rules on how to help borrowers in default or facing foreclosure will pay for their actions, a top government consumer watchdog warned last week.

Steve Antonakes, deputy director of the Consumer Financial Protection Bureau, made the statements at the Mortgage Bankers Association's national mortgage-servicing conference in Florida.

"My message to you today is a tough one," he told the conference. "We have raised the bar in favor of American consumers, and we are ready, willing and able to vigorously enforce that bar."

The warning came the same week as a New York Times report that consumers around the nation are having difficulties dealing with specialty mortgage servicers that collect mortgage payments.

Katherine Porter, a UC Irvine law professor and the state's monitor for the 2012 $25 billion settlement between the nation's largest banks and federal authorities, said in the Times story that mortgage-servicing companies have "overpromised and underdelivered."

"The conventional wisdom of the last three years is that nonbanks specializing in mortgage servicing do a better job at assisting homeowners," Porter told the Register in an interview Thursday, "but complaints from homeowners indicate multiple problems with helping homeowners in the loan-modification process."

Servicers, whether they're banks or so-called nonbank companies, take mortgage payments from borrowers and forward them to the loan owners. The servicers also handle loan modifications and foreclosures. More and more, these tasks have been shifted from banks to servicing companies, which now have more than 17 percent of the mortgage-servicing market, said Guy Cecala of Inside Mortgage Finance, a trade publication.

Nationwide, one in 10 homeowners remains underwater and 2 million households are at high risk of foreclosure, Antonakes said. He told the conference, "There will be no more shell games where the first servicer says the transfer ended all of its responsibility to consumers and the second servicer says it got a data dump missing critical documents."

The country's largest nonbank mortgage loan servicer, Ocwen Financial Corp., and its subsidiary, Ocwen Loan Servicing, reached a $2.1 billion settlement with the consumer bureau and 49 states and the District of Columbia in December. The consumer bureau alleged such abuses as improper fees, not crediting mortgage payments in a timely way, wrongly denying loan modifications, failing to honor trial modifications with prior servicers, and robo-signing foreclosure documents without verifying the information.

Ocwen specializes in servicing subprime or delinquent loans.

The consumer bureau, in a news release at the time of the settlement, called out Ocwen's "systemic misconduct at every stage of the mortgage- servicing process."

A company spokesman could not be reached for comment.

In January, new federal rules went into effect that include nonbanks. The rules mirror those in the $25 billion National Mortgage Settlement. The regulations aim to prohibit various servicing and foreclosure abuses, as well as restrict dual tracking – foreclosing while a homeowner is still in the process of trying to obtain a loan modification.

“We expect you to pay exceptionally close attention to servicing transfers and understand we will as well,” Antonakes told the conference. “Struggling borrowers being told to pay incorrect higher amounts because of the failure to honor an in-process loan modification – and then being punished with foreclosure for their inability to pay the incorrect amounts – will not be tolerated.”

Porter said as some servicers have grown rapidly, they could be experiencing challenges of capacity.

“Also, smaller is not necessarily better,” she said. “Many of the largest servicers, because of the reforms in the National Mortgage Settlement, have dramatically improved in the last two years.”

Cecala said the nonbank firms have been buying mortgage-servicing rights as an investment. “It's a different mindset from the banks, who were often doing the servicing as a result of basic banking operations and mortgage lending,” he said.

The concern of regulators, he said, is “What assurances do we have that they (nonbanks) are looking after the best interests of the borrower?”

You can contact the California National Monitor's office with a mortgage-servicing question or complaint at CAMonitor@doj.ca.gov.

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