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CONFERENCE OF STATE BANK SUPERVISORS

AMERICAN ASSOCIATION OF RESIDENTIAL MORTGAGE REGULATORS

Statement on CFPB Mortgage Servicing Transfer Bulletin

The Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) support the Consumer Financial Protection Bureau's (CFPB's) recently released Bulletin 2013-01 entitled "Mortgage Servicing Transfers." The bulletin, released on February 11, 2013, is intended to highlight potential risks to consumers related to the transfer of mortgage servicing rights among financial entities and provide the industry clarity on the CFPB's regulatory expectations related to such transfers.

CSBS and AARMR commend the CFPB for identifying matters through its consumer complaint process to which particular supervisory attention should be directed. Large-scale servicing transfers represent a timely consumer protection issue. The CFPB is appropriately focusing on these transactions in an effort to ensure servicers have policies and procedures in place prior to undertaking such transfers.

Additionally, the bulletin provides important clarity to the industry surrounding the CFPB's expectations for servicing transfers. Forthcoming standards under the CFPB's mortgage servicing rule, effective January 10, 2014, are emphasized by this bulletin in an effort to ensure the industry is aware of the rule ahead of its effective date. The bulletin also outlines aspects of existing laws and regulations applicable to servicing transfers.

In general, state Financial Regulators have jurisdiction over state member and non-member banks, and non-depository institutions. Similar to the CFPB's findings, CSBS and AARMR have identified potential for consumer harm when loans are transferred during the loss mitigation process. In such situations transferee servicers sometimes fail to honor the terms of trial loan modifications provided by predecessor servicers because relevant documents are not transferred to the acquiring servicer, or the acquiring servicer does not take adequate steps to identify mortgages subject to trial loan modifications.

Statutes providing consumer protections to borrowers related to servicing transfers include specific state laws and requirements, as well as the Real Estate Settlement Procedures Act (RESPA), the Fair Credit Reporting Act (FCRA), the Fair Debt Collection Practices Act (FDCPA), and prohibitions on unfair, deceptive, or abusive acts or practices (UDAAPs). The CFPB Guidance delineates how each federal law applies to servicing transfers. In order to mitigate possible consumer harm when conducting transfers, CSBS and AARMR strongly encourage state supervised servicers to familiarize themselves with applicable state requirements, the various federal laws, and the CFPB Guidance on servicing.

CSBS and AARMR will seek to update state uniform servicing examination procedures through appropriate Multistate Mortgage Committee (MMC) processes to account for the new CFPB Guidance and bring further consistency to the approach regulators take in this area.