



November 23, 2022

The Honorable Rohit Chopra
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Via www.regulations.gov

**Re: Request for Information--Mortgage Refinances and Forbearances
Docket No. CFPB-2022-0059**

Dear Director Chopra:

AARP, on behalf of our nearly 38 million members and all older Americans nationwide, appreciates the opportunity to provide comments on the Consumer Financial Protection Bureau's Request for Information Regarding Mortgage Refinances and Forbearances. AARP applauds the CFPB for examining these important issues that affect the long-term financial security of millions of older homeowners and their families. Please find below AARP responses to selected questions for each of the sections in the RFI.

Targeted and Streamlined Refinances

3. What protections should be in place to ensure a consumer benefit?

Targeted and streamlined refinance programs provided much needed assistance to homeowners who lost home equity as home values fell in the aftermath of the Great Recession. By allowing borrowers to refinance into lower interest rates, even though they faced high loan-to-value ratios, many borrowers were able to save money on their interest payments over the life of their loans. We support these types of programs because we believe they lead to better long-term financial outcomes and support generational wealth building.

Regarding targeted refinance loans for small loan balances, we are concerned about the effect that refinancing will have on the term of the loan. Many borrowers with small loan balances are nearing the end of their loan. The benefits of refinancing into a lower interest rate are likely to result in extending the loan term for many borrowers. In turn, this, along with the transaction costs involved in refinancing, are likely to eliminate the savings realized from the lower interest rate.

If a refinancing involves a small loan with a longer term, there may be benefits from the transaction. If there is a way to lower the costs of the transaction, such as reduced origination fees, we would support this approach. However, lenders should be required to clearly disclose the costs to consumers, as well as provide the breakeven point at which the refinancing becomes beneficial to the consumer. Typically, it takes several years before the benefits of refinancing are realized.

Another related issue involves cash-out refinances. While this transaction provides access to accumulated home equity, it also increases the amount owed on the mortgage. The RFI discusses serial refinancing and highlights that during the 2008 financial crisis, some lenders were engaging in loan churning to extract fees from consumers. However, the other side of the story is that many borrowers extracted every dollar of accumulated home equity that they could as home prices increased. This led to increasing loan amounts and a dangerously leveraged housing finance system. Streamlined refinance programs should include guidelines that prohibit serial refinancing.

5. What are the risks and benefits of removing or modifying the current ATR-QM requirement that a creditor must consider and verify a consumer's income or assets relied on in making a loan in the context of a refinance program?

We do not support changing the ATR-QM rule, because the ability to repay and corresponding documentation of income requirements are critical to ensuring the stability of the mortgage market and to protecting consumers from predatory lending practices. These requirements were put in place following the collapse of the housing market and have helped to restore integrity to the mortgage underwriting process.

Potential New Products to Facilitate Refinances

2. What are the potential benefits and drawbacks of auto-refi mortgages and one-way ARMs?

The drawbacks of the auto-refi loan are several. First, it leads to an extension of the loan term every time a refi is triggered, and the interest costs of the extended loan term may outweigh the savings to the borrower. This is generally not a good outcome for consumers. Second, the secondary market is likely to have difficulty pricing these loans. The repeated loan terminations and subsequent new originations will lead to volatility in the mortgage-backed securities that consist of these loans. It is difficult to envision how these loans will be priced, and how a consumer could compare this type of loan with other mortgage products. Finally, the complexities involved in this type of product would introduce significant risk to consumers since this type of loan would be difficult to price and hard to understand.

Forbearances and Other Loss Mitigation

3. Under what circumstances should short- or long-term loss mitigation solutions be offered automatically? For example, should forbearance be offered automatically upon the declaration of a national emergency or presidentially declared disaster, when unemployment rates in the consumer's locality reach a certain level, when a borrower loses their job, when a co-borrower on the loan dies, or under other circumstances? What factors should be considered regarding these circumstances? Should any documentation from the consumer be required in any of these circumstances?

The forbearance that was provided during the pandemic enabled millions of borrowers to retain their homes. AARP supports requiring servicers to offer loss mitigation options to borrowers automatically upon the declaration of a national emergency or presidentially declared disaster, when a borrower or co-borrower loses their job, and when a borrower or co-borrower dies. Borrowers should be required to provide documentation regarding a job loss or death of a co-borrower. The length of the forbearance should be determined by the borrowers' ability to make future loan payments after getting reemployed or following the death of a co-borrower. Options for managing the arrearage should include adding the amount to the loan balance, extending the term of the loan, or offering a repayment plan to address the arrearage.

Servicers should also be required to offer loss mitigation options to reverse mortgage borrowers who have fallen behind on property tax or homeowner's insurance payments. In addition, the available loss mitigation options should be expanded. Given that reverse mortgage borrowers are older and often on a fixed income, they may face more difficulty catching up on arrearages. Adding these amounts to the loan balance or extending the timeline for repayment of arrearages would be helpful to reverse mortgage borrowers.

Some reverse mortgage borrowers qualify for the At-Risk extension. This enables borrowers who are at least 80 years old and experiencing critical circumstances, such as a long-term disability, terminal illness, or a unique need to stay in the property, to delay foreclosure proceedings. The recertification requirement for the At-Risk extension should be eliminated or significantly streamlined. At the very least, homeowners should not be required to submit repetitive medical documentation concerning conditions that were established in the initial application, but instead should be able to self-certify for renewal.

5. What impact would the Bureau's mortgage servicing regulations, such as those relating to communications with delinquent borrowers, the Bureau's regulatory definition of delinquency, and the loss mitigation process in general, have on automating and streamlining short and long-term loss mitigation offers?

We believe that automating the loss mitigation process would help more borrowers obtain the loss mitigation they need in order to retain their homes. Currently, there are challenges, particularly with reverse mortgages, because loss mitigation is voluntary. There are also many challenges with servicers contacting delinquent borrowers.

The CFPB should audit reverse mortgage servicers regarding practices and communications with borrowers and provide more detailed guidance on clear communications from servicers about the rights of heirs to access loan information on such items as their balance, their payoff, who owns their loan, simple accounting of charges, loss mitigation, and at-risk extensions promptly upon request. Borrowers and their heirs should be affirmatively informed of their legal rights (e.g. obligation to pay only 95% of appraised value, extensions of time).

6. What changes, if any, should be considered relating to the impact that forbearances and other short-term loss mitigation solutions would have on a consumer's credit reporting?

For borrowers who are in forbearance, the lack of payments should not be included as a negative item in their credit report, and forbearance status should not negatively affect their credit score.

7. Should standards be set to ensure affordability of long-term loss mitigation solutions? If so, what features of a long-term loss mitigation solution would best help ensure long-term affordability? For example, would term extension, limits on monthly payment increases, or principal forgiveness assist with the goal of long-term affordability?

Any loss mitigation options should balance the goals of ensuring affordable monthly payments and minimizing the long-term cost of the mitigation. Extending the loan term over a long period could lower monthly payments but also result in a much higher-cost mortgage over the long run. For older adults in particular, it could result in a payment term well into their retirement years.

9. When considering the potential automation and streamlining of short and long-term loss mitigation offers, are there particular issues or would any particular approaches be more effective for certain types of homeowners, such as servicemembers, older adults, and first-time homeowners?

When working with older adults, written communications should be written in plain language. Phone calls should connect borrowers directly with a live representative. Currently, it is common for reverse mortgage servicers to rely on robocalls that ask the borrower to call back. This creates a barrier to older borrowers' access to services and potentially creates a pathway for scammers.

It could also be helpful to encourage older borrowers to connect with HUD-certified housing counselors, but housing counselors should first receive dedicated training specific to the loss mitigation options available, and also training for working with older adults, including helping homeowners access necessary documents and overcoming technology barriers. Housing counseling can be a great help to struggling borrowers, but in practice, borrowers are sometimes overwhelmed by document requests that may be hard for them to manage, especially if they are not internet savvy, and this poses a serious obstacle to starting the loss mitigation process. Connecting borrowers with HUD-certified counselors should also help prevent scammers and others from gaining access to the housing equity of older homeowners.

Conclusion

Again, thank you for the opportunity to comment on this important issue. If you have any questions or comments, please feel free to contact Debra Alvarez in our Government Affairs Department at (202) 434-3814 or dalvarez@aarpp.org.

Sincerely,

A handwritten signature in black ink, appearing to read "David Certner", with a stylized flourish at the end.

David Certner
Legislative Counsel and Legislative Policy Director
Government Affairs