



Attorneys At Law

8584 Katy Freeway, Suite 420

Houston, TX 77024

Phone: 713-871-0005

Fax: 713-871-1358

Partners

Gregory S. Graham ¹

Shawn P. Black ²

Ryan Black ³

Senior Lawyers

David F. Dulock

Diane M. Gleason

Daniel S. Engle ⁴

Margaret A. Noles

Associates

Nick Stevens

Sydney Davis

Brandon Pieratt

Ambria Wilmore

Of Counsel

David M. Tritter

Calvin C. Mann, Jr.

Thomas E. Black, Jr. ⁵

Retired Partner(s)

Calvin C. Mann, Jr.

Thomas E. Black, Jr. ⁵

¹ Also Licensed in Georgia

² Also Licensed in Kentucky and New York

³ Also Licensed in District of Columbia

⁴ Also Licensed in New York

⁵ Also Licensed in New York and Washington

April 7, 2021

To: Clients and Friends

From: David F. Dulock

Subject: CFPB Bulletin 2021-02: Supervision and Enforcement Priorities Regarding Housing Insecurity

In the April 7, 2021 issue of the *Federal Register* ([86 FR 17897](#)), the Consumer Financial Protection Bureau (CFPB) issued Bulletin 2021-02 on Supervision and Enforcement priorities regarding housing insecurity in light of heightened risks to consumers needing loss mitigation assistance in the coming months as the COVID-19 foreclosure moratoriums and forbearances end. Bulletin 2021-02 is effective as of April 7, 2021.

In Bulletin 2021-02 the CFPB states that it “plans to monitor servicers’ engagement with borrowers at all stages in the process [of loss mitigation assistance] in the coming months and prioritize mortgage servicing oversight work in deploying its enforcement and supervision resources in the coming year.”

The CFPB further states in Bulletin 2021-02 that it “plans to pay particular attention to:

“1. Whether servicers are providing clear and readily understandable information to borrowers about their options for payment assistance;

“2. Whether servicers are complying with the outreach requirements in Regulation X to ensure that borrowers are getting needed information about loss mitigation options, including:

- For borrowers who request further assistance, whether servicers are promptly resuming reasonable diligence in obtaining documents and information to complete loss mitigation applications;
- For borrowers in forbearance, whether servicers are contacting borrowers before the end of the forbearance period to determine if the borrower wishes to complete the loss mitigation application and proceed with a full loss mitigation application;

“3. Whether servicers are complying with the Equal Credit Opportunity Act’s (ECOA’s) prohibition against discriminating against any applicant, with respect to any aspect of a credit transaction, including:

- Whether servicers are managing communications with limited English proficiency borrowers while maintaining compliance with applicable laws;
- For applicants who are recipients of income derived from part-time employment, alimony, child support, separate maintenance payments, retirement benefits, or public assistance, whether servicers evaluate such income in accordance with the ECOA and Regulation B when determining eligibility for loss mitigation options, to the extent the servicer is otherwise required to use income in determining eligibility for loss mitigation options;

“4. Whether servicers promptly handle loss mitigation inquiries and avoid unreasonably long hold times on phone lines; for example, the CFPB plans to scrutinize servicer conduct where hold times are significantly longer than industry averages;

(2 pages)

“5. Whether servicers maintain policies and procedures that are reasonably designed to achieve the continuity of contact objectives to ensure that delinquent borrowers receive accurate information about their loss mitigation options;

“6. For borrowers who submit complete loss mitigation applications, whether servicers evaluate the applications consistent with the Regulation X requirements to promote timely and consistent evaluations;

“7. Whether servicers comply with foreclosure restrictions in Regulation X and other Federal or State foreclosure restrictions; and

“8. Whether servicers are complying with the Fair Credit Reporting Act’s requirements to report the credit obligation or account appropriately.”

The CFPB concludes Bulletin 2021 by stating it “issues this policy statement to highlight supervisory and enforcement priorities with respect to mortgage servicing and to confirm that [it] will hold servicers accountable if they are unable to manage an expected increase in borrowers needing loss mitigation assistance.”

This Memorandum is provided as general information in regard to the subject matter covered, but no representations or warranty of the accuracy or reliability of the content of this information are made or implied. Opinions expressed in this memorandum are those of the author alone. In publishing this information, neither the author nor the law firm of Black, Mann & Graham L.L.P. is engaged in rendering legal services. While this information concerns legal and regulatory matters, it is not legal advice and its use creates no attorney-client relationship or any other basis for reliance on the information. Readers should not place reliance on this information alone but should seek independent legal advice regarding the law applicable to matters of interest or concern to them. The law firm of Black, Mann & Graham L.L.P. expressly disclaims any obligation to keep the content of this information current or free of errors.