Federal Financial Analytics, Inc.

MEMORANDUM

TO: Federal Financial Analytics Clients

FROM: Karen Shaw Petrou

DATE: January 18, 2013

Let me be clear, I've little sympathy for big mortgage servicers (sorry, clients in the biz). I know the OCC says that it couldn't find borrowers who shouldn't have been foreclosed on, but I know more than a few and I don't know all that many low- and moderate-income people. Still, the new servicing standards stipulated by the CFPB strike me as a bulwark not only against undue home seizures – the goal Congress set for the CFPB – but also an incentive for borrowers to take out as much mortgage debt as they can secure in the knowledge that – if property values drop, they feel a change coming on or the wallpaper no longer suits –they can stop paying their mortgage (or mortgages if there's a second hanging about) for years to come.

Perhaps I'm cranky after trying first to parse the CFPB's qualified-mortgage rule and, now, the servicing one. Combined, they total 1,983 pages with footnotes so galore that the point of the preamble is all too often buried in prose only a paralegal could love. Commenters will be flattered by finding their point dealt with at length by the CFPB – what indeed does "day" mean? Still, one thinks the Bureau might have reached a few conclusions without first making all the rest of us work through the tortuous reasoning and dissertation-length research that led it to promulgate these epic standards. I've read a lot of colossal rules – Volcker, risk retention and similarly exhausting exercises come sadly to mind – but the Bureau's perorations are stand-outs in a class of rules distinguished more by their complexity than by the ability of anyone actually to do what's now demanded of them.

I had thought after reading as much of the servicing rule as I could take that I'd try to lay out for you what happens after a borrower doesn't send in a full mortgage payment on its due date – the point of the entire regulatory exercise, after all. I'll spare you because I didn't spare myself: It's impossible to know. So many dates key off others that in turn depend on when a foreclosure notice is filed, the date the sheriffs might in fact knock (wildly different in judicial versus non-judicial states) and the degree to which the borrower files a "complete" application for a loan mod and appeals any denial of it that, in short, who knows. All I can say is that it will take a long, long, long time between the

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date a borrower doesn't put a check in the mail and the date those fool enough to have lent him or her money will get back what's left of it.

Did borrowers need protection from predators? For sure. Do borrowers still need help navigating the complex servicing process, especially given that some in this business slapped on unfair fees, misstated pay-off balances, and otherwise gave borrowers an Olympic run-around? Even now, as servicers try to do better, they can't seem to return a call or find the file. Sure. Servicers need a new model that demands their systems handle borrowers with alacrity, fairness and, when a foreclosure is in the cards, perhaps even a bit of compassion.

But, do some borrowers take out loans just to make a buck? Is their fraud perpetrated by "borrowers?" Do folks flip houses they claim as "principal" residences to go double-or-nothing? Again, for sure.

How long will it take hucksters to figure out that the new servicing standards do more than protect the innocent? Not long, I fear. The mortgage crisis is a *folie a deux* – that is, borrowers often wanted ridiculous mortgages at least as much as the brokers who enabled the crisis wanted to get them the loan. To assume that greed will be quashed by thousands of pages of rules is to bet against human nature, not to mention a whole lot of history.