Summary

CSBS Final Model State Regulatory Prudential Standards for Nonbank Mortgage Servicers

<u>What institutions are covered by these standards?</u>

All nonbank mortgage servicers with portfolios of 2,000 or more 1 – 4-unit residential mortgage loans serviced or subserviced for others and operating in two or more states, districts or territories, excluding whole loans owned and loans being "interim" serviced prior to sale.

<u>Are there exemptions or exceptions?</u>

- Depositories, not-for-profits, and housing agencies are exempt.
- Financial condition requirements do not apply to servicers solely owning and/or conducting reverse mortgage servicing, not-for profit mortgage servicers or housing finance agencies.
- Corporate governance does apply to reverse mortgage servicers.
- The capital and liquidity requirements of the standards have limited application to entities that only perform subservicing for others due to reduced risk of payment advance requirements.

<u>What are the standards?</u>

The standards are state approved policy intended for adoption by individual states. The standards include two major sections: financial condition (requirements for capital, liquidity, and certain assets), and corporate governance (board oversight of the institution). The standards provide industry with a uniform set of state requirements while providing regulators with national requirements to examine against.

<u>Why the standards now?</u>

Nonbank servicers have grown tenfold in agency market share over the last decade and now are responsible for over 60% of this part of the market. State and federal examinations have shown a need for financial condition and corporate governance controls with these servicers. While program standards exist for participation in Fannie Mae, Freddie Mac, FHA, and VA loan servicing, there are no private servicing standards and no national level regulatory requirements enforceable by states.

<u>How are consumers protected?</u>

Companies that operate in a safe and sound manner are much better positioned to fulfill the significant requirements associated with servicing mortgage loans and assisting customers with these important financial obligations. Much of the foreclosure problem that occurred during the financial crisis was due to servicers insufficiently staffed and poorly managed at a time when borrowers needed help the most. Safety and soundness is fundamental to consumer protection and the financial condition and corporate governance requirements in these standards form the basis for safe and sound operations.

Why are these standards good for industry?

Industry benefits from clear and transparent regulatory requirements that are consistent across all states. Further, these standards align closely with existing requirements at the federal level, mitigating regulatory burden while establishing guardrails for compliance within the state system of supervision that are complimentary rather than duplicative.

What does adoption look like?

Individual states are encouraged to adopt the standards into statute, or where possible, rule. As an interim step, states may adopt the standards as supervisory guidance. The standards include a model law/rule for consistent state adoption. CSBS will encourage but cannot require states to adopt.

What are the financial condition requirements in the standards?

The states chose to align their financial condition standards with the capital and liquidity requirements imposed by the Federal Housing Finance Agency (FHFA, the regulator of Fannie Mae and Freddie Mac) for nonbank servicers seeking to participate in GSE servicing programs. The model law/rule states: "A covered institution that meets the FHFA Eligibility Requirements for Enterprise Single-Family Seller/Servicers for capital, net worth ratio, and liquidity, regardless of whether the servicer is approved for GSE servicing, meets the requirements [of this Act]." While the capital and liquidity calculations are the same, the standards apply the FHFA requirements to all loans serviced by the nonbank, not just GSE servicing.

Currently, the FHFA requirements are:

- Minimum net worth of $2.5 million.
- Tangible net worth divided by total assets > 6%.
- Base servicing liquidity requirement of 3.5 basis points of total servicing, excluding subservicing for others and reverse mortgage servicing.
- An incremental non-performing loan (NPL) charge of 200 basis points on NPLs greater than 6.0% of total servicing, excluding Subservicing for others and reverse mortgage servicing.

Additionally, the standards require that nonbank servicers pay greater attention to operating liquidity needs (the funds necessary to perform normal business operations beyond the servicing liquidity requirements), an area not directly addressed at the federal level.

What are the corporate governance requirements in the standards?

Corporate governance refers to the structure of the institution and how it is managed. It includes the corporate rules, and the practices and processes used to oversee and manage the institution. Corporate governance dictates how its board of directors and management balance responsibilities to shareholders, the public, regulators, and its own employees. The standards include requirements for:

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- A board of directors or similar structure responsible for all aspects of corporate oversight.
- Internal and external audits.
- Risk management.

What is the best way to review these standards?

If you are familiar with nonbank mortgage servicers and the state's analysis of the risks in this area, you can skip to the end of the document and review the six pages of model law/rule that encapsulate the requirements in succinct codified sections. For any section you desire a greater depth of understanding, refer to the Section-By-Section Analysis for detailed discussions of purpose and meaning. If you are interested in public comments to the Oct. 1 proposal and how the standards were finalized based on those comments, see Summary of Process and Review of Comments.

For the most recent information and tools related to the standards visit:
https://www.csbs.org/policy/research-data-tools/nonbank-mortgage-servicer-prudential-standards