United States Government Accountability Office

Report to Congressional Requesters

March 2016

NONBANK MORTGAGE SERVICERS

Existing Regulatory Oversight Could Be Strengthened

Accessible Version

GAO-16-278

Highlights

Highlights of GAO-16-278, a report to congressional requesters

Why GAO Did This Study

As of June 2015, about a quarter of the $9.9 trillion in outstanding home mortgages in the United States were serviced by nonbank servicers—non-depository institutions that perform such activities as collecting borrowers' monthly payments and modifying loan terms. After the 2007-2009 financial crisis, an increase in delinquent loans and other factors led some banks to exit the mortgage servicing business and created opportunities for increased participation by nonbank entities. GAO was asked to study the effects of the growth of nonbank servicers in the mortgage market. This report examines, among other things, recent trends in mortgage servicing and the oversight framework in which nonbank servicers operate. GAO analyzed mortgage industry data from January 2006 through June 2015; reviewed relevant laws and documents from regulatory and housing agencies and an industry group; conducted a literature review; and interviewed consumer groups, regulators and other agency officials, and market participants.

What GAO Recommends

Congress should consider granting FHFA authority to examine third parties that do business with the enterprises. In addition, CFPB should take steps to collect more data on the identity and number of nonbank servicers. FHFA agreed that there should be parity among financial institution regulators in oversight authority of regulated entities and third parties they do business with. CFPB agreed that more data could supplement existing information but noted that the current data limitation does not materially affect its work.

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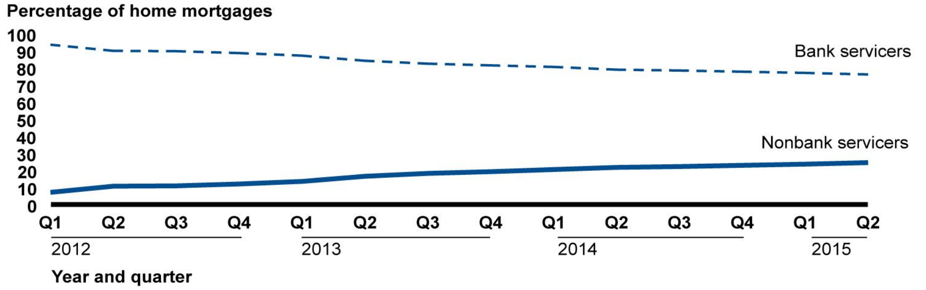
What GAO Found

The share of home mortgages serviced by nonbanks increased from approximately 6.8 percent in 2012 to approximately 24.2 percent in 2015 (as measured by unpaid principal balance). However, banks continued to service the remainder (about 75.8 percent). Some market participants GAO interviewed said nonbank servicers' growth increased the capacity for servicing delinquent loans, but they also noted challenges. For example, rapid growth of some nonbank servicers did not always coincide with their use of more advanced operating systems or effective internal controls to handle their larger portfolios—an issue identified by the Consumer Financial Protection Bureau (CFPB) and others.

Share of Home Mortgages Serviced by Bank and Nonbank Servicers, from First Quarter 2012 through Second Quarter 2015



Sources: GAO analysis of data from the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Federal Financial Institutions Examination Council, and the Federal Reserve Bank of Chicago. | GAO-16-278

Note: GAO measured the quantity of mortgages using the total unpaid principal balance of all home mortgage loans outstanding. GAO estimated the amount of mortgages serviced by banks as the sum of the unpaid principal balance of mortgages that banks report holding for investment, sale, or trading plus the unpaid principal balance of mortgages that banks report servicing for others. GAO estimated the amount of mortgages serviced by nonbank servicers as the difference between the total amount of mortgages outstanding and the amount serviced by banks.

Nonbank servicers are generally subject to oversight by federal and state regulators and monitoring by market participants, such as Fannie Mae and Freddie Mac (the enterprises). In particular, CFPB directly oversees nonbank servicers as part of its responsibility to help ensure compliance with federal laws governing mortgage lending and consumer financial protection. However, CFPB does not have a mechanism to develop a comprehensive list of nonbank servicers and, therefore, does not have a full record of entities under its purview. As a result, CFPB may not be able to comprehensively enforce compliance with consumer financial laws. In addition, the Federal Housing Finance Agency (FHFA) is the safety and soundness regulator of the enterprises. As such, it has indirect oversight of third parties that do business with the enterprises, including nonbanks that service loans on the enterprises' behalf. However, in contrast to bank regulators, FHFA lacks statutory authority to examine these third parties to identify and address deficiencies that could affect the enterprises. GAO has previously determined that a regulatory system should ensure that similar risks and services are subject to consistent regulation and that a regulator should have sufficient authority to carry out its mission. Without such authority, FHFA may lack a supervisory tool to help it more effectively monitor third parties' operations and the enterprises' actions to manage any associated risks.

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Abbreviations

CFPB	Consumer Financial Protection Bureau
CSBS	Conference of State Bank Supervisors
Dodd-Frank Act	Dodd-Frank Wall Street Reform and Consumer Protection Act
DOJ	Department of Justice
enterprises	Fannie Mae and Freddie Mac
Federal Reserve	Board of Governors of the Federal Reserve System
FHA	Federal Housing Administration
FHFA	Federal Housing Finance Agency
FSOC	Financial Stability Oversight Council
FTC	Federal Trade Commission
Ginnie Mae	Government National Mortgage Association
HHI	Herfindahl-Hirschman Index
HMDA	Home Mortgage Disclosure Act
HUD	Department of Housing and Urban Development
IMF	Inside Mortgage Finance
LEI	legal entity identifier
MBS	mortgage-backed securities
MSR	mortgage servicing rights
NIC	National Information Center
NMLS	Nationwide Multistate Licensing System
OCC	Office of the Comptroller of the Currency
SNL	SNL Financial

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U.S. GOVERNMENT ACCOUNTABILITY OFFICE
441 G St. N.W.
Washington, DC 20548

March 10, 2016

The Honorable Elizabeth Warren
United States Senate

The Honorable Elijah E. Cummings
Ranking Member
Committee on Oversight and Government Reform
House of Representatives

As of June 2015, about a quarter of the $9.9 trillion in outstanding home mortgage loans in the United States were serviced by nonbank servicers.[1] Historically, commercial banks, thrifts, and credit unions have been the primary servicers of mortgage loans, performing activities such as collecting payments from borrowers. However, rising mortgage delinquencies during the 2007-2009 financial crisis and subsequent new capital requirements have led banks to re-evaluate the benefits and costs of retaining mortgages and the right to service them in their portfolios, and some have reduced the percentage of their mortgage servicing business.[2] These dynamics have created opportunities for nonbank servicers to increase their presence in the mortgage loan servicing market. Banks and nonbank servicers are subject to different safety and soundness regulation and different capital rules. As a result, mortgage market

[1]We defined banks as bank holding companies, financial holding companies, savings and loan holding companies, insured depository institutions, and credit unions, including any subsidiaries or affiliates of these types of institutions. For the purposes of this report, we refer to these entities collectively as “banks.” We define nonbank servicers as entities that are not bank servicers.

[2]In 2010, the Basel Committee (the global standard-setter for prudential bank regulation) issued the Basel III framework—comprehensive reforms to strengthen global capital and liquidity standards with the goal of promoting a more resilient banking sector. In 2013, federal banking regulators adopted regulations to implement the Basel III based capital standards in the United States, which generally apply to U.S. bank holding companies and banks and are being phased in until 2019. Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Capital Adequacy, Transition Provisions, Prompt Corrective Action, Standardized Approach for Risk-weighted Assets, Market Discipline and Disclosure Requirements, Advanced Approaches Risk-Based Capital Rule, and Market Risk Capital Rule, 78 Fed. Reg. 62018 (Oct. 11, 2013). For a more complete discussion of Basel III, see GAO, *Bank Capital Reforms: Initial Effects of Basel III on Capital, Credit, and International Competitiveness,* GAO-15-67 (Washington, D.C.: Nov. 20, 2014).

participants and others have questioned the extent to which nonbank servicers may pose additional risk to consumers and the market and whether the existing oversight framework can ensure the safety and soundness of nonbank servicers.

You asked us to conduct a study of the effect of the increased presence of nonbank mortgage servicers in the mortgage market. This report examines (1) the characteristics of nonbank mortgage servicers and the recent trends in the mortgage servicing industry, (2) the effect of nonbank servicers on consumers and the mortgage market, and (3) the oversight framework for nonbank servicers.

To address these objectives, we reviewed studies by GAO and relevant literature on nonbank servicers and the mortgage market. As a part of this review, we selected academic studies and research by industry organizations, federal agencies, and others since the 2007-2009 financial crisis on the mortgage servicing market with a focus on the role of nonbank servicers. We analyzed data for 2006 through June 2015 from the Board of Governors of the Federal Reserve System (Federal Reserve), Fannie Mae and Freddie Mac (the enterprises), the Government National Mortgage Association (Ginnie Mae), and others to identify trends in the mortgage servicing market and in particular nonbank servicers. We assessed the reliability of these data by reviewing relevant documentation, and we electronically tested the data for missing values, outliers, and obvious errors, as well as interviewed knowledgeable agency officials on how the data were prepared. We determined that data were sufficiently reliable for our purposes. We reviewed relevant federal regulations that govern the operations of mortgage servicers. We also reviewed applicable guidance documents from the enterprises on the operational and financial requirements of their servicers. In addition, we reviewed examinations of nonbank servicers by the Bureau of Consumer Financial Protection, also known as the Consumer Financial Protection Bureau (CFPB) to learn about nonbank servicers' deficiencies identified by CFPB and as evidence of CFPB's oversight. Furthermore, we interviewed representatives from 10 nonbank servicers to obtain information related to all three objectives. These included 9 of the 10 largest nonbank servicers (which serviced approximately 77.6 percent of the total outstanding unpaid principal balance serviced by all nonbank servicers as of December 31, 2014) and the largest nonbank sub-servicer (a third-party mortgage servicer that has no fiduciary ties to or investment in the loans they service) based on outstanding unpaid principal balance from Inside Mortgage Finance as of March 31, 2015.[3]

In addition, we interviewed federal agency officials from CFPB and the Federal Housing Finance Agency (FHFA) on their role in the regulatory oversight of nonbank servicers and the enterprises, respectively. We also interviewed officials from the Conference of State Bank Supervisors (CSBS), an industry group that represents state financial regulators, as well as state regulators from four states on their role in the oversight of nonbank servicers.[4] In addition, we interviewed various mortgage market participants regarding mortgage market trends and the potential effects of mortgage servicing regulations as well as new and proposed financial requirements for mortgage servicers. These participants include representatives from the enterprises; Ginnie Mae; the Federal Housing Administration (FHA) and other federal agencies that insure the loans in Ginnie Mae-guaranteed mortgage-backed securities (MBS); industry organizations that represent banks and mortgage servicers; two rating agencies that rate MBS performance; third parties in the mortgage servicing industry, such as mortgage servicing brokers and market researchers; and companies that invest in or provide advice about mortgage servicing rights (MSR), such as a real estate investment trust.[5] Further, we interviewed academics who have conducted research on the nonbank mortgage servicing industry as well as consumer groups. Appendix I provides a more detailed description of our scope and methodology.

We conducted this performance audit from February 2015 to March 2016 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our

[3]For the purposes of this report, unpaid principal balance is the total remaining dollar amount owed by borrowers on home mortgage loans in the United States or its affiliated areas.

[4]We selected a purposive, geographically diverse sample of state regulators to interview based on the data from the Conference of State Bank Supervisors about state licensing practices. We selected two states that issue licenses specific to mortgage servicing but only one state (New York) responded; one state (California) that licenses mortgage servicers through a general licensing authority that may allow mortgage activities in addition to servicing; and two states (Colorado and Virginia) that do not require specific licenses for nonbank servicers.

[5]We selected a purposive, nongeneralizeable sample of relevant types of mortgage market participants based on their knowledge, expertise and role in the mortgage servicing industry.

findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Mortgage Market Structure and Participants

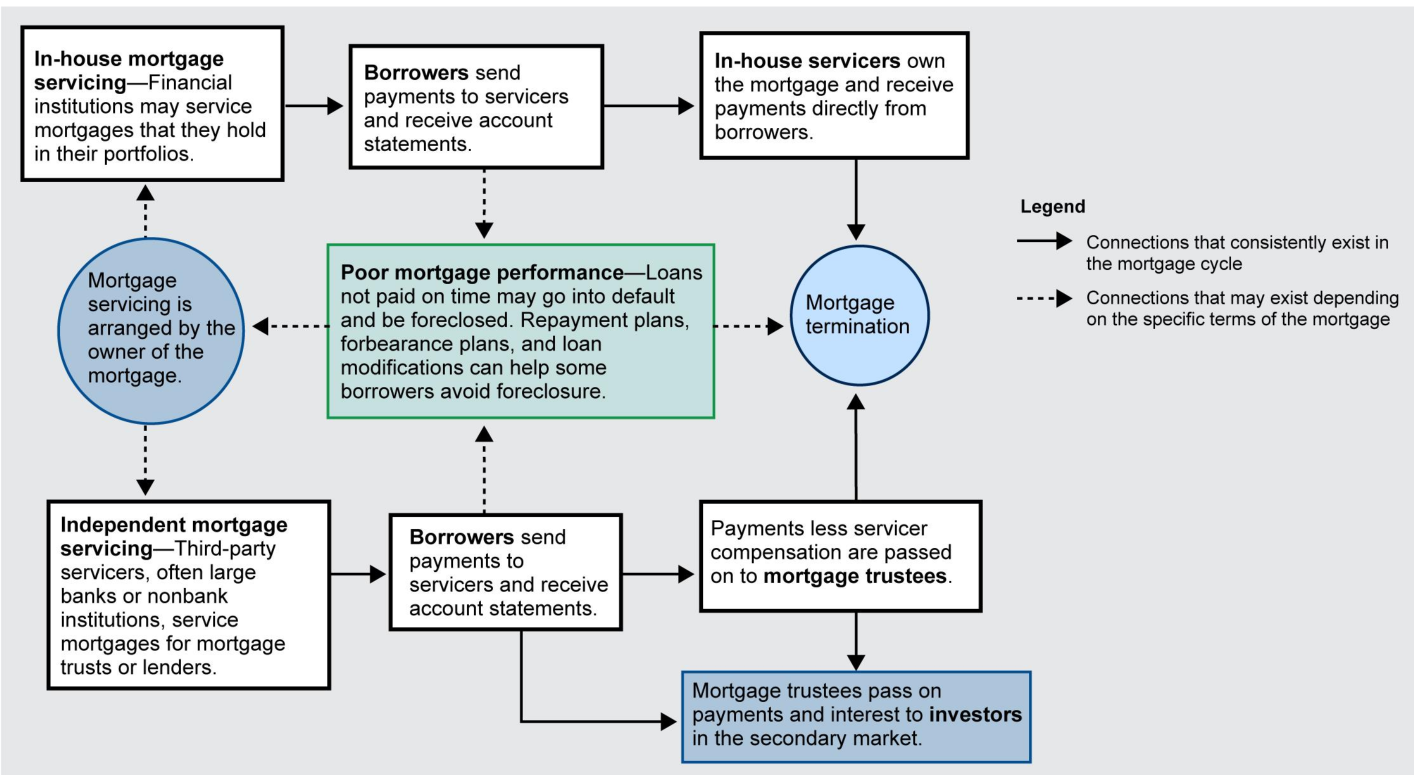
The U.S. housing finance system is complex and has numerous public and private participants that operate in both primary and secondary markets.[6] In the primary market, lenders make loans—known as mortgage loans—to borrowers that are secured by property in a process known as mortgage loan origination. Originators can choose to hold mortgages in their own portfolios or sell them into the secondary market. When loans are sold in the secondary market, they are generally packaged together into pools and held in trusts pursuant to terms and conditions set out in an underlying pooling and servicing agreement. Pools of loans are the assets backing the MBS that are issued and sold to investors, who are entitled to the cash flow generated by loans in the trust.

After the loan origination process is complete, the loan must be serviced until it is terminated—through payment in full or foreclosure (see fig. 1). Servicing is inherent in all mortgage loans, but the right to service a mortgage becomes a distinct asset—an MSR—when contractually separated from the loan when the loan is sold or securitized. Originators can service mortgage loans that they originate or purchase, or they can sell the mortgage loans but retain the MSR. Servicers other than the originator may also purchase MSR on securitized loans or may be hired to service loans for others. Servicers perform various loan management functions, including collecting payments from the borrower until the mortgage debt is satisfied or terminated, sending borrowers monthly account statements and tax documents, responding to customer service inquiries, maintaining escrow accounts for property taxes and hazard insurance, and forwarding monthly mortgage payments to the loan

[6]For a more complete discussion of the primary and secondary mortgage markets, see GAO, *Housing Finance System: A Framework for Assessing Potential Changes,* GAO-15-131 (Washington, D.C.: Oct. 7, 2014) and Sean M. Hoskins, Katie Jones, and N. Eric Weiss, Congressional Research Service, *An Overview of the Housing Finances System in the United States*, R42995 (Washington, D.C.: Feb. 19, 2015).

owners. In the event that borrowers become delinquent on their loan payments, servicers may also initiate a range of actions, from offering a workout option to allow the borrower to stay in the home to foreclosure proceedings. In most instances, the MSR is revocable by the owner, who may terminate the right to service for cause or without cause.

Figure 1: Mortgage Servicing



Source: GAO. | GAO-16-278

Participants in the secondary market include the enterprises or other institutions that issue MBS, Ginnie Mae, investors, and credit rating agencies.

- The enterprises purchase mortgages that meet their underwriting criteria. They either hold these mortgages in their own portfolios or pool them into MBS, guaranteeing that investors will receive timely principal and interest payments even if the borrowers become delinquent. On September 6, 2008, FHFA placed the enterprises into conservatorship out of concern that their deteriorating financial condition threatened the stability of financial markets. As a result, the enterprises now have explicit federal backing. The enterprises have guidelines for servicers that service the loans in their MBS programs.

- Ginnie Mae, a federal agency within the Department of Housing and Urban Development (HUD), guarantees the timely principal and interest payments to investors in securities issued by approved institutions through its MBS program. Ginnie Mae-guaranteed MBS are composed exclusively of mortgages issued by private institutions with its approval and guaranteed by the Department of Veterans Affairs or insured by the U.S. Department of Agriculture's Rural Housing Service, HUD's Office of Public and Indian Housing, or FHA. Ginnie Mae's guarantee is explicitly backed by the full faith and credit of the federal government. Ginnie Mae also has guidelines for servicers that service the loans in its MBS program.

- Other private institutions, such as investment banks, may also issue securities known as private-label MBS—that is, MBS not guaranteed by Ginnie Mae or issued by the enterprises. Private-label MBS are governed by pooling and servicing agreements specifying investors' expectations for servicers.

- Credit rating agencies are companies that assess the creditworthiness of debt securities, including MBS, and their issuers.

Various institutions service loans and can be classified into two groups: banks and nonbanks. Bank and nonbank servicers have different basic business models. Banks offer a variety of financial products to consumers, including deposit products, loan products such as mortgage and auto loans, and credit card products. In contrast, nonbank servicers are generally involved only in mortgage-related activities and do not offer deposit to consumers. Nonbank servicers may be involved in a variety of mortgage activities, including servicing and originating loans, as well as buying and selling MSR. For example, banks and other financial companies may use nonbank servicers to service mortgages they originate or own. Some nonbank servicers may also use nonbank sub-servicers, which are third-party servicers that have no fiduciary ties to or investment in the loans they service.

Nonbank Servicer Regulators

Consumer Financial Protection Bureau

CFPB enforces various federal laws and regulations governing mortgage lending and servicing and consumer financial protection. CFPB was created by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) and has rulemaking authority to implement provisions of federal consumer financial law and primary enforcement authority to assess compliance with various mortgage servicing rules.[7] CFPB also examines entities for compliance with federal consumer financial laws, collects consumer complaints regarding debt collection and other consumer financial products or services, and educates consumers about their rights under federal consumer financial protection laws.[8]

Federal Housing Finance Agency

The Housing and Economic Recovery Act of 2008 established FHFA as an independent agency to supervise and regulate the enterprises and the Federal Home Loan Bank System.[9] FHFA has a statutory responsibility to ensure that the enterprises operate in a safe and sound manner and that the operations and activities of each regulated entity foster liquid, efficient, competitive, and resilient national housing finance markets.

State Regulators

In addition to the federal regulators, state regulators supervise entities that are chartered or licensed in their states to offer products and services related to the mortgage industry. State regulators may also coordinate some regulatory activities through their participation in various industry organizations, including CSBS, a nationwide organization of state financial regulators that helps coordinate state financial regulation, including over mortgage servicing.[10] CSBS activities include the development of legislative, regulatory, and supervisory solutions, which states can choose whether and how to adopt.

[7] Pub. L. No. 111-203, § 1021, § 1024, 124 Stat. 1376 1980, 1987 (2010) (codified at 12 U.S.C. § 5511, § 5514).

[8] § 1011, § 1024, 124 Stat.at 1964, 1987 (2010) (codified at 12 U.S.C. § 5491, § 5514).

[9] Pub. L. No. 110-289, § 1101, 122 Stat. 2654, 2661 (codified at 12 U.S.C. § 4511).

[10] CSBS regulator members also include members from the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands.

Mortgage-Related Assets and the 2007-2009 Financial Crisis

As we have previously reported, the dramatic decline in the U.S. housing market that began in 2006 precipitated a decline in the price of mortgage-related assets, particularly mortgage assets based on nonprime loans in 2007.[11] Some financial institutions found themselves so exposed that they were threatened with failure, and some failed because they were unable to raise capital or obtain liquidity as the value of their portfolios declined. Other institutions, ranging from the enterprises to large securities firms, were left holding "toxic" mortgages or mortgage-related assets that became increasingly difficult to value, were illiquid, and potentially had little worth. Moreover, investors not only stopped buying private-label securities backed by mortgages but also became reluctant to buy securities backed by other types of assets. Because of uncertainty about the liquidity and solvency of financial entities, the prices banks charged each other for funds rose dramatically, and interbank lending conditions deteriorated sharply. The resulting liquidity and credit crunch made the financing on which businesses and individuals depend increasingly difficult to obtain. By late summer of 2008, the ramifications of the financial crisis ranged from the continued failure of financial institutions to increased losses of individual wealth and reduced corporate investments and further tightening of credit that would exacerbate the emerging global economic slowdown.

Nonbank Servicers' Share of Mortgage Servicing Has Increased, and Their Characteristics Vary

[11] GAO, *Financial Institutions: Causes and Consequences of Recent Bank Failures,* GAO-13-71 (Washington, D.C.: Jan. 3, 2013).

Nonbank Servicers' Share of Mortgages Has Increased Since 2012

From 2012 to the second quarter of 2015, the mortgage servicing market appears to have become less concentrated while the share of mortgages serviced by nonbank servicers appears to have increased.[12] Our analysis suggests that the share of all mortgages serviced by nonbank servicers increased from approximately 6.8 percent in the first quarter of 2012 to approximately 24.2 percent in the second quarter of 2015.[13] Our analysis also suggests that, when viewed at the national level, the mortgage servicing industry was relatively unconcentrated in 2012 and has become less concentrated since then.[14] Market concentration is an indicator of the extent to which firms in a market can exercise power by raising prices, reducing output, diminishing innovation, or otherwise harming customers as a result of reduced competitiveness. In a concentrated market, a small number of entities account for a large share of the market, which increases their ability to exercise market power. In contrast, our analysis suggests that the mortgage servicing industry is relatively unconcentrated, at least when viewed at the national level. This finding suggests that servicers have less ability to exercise market power and are more likely to behave competitively.[15] A number of academic studies and reports have also noted the increase in the share of mortgages serviced by nonbank servicers, and some

[12] For the purposes of this report, we consider mortgages to be home mortgage loans, defined as loans secured by residential properties. These include loans secured by properties with up to four units and farm houses, as well as home equity loans and home equity lines of credit, but exclude other loans (i.e., those secured by multifamily, commercial, and other farm properties).

[13] We estimated that nonbank servicers were servicing about $729 billion of $10,643 billion in total outstanding mortgages as of the first quarter of 2012 and about $2,392 billion of $9,900 billion in the second quarter of 2015. These estimates are based on the difference between total outstanding mortgages and the sum of (1) mortgages held for investment, sale, or trading by bank servicers and (2) mortgages serviced for others by bank servicers. We assumed that banks service the mortgages they hold for investment, sale, or trading. To the extent that they do not do so, our estimates understate the amount of mortgages serviced by nonbanks. Dollar amounts are adjusted for inflation and expressed in second quarter 2015 dollars.

[14] Our market concentration analysis was based on a widely accepted measure employed by federal agencies to assess market concentration. A key assumption of our analysis is that the mortgage servicing market is national in scope. However, the mortgage servicing market may be segmented by regions, states, or other subnational areas, and the results of our analysis may not reflect trends in mortgage servicing industry concentration in those areas. The details of our analysis and its limitations can be found in appendix II.

[15] Department of Justice and Federal Trade Commission guidelines, which we considered in our analysis, classify markets into 3 types: unconcentrated, moderately concentrated, and highly concentrated.

market participants have attributed the decline in market concentration to this growth.[16]

A growing number of the largest servicers are nonbank servicers. For example, as of June 2015, the 20 largest servicers accounted for nearly 63 percent of all mortgages serviced.[17] Table 1 shows the shares of mortgages serviced by the 20 largest servicers for the first quarter of 2012 and the second quarter of 2015. As an indicator of their larger role in the market, the number of nonbank servicers among the 20 largest mortgage servicers increased from 6 in the first quarter of 2012 to 9 in the second quarter of 2015.

Table 1: Shares of Home Mortgages Serviced by the 20 Largest Servicers, 2012Q1 and 2015Q2

	2012Q1		**2015Q2**	
Rank	Servicer	Share (percent)	Servicer	Share (percent)
1	Wells Fargo & Company	18.0%	Wells Fargo & Company	17.1%
2	Bank of America Mtg. & Affiliates	16.5	Chase	9.3
3	Chase	10.8	Bank of America Mtg. & Affiliates	6.2
4	Citi	5.0	Nationstar Mortgage LLC	4.1
5	Ally Financial	3.6	Ocwen Financial Corporation	3.2
6	US Bank Home Mortgage	2.4	Citi	3.1
7	PHH Mortgage	1.8	US Bank Home Mortgage	2.9
8	SunTrust Mortgage, Inc.	1.5	Walter Investment Management	2.5
9	PNC Mortgage	1.3	PHH Mortgage	2.3
10	OneWest Bank	1.2	Quicken Loans, Inc.	1.8
11	Nationstar Mortgage LLC	1.0	SunTrust Mortgage, Inc.	1.5
12	HSBC North America	0.9	PennyMac Loan Services	1.4
13	Ocwen Financial	0.9	PNC Mortgage	1.3
14	BB&T Mortgage	0.9	BB&T Mortgage	1.2

[16]For example, in a July 2014 report, the FHFA Office of Inspector General found that among the 30 largest servicers, nonbank servicers were servicing 6 percent of mortgages at the end of 2011 and 17 percent at the end of 2013. See Federal Housing Finance Agency Office of Inspector General, *FHFA Actions to Manage Enterprise Risks from Nonbank Servicers Specializing in Troubled Mortgages*, AUD-2014-014 (Washington, D.C.: July 1, 2014).

[17]Inside Mortgage Finance, *Issue 2015:36* (Bethesda, Md.: Inside Mortgage Finance Publications, 2015); Inside Mortgage Finance, *Issue 2012:20* (Bethesda, Md.: Inside Mortgage Finance Publications, 2012).

15	MetLife Home Loans	0.9	LoanCare, LLC	1.2
16	Walter Investment Management	0.8	Provident Funding	0.8
17	Flagstar Bank	0.7	Fifth Third Bank	0.8
18	Fifth Third Bank	0.7	Flagstar Bank	0.8
19	Capital One Financial	0.7	Caliber Home Loans	0.8
20	American Home Mortgage Servicing	0.7	HSBC North America	0.6
Aggregate share of the 20 largest servicers		70.5	n/a	62.6

Legend: shading = nonbank servicer

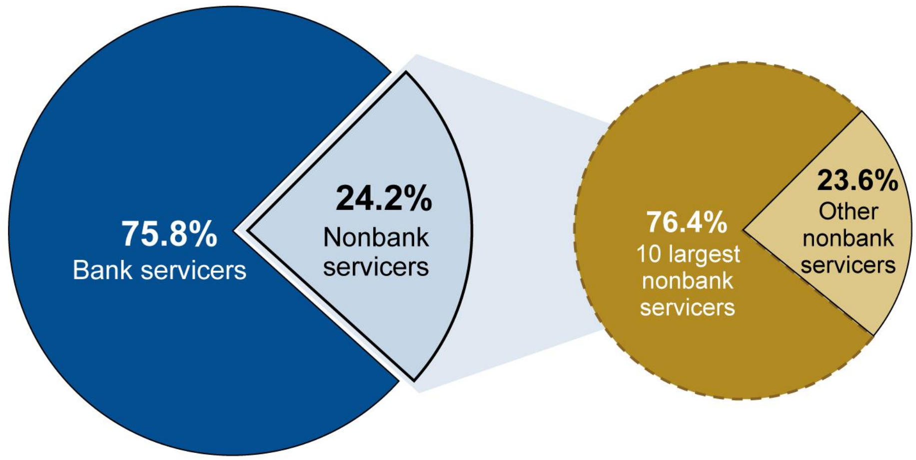
Source: GAO analysis of Inside Mortgage Finance data. | GAO-16-278

Note: We used data from Inside Mortgage Finance to determine the shares of mortgages serviced by the 20 largest servicers, based on unpaid principal balance, and the number of nonbank servicers among the 20 largest servicers for the first quarter of 2012 and the second quarter of 2015. We defined banks as bank holding companies, financial holding companies, savings and loan holding companies, insured depository institutions, and credit unions, including any subsidiaries or affiliates of these types of institutions. We define nonbank servicers as entities that are not bank servicers.

Correspondingly, we found that a few nonbank servicers account for the majority of the total share of mortgages serviced by nonbank servicers. Our analysis shows that the 10 largest nonbank servicers were servicing about 76.4 percent of the share of mortgages serviced by all nonbank servicers as of the second quarter of 2015 (see fig. 2).[18]

[18] Inside Mortgage Finance, *Issue 2015:36*.

Figure 2: Share of Home Mortgages Serviced by the 10 Largest Nonbank Servicers, as of 2015Q2

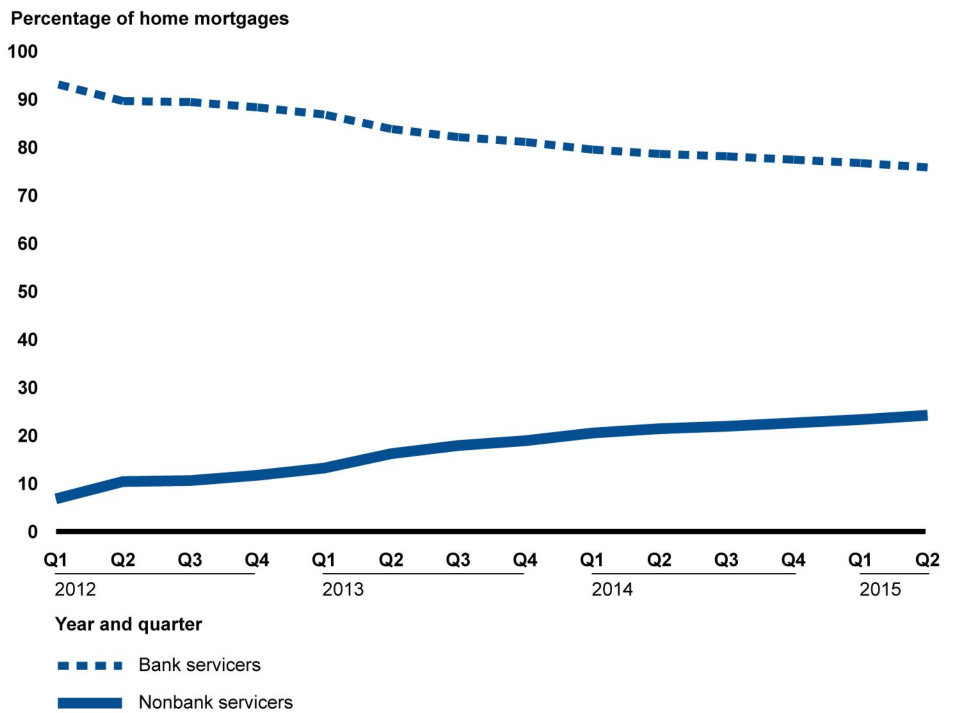


Source: GAO analysis of data from the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Federal Financial Institutions Examination Council, the Federal Reserve Bank of Chicago, and Inside Mortgage Finance. | GAO-16-278

Note: We used the unpaid principal balance of outstanding home mortgage loans to estimate the shares of home mortgage loans serviced by bank and nonbank servicers for the second quarter of 2015. We defined banks as bank holding companies, financial holding companies, savings and loan holding companies, insured depository institutions, and credit unions, including any subsidiaries or affiliates of these types of institutions. We define nonbank servicers as entities that are not bank servicers. We measured the quantity of home mortgage loans using the total unpaid principal balance of all outstanding home mortgage loans. We estimated the amount of home mortgage loans serviced by banks as the sum of the unpaid principal balance of home mortgage loans that banks report holding for investment, sale, or trading plus the unpaid principal balance of home mortgage loans that banks report servicing for others. We estimated the amount of home mortgage loans serviced by nonbank servicers as the difference between the total amount of outstanding home mortgage loans and the amount serviced by banks. We estimated the share of home mortgage loans serviced by nonbank servicers as the percentage of total unpaid principal balance serviced by nonbank servicers. We then estimated the amount of home mortgage loans being serviced by the 10 largest nonbank servicers using data from Inside Mortgage Finance on the 100 largest mortgage servicers. We estimated the share of home mortgage loans being serviced by the 10 largest nonbanks as a percentage of the unpaid principal balance being serviced by all nonbank servicers.

Although our analysis shows that bank servicers' share of aggregate mortgages has decreased since the first quarter of 2012, banks still service a majority of mortgages. Figure 3 shows that banks serviced about 75.8 percent of mortgages as of the second quarter of 2015. Further, although we found that the aggregate share of mortgages serviced by nonbank servicers has grown, the largest bank servicers' individual shares remain much larger than the individual shares of the largest nonbank servicers. For example, the largest bank servicer serviced about 17.1 percent of mortgages as of the second quarter of 2015, compared to about 4.1 percent of mortgages for the largest nonbank servicer (see table 1).[19] An exception to this trend was the subprime segment of the mortgage servicing industry, where one nonbank servicer accounted for over 28 percent of all subprime mortgages serviced in 2014—exceeding the amount serviced by the two largest bank servicers combined.[20]

Figure 3: Share of Home Mortgages Serviced by Bank and Nonbank Servicers, from 2012Q1 to 2015Q2



Sources: GAO analysis of data from the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Federal Financial Institutions Examination Council, and the Federal Reserve Bank of Chicago. | GAO-16-278

Note: We used the unpaid principal balance of outstanding home mortgage loans to estimate the shares of home mortgage loans serviced by bank and nonbank servicers for each quarter for the period from 2012Q1 to 2015Q2. We defined banks as bank holding companies, financial holding

[19] Inside Mortgage Finance, *Issue 2015:36*.

[20] Inside Mortgage Finance, *Mortgage Market Statistical Annual 2015 Yearbook*, (Bethesda, Md: Inside Mortgage Finance Publications, 2015). This nonbank servicer has been selling its MSR for Ginnie Mae, Fannie Mae, and Freddie Mac MBS since December 2014.

companies, savings and loan holding companies, insured depository institutions, and credit unions, including any subsidiaries or affiliates of these types of institutions. We define nonbank servicers as entities that are not bank servicers. We measured the quantity of home mortgage loans using the total unpaid principal balance of all outstanding home mortgage loans. We estimated the amount of home mortgage loans serviced by banks as the sum of the unpaid principal balance of home mortgage loans that banks report holding for investment, sale, or trading plus the unpaid principal balance of home mortgage loans that banks report servicing for others. We estimated the share of home mortgage loans serviced by bank servicers as the percentage of the total unpaid principal balance serviced by bank servicers. We estimated the amount of home mortgage loans serviced by nonbank servicers as the difference between the total amount of outstanding home mortgage loans and the amount serviced by banks. We estimated the share of home mortgage loans serviced by nonbank servicers as the percentage of the total unpaid principal balance serviced by nonbank servicers.

While nonbank servicers account for less than a quarter of the overall mortgage servicing market, their share of particular market segments has increased significantly. Specifically, as of the second quarter of 2015, nonbank servicers serviced 35 percent of mortgages in Ginnie Mae and enterprise MBS and enterprise-owned portfolios (see table 2) compared to their overall share of 24.2 percent. Additionally, the share of mortgages in Ginnie Mae MBS serviced by nonbank servicers, as measured by the unpaid principal balance, grew to about 42 percent in the second quarter of 2015, up from about 25 percent in the fourth quarter of 2006.[21] Similarly, nonbank servicers own the majority of the MSR related to private-label securities, although this market segment is relatively small as discussed later. According to one 2015 study, nonbank servicers own the MSR associated with approximately 74 percent of loans in pools of private-label securities.[22]

Table 2: Percentage of Home Mortgages in Ginnie Mae and Enterprise MBS and Enterprise Portfolios Serviced by Nonbank Servicers, as of Second quarter 2015

Category	Percentage of unpaid principal balance serviced

[21]On the basis of our analysis, we estimate that there were about 640 nonbank servicers eligible to service for Ginnie Mae, Fannie Mae, or Freddie Mac for this period. We define an eligible nonbank servicer as one that was servicing, or was approved to service, mortgages in Ginnie Mae or enterprise MBS or enterprise-owned portfolios as of the second quarter of 2015.

[22]Mortgage Bankers Association and PricewaterhouseCoopers, *The Changing Dynamics of the Mortgage Servicing Landscape*, (Washington, DC: June 2015).

Category	Percentage of unpaid principal balance serviced
Ginnie Mae-guaranteed MBS	41.9%
Fannie Mae MBS and portfolios	37.4
Freddie Mac MBS and portfolios	25.2
All Ginnie Mae and enterprise MBS and enterprise portfolios[a]	35%

Source: GAO analysis of data from Ginnie Mae, Fannie Mae, and Freddie Mac. | GAO-16-278

Note: We defined banks as bank holding companies, financial holding companies, savings and loan holding companies, insured depository institutions, and credit unions, including any subsidiaries or affiliates of these types of institutions. We define nonbank servicers as entities that are not bank servicers. Ginnie Mae and Fannie Mae each provided us with data on the total unpaid principal balance of mortgages serviced by all of their approved servicers and their approved nonbank servicers, which we used to calculate the percentage of home mortgages serviced by nonbank servicers. We calculated this percentage for Freddie Mac using servicer-level data on unpaid principle balance provided to us by Freddie Mac. We used an SNL Financial list of banks as well as Freddie Mac data fields that indicated institution type, to determine which of Freddie Mac's servicers met our definition for bank and nonbank servicers.

[a]This percentage was calculated using all home mortgage loans in Ginnie Mae and enterprise MBS and enterprise portfolios that nonbanks were servicing as of the section quarter of 2015.

FHFA officials and representatives from Freddie Mac and one nonbank servicer we interviewed suggested that the increase in the share of mortgages serviced by nonbank servicers occurred as a result of the increase in delinquent loans following the 2007-2009 crisis. Further, those officials and representatives, as well as studies we reviewed, cited nonbank servicers' willingness and capability to service delinquent loans during the financial crisis as one reason for their growth (as discussed later, some nonbank servicers specialize in servicing delinquent loans), explaining that many banks transferred MSR for delinquent portfolios to nonbank servicers during this time.[23] Additionally, we previously reported that the financial crisis was associated with significant increases in delinquencies, mortgage defaults, and foreclosures.[24]

[23]We have ongoing work to further study the potential factors influencing banks' decisions about whether to hold or sell MSR.

[24]GAO, *Financial Regulatory Reform: Financial Crisis Losses and Potential Impacts of the Dodd-Frank Act,* GAO-13-180 (Washington, D.C.: Jan. 16, 2013).

Some market participants we interviewed cited several reasons why the growth in the share of mortgages serviced by nonbank servicers might slow in the future. For example, they cited declining delinquency rates and increased regulatory scrutiny of MSR transfers that could reduce the number and size of MSR transfers from bank to nonbank servicers. Others we interviewed also said they generally expect banks to service more mortgages in the future as the housing market continues to stabilize. For example, FHFA officials explained that they expect banks to increase their performing loan servicing in the future due to improved economic conditions and better quality loans originated since the 2007-2009 financial crisis. Likewise, Fannie Mae representatives also said they expect some banks to begin servicing more loans, particularly performing loans.[25] Similarly, representatives from two market research firms said that regional and midsized banks are showing renewed interest in buying MSR. Conversely, small and midsized nonbank servicers we interviewed said they did not expect banks to increase servicing given rising servicing costs associated with various new regulations, including those issued by CFPB, and Basel III capital standards, which make owning MSR more expensive for banks.[26]

Characteristics of Nonbank Servicers Vary

While nonbank servicers are non-deposit-taking institutions with a specific focus on servicing mortgage loans, these entities vary across a number of different characteristics, including revenue sources, funding sources, costs, and their area of specialization. Some examples of the diverse range of institutions in the mortgage servicing industry include the following:

- small servicer-only companies, some of which specialize in specific functions such as servicing or sub-servicing delinquent loans;
- full-service mortgage finance companies that also originate loans;
- entities owned by investors such as real estate investment trusts, hedge funds or private equity funds;
- subsidiaries or affiliates of large nonbanks, including financial and nonfinancial firms;

[25] We consider performing loans to be loans that are not delinquent.

[26] For a more complete discussion of Basel III, see GAO-15-67.

- companies that acquire MSR and use sub-servicer arrangements to service the loans; and
- publicly traded companies.

Appendix III provides a list of nonbank servicers we identified in the course of our audit work.

Revenue, Funding Sources, and Costs

We found that nonbank servicers' largest source of revenue is typically servicing fees, but their sources of revenue vary. Nonbank servicers generally collect monthly fees based on a percentage of the remaining unpaid principal balance on each loan serviced, although some nonbank servicers, including three we interviewed, may instead receive a flat fee per loan when sub-servicing for others. Representatives from several nonbank servicers we interviewed also discussed relying on other sources of revenue, including ancillary fees and float income.[27] Nonbank servicers with more diversified operations can also earn revenue from a range of other activities, including loan origination, investment, and consulting.

Likewise, we found that nonbank servicers' funding sources can vary. Nonbank servicers we interviewed said they use equity, debt, and lines of credit to help fund their operations. For example, some nonbank servicers are publicly traded and can use equity to fund their operations. In addition, nonbank servicers can fund their operations by securing lines of credit, issuing bonds, or undertaking a number of other capital and liquidity-raising alternatives. The majority of the 10 nonbank servicers we interviewed said they also use lines of credit to fund various operations, including mortgage originations and MSR purchases, and to advance principal and interest payments to investors in cases where borrowers fail

[27] Ancillary fees are fees imposed on borrowers for events such as late payment or bounced checks. Servicers earn float income by investing principal and interest payments they receive from borrowers for a short period before remitting them to the loan holder. For example, borrowers might make their payment on the first of the month, but the servicer does not remit these payments to the loan holder until the 25th of the month. In the interim, the servicer may place the payments in investment-grade assets and keep the investment income for itself.

to make monthly payments.[28] Regulators and other market participants agreed that nonbank servicers can experience higher funding costs compared to bank servicers. They said that unlike bank servicers, nonbank servicers do not have access to customer deposits, which are a cheaper source of funding than other capital and money market alternatives.

Representatives from most of the nonbank servicers we interviewed also largely agreed that personnel costs are their main expense, although costs can vary based on a servicer's business model and size. As we discuss later, some nonbank servicers specialize in delinquent loans and therefore may experience higher employee costs related to servicing those loans. For instance, the Urban Institute reported that delinquent loans are typically more difficult and costly to service because such loans require more labor-intensive, direct interactions with borrowers to ensure that they are offered appropriate options to remain in their homes.[29] A number of servicers we interviewed also said that technology can be a large cost. To the extent that some technology costs are fixed, these would disproportionally affect smaller servicers. Similarly, smaller nonbanks may be disproportionately affected by regulatory compliance costs, such as those associated with new servicer guidelines and enhanced scrutiny of the foreclosure process.

Specialization

A number of nonbank servicers specialize in servicing delinquent loans, according to various market participants, but others do not. For example, representatives from two nonbank servicers said that they were able to expand their businesses during the 2007-2009 financial crisis by specializing in delinquent loans as delinquency rates rose to historic levels. As a result of nonbank servicers' willingness to service delinquent loans, larger portions of the loans they service tend to be delinquent relative to the loans serviced by their banking counterparts. For example, the average number of delinquent loans—as a percentage of loans serviced—in Ginnie Mae and enterprise MBS and enterprise-owned portfolios was higher for nonbank than bank servicers as of the second

[28]In some cases, such as for Ginnie Mae-guaranteed MBS and some enterprise-issued MBS and enterprise-owned loans, servicers are required to remit scheduled principal and interest payments even if borrowers fail to make their monthly mortgage payments. These are often referred to as advance payments.

[29]Pamela Lee, *Nonbank Specialty Services: What's the Big Deal?* Urban Institute (Washington, D.C.: Aug. 2, 2014).

quarter of 2015.[30] Specifically, for the enterprises, the delinquency rate for loans serviced by nonbank servicers was .84 percentage points higher on average than those serviced by bank servicers.[31] Similarly, the average delinquency rate for loans serviced by nonbank servicers for Ginnie Mae was 1.4 percentage points higher than those serviced by bank servicers.[32] For nonbank servicers of Ginnie Mae MBS, the specialization in delinquent loans is a continuation of a multiyear pattern. Specifically, Ginnie Mae data show that for each year from the fourth quarter of 2007 through the second quarter of 2015, nonbank servicers of Ginnie Mae MBS have had higher average delinquency rates than bank servicers. However, representatives from other nonbank servicers and market participants we interviewed said that many nonbank servicers do not consider themselves specialty servicers nor do they actively seek to service delinquent loans. Moreover, while delinquent loans are a common area of specialization for nonbank servicers, others focus on specific loan products or geographic locations where they have developed expertise and, on the basis of the specialization, may provide support to larger bank and nonbank servicers.

[30]For the purposes of this analysis, delinquent loans were loans that were 90 days or more past due or in foreclosure for Ginnie Mae and Freddie Mac, and 3 months or more past due or in foreclosure for Fannie Mae.

[31]For this analysis, delinquent loans were loans that were 90 days or more past due or in foreclosure for Ginnie Mae and Freddie Mac, and 3 months or more past due or in foreclosure for Fannie Mae. Average delinquency rates for bank and nonbank servicers are calculated by averaging the delinquency rates—by number of loans serviced—of each servicer in each servicer category. Ginnie Mae and Fannie Mae provided us with the delinquency rates of their bank and nonbank servicers. We calculated the delinquency rates for Freddie Mac bank and nonbank servicers using servicer-level data provided to us by Freddie Mac. We defined banks as bank holding companies, financial holding companies, savings and loan holding companies, insured depository institutions, and credit unions, including any subsidiaries or affiliates of these types of institutions.

[32]Ginnie Mae officials noted that nonbank servicers' higher delinquency rates may be only partially due to their specialization. Higher delinquency rates may also reflect nonbank servicers' unwillingness or inability to purchase delinquent loans out of Ginnie Mae-guaranteed loan pools. According to Ginnie Mae officials, banks often do this with Ginnie Mae-guaranteed MBS, which has the effect of lowering the delinquency rates for their servicing portfolio.

Nonbank Servicer Growth Poses Both Benefits and Challenges for Market Participants and Consumers

Nonbank Servicer Growth Has Improved Servicing Capacity for Delinquent Loans and Increased Liquidity

The growth of nonbank servicer participation in the mortgage servicing industry since the financial crisis has produced some benefits for consumers and other market participants. While the extent of the benefits varies according to the individual servicer and is not necessarily due to differences between banks and nonbanks, many market participants said that the growth of nonbank servicers has increased the capacity for servicing delinquent loans and that their expertise may have also produced additional benefits for some borrowers. Evidence also suggests that the growth of nonbanks has helped increase liquidity in the market for MSR, which supports mortgage markets more generally.

Increased Capacity for Delinquent Loan Servicing. The increased participation of nonbank servicers capable of servicing delinquent loans may have contributed to improved outcomes for some of these loans since the financial crisis. Market participants we interviewed noted that in the years after the 2007-2009 financial crisis, existing bank servicers lacked the capacity and capability to effectively service the large volume of delinquent loans that emerged. Moreover, some servicers were unable to effectively handle the higher level of interaction with borrowers required by delinquent loans. As a result, the mortgage servicing industry experienced poorly designed loan modification systems as well as errors and deficiencies in foreclosure processing. For example, in 2011 and 2012, in response to critical weaknesses in bank servicers' foreclosure activities, federal banking regulators issued formal consent orders against 16 bank servicers to ensure safe and sound mortgage servicing; address weaknesses identified in foreclosure reviews; and remediate harm to borrowers.[33] A 2014 study by the Urban Institute noted that this capacity and capability gap was addressed, in part, by the increased participation of nonbank specialty servicers whose servicing platforms were more effective in handling distressed loans. As a result, some nonbank servicers may have contributed to improved consumer outcomes for some delinquent loans. For example, a 2014 study on loan modifications noted that borrowers benefited from reduced payments, interest rates, and loan balances offered by nonbank servicers, which could potentially reduce the likelihood of foreclosure.[34] However, their empirical evidence on the relative performance of nonbanks in servicing delinquent loan is not definitive. For instance, one study we reviewed found that borrowers in delinquency were more likely to experience positive outcomes when their servicer was a nonbank, including the borrower making a payment on a loan that had been in default, receiving offers of modifications with principal decreases, and receiving offers for second modifications. Over time, however, the study found that banks have increased their propensity to offer interest rate modifications and greater payment reductions. However, this study was based on privately securitized nonprime loans and therefore cannot speak to outcomes for delinquent prime loans or loans outside of private-label securities. The study also contains a number of other limitations that require caution in the interpretation of the results.[35] Moreover,

[33]In addition, in February 2012, the Departments of Justice, Treasury, and Housing and Urban Development and state banking regulators along with 49 state attorneys general, reached a settlement with the country's largest mortgage servicers. See United States v. Bank of America Corp., No. 1:12-cv-00361 (D.D.C. Apr. 4, 2012). This agreement, known as the National Mortgage Settlement, provided approximately $25 billion in relief to distressed borrowers in states that signed onto the settlement and directed payments to participating states and the federal government.

[34]Carolina K. Reid, Michael J. Collins, and Carly Urban, "Servicer Heterogeneity: Does Servicing Matter for Loan Cure Rates?" *University of California, Berkeley: Fisher Center for Real Estate and Urban Economics Working Paper Series* (2014). The study controlled for borrower, loan, and market characteristics and investigated the difference in outcomes for borrowers with delinquent subprime mortgages in private-label securities whose servicers were banks and nonbank servicers.

[35]For example, the study does not include a significant segment of the market—prime and portfolio loans—that is largely serviced by banks. The data used for the study are based on privately securitized subprime and Alt-A loans. Thus, there is a potential selection bias in that the sample used could be dominated by nonbank servicers. The authors do not provide any summary statistics on the share of nonbank servicers compared to bank servicers in the sample. Furthermore, the authors indicate they identified nonbank servicers through news articles in trade publications, which may create additional issues with the sample used to conduct the empirical analysis. Moreover, since the results are based on a convenience sample, they cannot be used to draw inferences about all Alt-A loans.

representatives from consumer groups we spoke with said that they did not notice a difference in servicing quality between bank and nonbank servicers for borrowers with delinquent loans, and they said that outcomes depended on the expertise and quality of the individual company.

Increased Liquidity. Nonbank servicers have contributed to liquidity in the secondary mortgage market since the financial crisis by broadening participation in the market for MSR, which benefits banks and other originators looking to sell mortgage assets. Additional participants in the market for MSR generally contribute to a more liquid market, where large MSR transactions can be executed with relative ease and at low costs. A liquid market for MSR benefits buyers and sellers of MSR directly by providing a mechanism to transact effectively in MSR and raise liquidity. It also indirectly facilitates sales of whole loans to investors that do not want the associated servicing responsibilities or that want the option to sell the servicing rights in the future.[36] Moreover, the entry of new, diverse groups of investors, such as hedge funds, real estate investment trusts, and specialty servicers, has generated increased liquidity in MSR associated with a wide variety of loan products. For example, some nonbank servicers specialize in acquiring MSR related to nonprime mortgage loans originated prior to 2008 or, as discussed previously, delinquent loans that are more demanding to service. Such institutions were instrumental in enhancing the ability of the market to absorb the supply of MSR that resulted from banks' desire to decrease the volume of nonprime and distressed loans in their servicing portfolios, likely improving the liquidity of the market. Further, diversity in the types of servicers in the market produces competition between entities with varying levels of expertise and tolerance for risk. This competition can result in more efficient pricing in the market for MSR, specifically MSR markets for delinquent loans and unconventional loans. Ginnie Mae's 2014 report noted that the rising

[36]The ability of originators to sell loans into secondary markets generates funds to support additional loan origination. A liquid market for MSR facilities this process, as some investors seeking to purchase mortgages do not have servicing platforms or are otherwise uninterested in servicing rights. These entities therefore rely on a liquid market for selling the MSR associated with the loan or will purchase only the loan from originators, leaving the MSR for another entity. As a result, nonbanks servicers, by supporting secondary mortgage market activity, ultimately benefit consumers.

prominence of nonbank servicers enhanced market liquidity by offsetting the decreased participation of bank servicers.[37]

Growth of Nonbanks Presents Some Risks to Consumers and Other Market Participants

The increased participation of nonbank servicers in mortgage servicing has created benefits but also poses risks to consumers, the enterprises, Ginnie Mae, and others. For example, some challenges are related to the business models and operational systems of particular nonbank servicers, such as those stemming from certain nonbanks' heightened vulnerability to MSR price movements. Other challenges are related to the transfers of MSR that occur among banks and nonbanks servicers, which can result in violations of consumer protection laws and other regulations. Because there is considerable variation in the types of servicers in the market, it is important to note that in many cases the risks to market participants vary by individual servicer as opposed to whether the servicer is a bank or nonbank. Nevertheless, a number of challenges exist, some of which are specific to certain types of nonbanks and some of which are more general servicer challenges that have been heightened by nonbank growth.

Rapid Growth and Immature Operational Systems

Several market participants and one state regulator we spoke with said that operational challenges at some nonbanks were caused by overly rapid growth, particularly after the financial crisis, which strained some nonbank servicers' operational capabilities and finances. Concerns have been raised by the FHFA Office of Inspector General and others that recent growth at some specialty servicers could result in servicing issues for customers, including where support infrastructure may not have adequately kept pace with expanding portfolios.[38] In particular, some market participants told us that some nonbank servicers may be more susceptible to difficulties due to less mature infrastructures relative to banks for tasks such as managing regulatory compliance, risks, and internal controls. Weak internal controls and compliance programs can result in harm to consumers, such as problems or errors with account transfers, payment processing, and loss mitigation processing. Ginnie Mae officials said that newer nonbank servicers, which are often created and financed by private

[37] Ginnie Mae, *An Era of Transformation* (September 2014).

[38] See Federal Housing Finance Agency (FHFA), Office of Inspector General, *FHFA Actions to Manage Enterprise Risks from Nonbank Servicers Specializing in Troubled Mortgages*, AUD-2014-014 (Washington, D.C.: July 1, 2014).

investors and seek to acquire significant portfolios of servicing rights, may underestimate the operational requirements involved in servicing large portfolios, such as answering high volumes of customer-service inquiries or reaching out to many borrowers with delinquent loans. Servicers acquiring MSR may encounter a number of issues that require effective systems and knowledge of the state and federal laws and requirements as they relate to servicing mortgages, which may challenge the expertise of newer servicers. Smaller nonbank servicers may also face difficulties related to their ability to manage operational challenges, although this challenge may be due to the size of the entity and may not be unique to nonbank servicers.

Issues related to aggressive growth and insufficient infrastructure have resulted in harm to consumers, have exposed counterparties to operational and reputational risks and, as we discuss later in this report, complicated servicing transfers between institutions. We examined servicer reviews by the enterprises and identified differences in the degree of operational issues experienced by bank and nonbank servicers.[39] Specifically, the enterprises on average found more issues considered high-risk at nonbanks—such as insufficient monitoring of loan accounts—than at banks. Moreover, both enterprises gave more "needs improvement" or "unsatisfactory" assessments to reviewed nonbank servicers compared to banks. In addition, CFPB's examinations found servicing problems at nonbanks due to a lack of robust compliance systems.[40] However, a credit rating agency and one servicer we spoke with said that nonbank servicers had improved their operational systems over time.

[39]Each enterprise reviewed these entities using its own set of review criteria. In this report, we do not attempt to assess the appropriateness of these criteria. Each enterprise's examinations identified individual findings and categorized them based on their riskiness, as well as determining overall assessments of servicer performance (e.g., unsatisfactory; needs improvement; satisfactory). One enterprise assigned an overall assessment to the servicer, while the other assessed different areas of servicer performance. While each enterprise used different language in its assessment of servicers, for the purposes of comparison we have normalized the language here.

[40]In the fall 2015 issue of the Consumer Financial Protection Bureau's (CFPB) publication that provides the public and the financial industry with a summary of any unfair, deceptive, abusive acts or practices, CFPB summarized its examination findings for both bank and nonbank servicers. See CFPB, *Supervisory Highlights*, Issue 9, Fall 2015 (Washington, D.C.: Nov. 3, 2015).

Mortgage Servicing Transfer Issues

While issues with transfers of MSR are not unique to nonbanks, their incidence has increased since the financial crisis, in part due to increasing numbers of servicing transfers involving nonbanks and potentially exacerbated by the immature operational systems for specific servicers. Ineffective transfers can have negative consequences for investors and borrowers. The transfer process is complex and requires management and communication by both parties to the transfer. Among other requirements during the transfer process, the servicers transferring MSR must provide the servicers receiving them with borrowers' complete documentation. The new servicer also must abide by agreements (either established or in progress) between the borrower and the previous servicer. In addition, both parties must communicate with borrowers to help ensure that they understand the status of their loan and have timely and accurate information regarding loss mitigation procedures. Issues can emerge for borrowers when either servicer fails to fulfill these requirements, and when other issues—such as incompatible technological systems—produce errors. For example, CFPB has observed that if the transfer process is not handled properly, consumers may find that their servicer could miss documentation or that the servicer did not credit payments on time.[41]

As nonbanks engaged in significant acquisitions of MSR from other servicers during and after the financial crisis, a combination of errors and improper actions on the part of both transferring and receiving servicers led to borrowers experiencing harm, including losing their homes to foreclosure in some cases. While some servicers have increased their ability to properly manage these complex transactions, variability in servicer quality across nonbanks receiving the transfers remains an area of focus for regulators, as discussed later. According to regulators, transfer errors or other issues can be especially harmful for borrowers in loss mitigation proceedings, whereby a borrower may apply for payment relief or request new terms for his or her loan. For example, CSBS officials said that in MSR transfers that resulted from servicers' failure, some borrowers lost contact with their servicers, and their new servicers did not always receive or adhere to borrowers' existing loss mitigation agreements with the previous servicer. In some cases, these types of

[41]Effective January 2014, CFPB established new mortgage servicing rules that included rules obligating bank and nonbank servicers to maintain certain policies and procedures regarding the transfer of loans. 12 C.F.R. § 1024.38.

transfer errors may have resulted in some borrowers improperly losing their homes to foreclosure.

Liquidity Risk and MSR Volatility

While nonbank servicers employ a range of business characteristics, some nonbanks are more susceptible to risks that can lead to operational problems and ultimately broader effects, including effects on investors, consumers and other servicers. For example, liquidity challenges are more pronounced for nonbanks, as many face expensive alternatives for external financing and do not have access to consumer deposits, which can be a cheaper and more reliable source of funding. In particular, many nonbank servicers rely on short-term credit facilities, such as lines of credit and advances with borrowing limits. In some cases, nonbank servicers depend on a single investor or a few creditors and are therefore particularly vulnerable to a withdrawal of funds. In addition, some servicers must sometimes advance principal and interest on delinquent loans to investors without the revenue generated by the underlying loan. Various market participants we spoke with indicated that some nonbank servicers might face funding liquidity risks, in part due to market volatility because of several features of their business models and expensive external funding alternatives.[42] However, some nonbank servicers have better access to liquidity to support their operations, including publicly traded entities or those affiliated with larger entities with significant access to capital markets.

Some servicers, including specialty servicers, have business models that result in significant concentrations of MSR on their balance sheets relative to capitalization and servicing income as their principal source of revenue.[43] As a result, while all MSR holders are sensitive to changes in MSR values, due to a lack of diversification, some nonbanks are particularly vulnerable to these fluctuations. MSR values are highly volatile, as they depend on interest rates and loan mortgage defaults.[44] For example, a large

[42]Funding liquidity risk is the risk that a firm will not be able to meet its current and future cash flow and collateral needs, both expected and unexpected, without materially affecting its daily operations or overall financial condition.

[43]Ginnie Mae officials and Freddie Mac representatives said that some newer nonbank servicers issue debt to acquire MSR and then rely on returns from those MSR to repay their debts.

[44]As interest rates decline, loans are prepaid due to enhanced refinancing opportunities. As a result, the total value of existing MSR declines because no further servicing fees are collected on the prepaid loans.

nonbank servicer reported in its third quarter 2015 earnings press release that its servicing revenue had declined by 67 percent, in part driven by a 285 percent decline in the market value of its MSR assets compared to the previous quarter. These fluctuations can affect perceptions of the financial condition of institutions and therefore the willingness of creditors to provide them with the liquidity required for critical operations. Some nonbanks have more diversified operations to mitigate the risks associated with MSR volatility, such as those that originate loans. In addition, our analysis of some nonbank servicers' financial reports revealed their attempts to hedge risk associated with MSR, including one servicer that has engaged in transactions designed to transfer interest rate risk to capital markets.[45] Another way to mitigate the risk of significant MSR concentrations is to hold sufficient capital to absorb potential losses associated with changes in MSR valuations.[46]

Issues at nonbanks related to liquidity challenges and MSR volatility can have implications for consumers, investors, creditors and others. For example, weaker liquidity and capital positions at nonbank servicers could increase the risk of disruption in services to customers. Moreover, when faced with liquidity constraints, nonbank servicers may face greater incentives to resolve delinquencies quickly—such as through loan modification or foreclosure—in order to reduce advance payment obligations for loans in private-label securities. While these steps reduce costs and enhance the financial viability of the individual servicer, they may come at the expense of investors (who may lose revenue through modifications) and borrowers (who may lose their homes through foreclosure).[47] In addition, some nonbank servicers also may attempt to cut operational costs in response to liquidity issues; FHFA officials said that

[45]Market risk can be reduced by transferring some of the risk to counterparties who want exposure to this risk in exchange for a return. In this case the servicer has issued a new type of MSR-backed bond, therefore transferring risk from the servicer to purchasers of the bond.

[46]A 2014 report by Kroll Bond Rating Agency found that MSR holdings for three large nonbanks mortgage servicers ranged from 164 percent to 318 percent of tangible common equity. As a point of reference, under Basel II rules for banks, MSR is limited to 10 percent of a bank's common equity Tier 1 capital. MSR assets not deducted from common equity Tier 1 will be subject to a 250 percent risk-weight in 2018.

[47]Compensation schemes for private-label securities may create incentives for market participants to act against borrowers' and investors' interests, but the extent to which these incentives affect the nonbank servicers' behavior is uncertain.

these measures could lessen servicers' efforts to comply with consumer protection laws and regulations. Finally, Ginnie Mae and the enterprises could potentially experience losses because of risks associated with their nonbank servicer counterparties. For example, FHFA's Inspector General reported that if one of the enterprises' servicers does not comply with their respective servicing requirements, the enterprises can require the servicer to repurchase any improperly serviced loans.[48] FHFA's Inspector General reported that Freddie Mac and Ginnie Mae suffered losses when Taylor, Bean & Whitaker lacked the financial capability to do so.[49]

Several Factors Would Likely Mitigate Effects of the Failure of a Single Large Nonbank Servicer

The failure of a large bank or nonbank servicer could affect both consumers and the servicing industry.[50] Officials from an organization of state supervisors, representatives from Freddie Mac, and the monitor of the national mortgage settlement expressed concern that the failure of a nonbank servicer could have broad effects in the mortgage servicing market. They said that a large nonbank servicer's failure could reduce the liquidity of MSR and negatively affect market confidence in nonbank servicers, or potentially cause additional servicer failures if investors were to divest or lenders were to withdraw funding out of a general concern about servicers' financial performance.

The failure of a large nonbank servicer could also have a material effect on consumers. For instance, the failure could harm consumers through servicing interruptions or other issues during the transfer of their MSR to new servicers. As discussed above, ineffective transfers can have negative consequences for borrowers.

While the effect of a future failure of any large nonbank servicer is uncertain, the effect on the servicing industry would likely be mitigated by several important factors, including the following:

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[48]Federal Housing Finance Agency, Office of Inspector General, *FHFA's Oversight of Risks Associated with the Enterprises Relying on Counterparties to Comply with Selling and Servicing Guidelines*, AUD-2014-018 (Sept. 26, 2014).

[49]Federal Housing Finance Agency, Office of Inspector General, *Systemic Implications Report: TBW-Colonial Investigation Lessons Learned*, SIR-2014-0013 (Washington, D.C.: Aug. 21, 2014).

[50]For the purposes of this report, a servicer is considered to have failed when it files for bankruptcy protection or is otherwise unable to fulfill its servicing responsibilities.

Large nonbank servicers are still relatively small and not interconnected. Various market participants we interviewed suggested that the failure of a large nonbank servicer could potentially have a less significant effect on the mortgage servicing market than the failure of a large bank servicer because banks have greater shares of the servicing market. As discussed previously, the largest nonbank servicer had a market share of about 4.1 percent as of the second quarter of 2015, compared to about 17.1 percent for the largest bank servicer. Similarly, although some large nonbank servicers have a high degree of financial sophistication and relationships with a number of counterparties that could be exposed to risk, they are generally not as interconnected with the financial system as large banks. As a result, unless there were multiple failures of large nonbanks, the effect on broader markets would likely be limited. However, certain segments of the servicing market where nonbanks have larger market shares, such as delinquent loans, could be affected more significantly.

Other small and large servicers are capable of absorbing the portfolios of any one failed nonbank servicer. As discussed earlier, our analysis suggests that, when viewed at the national level, the mortgage servicing industry is relatively unconcentrated, which implies that no one servicer is particularly large relative to the market. As a result, surviving servicers are more likely to have the capacity to absorb a failed servicer's portfolio—even the largest, all else being equal. The increased participation of nonbank servicers has increased the number of servicers capable of and willing to service any one failed servicer's loans, potentially enabling an easier and less costly transfer of loans. For example, our analysis of the enterprises' servicer capacity data suggests that their respective nonbank servicers could provide more back-up servicing capacity than their bank servicers.

The enterprises and Ginnie Mae would likely intervene for agency-backed loans. In the event of a large nonbank servicer's failure whose portfolio cannot be easily absorbed by other servicers, officials from the enterprises and Ginnie Mae told us they would intervene to acquire the failed servicer's MSR or coordinate with the servicer through its bankruptcy process to help ensure that the loans continue to receive service. Some servicers and market participants we interviewed cited previous scenarios, including the transfer of the servicing portfolios of Aurora Bank in 2012; Taylor, Bean, & Whitaker in 2009; Residential Capital in 2012; and Doral Bank in 2015.[51] Ginnie Mae and the enterprises track some servicers' capacity and have agreements in place with servicers to service loans under specific circumstances, including another servicer's failure. These agreements generally outline terms for the temporary servicing of loans for a failed servicer while it solidifies a transfer plan. The effects of a nonbank servicer's failure on consumers whose loans are not serviced by Ginnie Mae or enterprise-approved servicers, such as consumers with loans in private-label securities, are more uncertain, as discussed later in this report.

In the event of a large nonbank servicer's failure whose portfolio cannot be easily absorbed by other servicers, Ginnie Mae and the enterprises would likely ultimately bear most of the associated costs, although consumers would also likely see some effects. Regulators and market participants said that the ease with which servicing could be continued seamlessly without consumers experiencing harm would depend on the individual nature of the failure. They added that previous transitions from failed servicers were sometimes complicated. According to regulators, despite the intervention of the enterprises and Ginnie Mae in past nonbank servicer failures, some consumers still experienced harm, such as service interruptions or worse. Officials from Ginnie Mae, the enterprises, and regulators agreed that Ginnie Mae or the enterprises could suffer financial or credit losses in the process of acquiring the portfolio of a large failed nonbank servicer. Previous servicer failures have been costly and otherwise challenging for the enterprises and

[51]A combination of difficulties contributed to Taylor, Bean, & Whitaker's failure, including fraud and capacity issues, Ginnie Mae and Freddie Mac had substantial outstanding repurchase demands pending against Taylor, Bean, & Whitaker, and Freddie Mac eventually settled with the company in bankruptcy court over its repurchase obligations. Aurora Loan Services LLC was a subsidiary of Aurora Bank, FSB, which was itself a subsidiary of Lehman Brothers Holdings, Inc. It continued servicing its MSR through bankruptcy before its portfolio, which included servicing rights for Fannie Mae MBS, was transferred to a nonbank servicer that also purchased the company. Issues with Doral Bank's safety and soundness and accounting practices contributed to its failure. Doral Bank's portfolio of Fannie Mae, Freddie Mac, and Ginnie Mae servicing rights was sold to a bank servicer that also purchased its banking operations. Residential Capital, a subsidiary of General Motors Acceptance Corporation, failed in part due to difficulties with generating revenue while servicing its portfolio of delinquent loans. Its servicing portfolio, which included servicing for Ginnie Mae, Freddie Mac, and Fannie Mae, was transferred to two nonbank servicers.

Ginnie Mae. FHFA's Inspector General estimates that the Taylor, Bean & Whitaker failure will ultimately cost Ginnie Mae, Freddie Mac and others billions of dollars.[52] Additionally, HUD's Inspector General determined that Ginnie Mae struggled to adapt to the operational stress of servicing additional loans and failed to adequately identify, analyze, and respond to changes in its control environment during the acquisition of Taylor, Bean & Whitaker's portfolio.[53]

Nonbank Mortgage Servicers Are Generally Subject to Federal, State and Market Oversight, but Some Limitations Exist

Nonbank servicers are subject to federal and state oversight, but regulators may be hindered by incomplete information on the identity of these entities and limited supervisory authority. CFPB directly oversees nonbank servicers' compliance with federal consumer financial laws, but it lacks data on the number and identity of all servicers under its purview. State regulators may also require nonbank entities to be licensed for various mortgage-related activities and may examine their financial soundness and compliance with relevant state laws. In addition, FHFA monitors nonbank servicers' business activities conducted with the enterprises. However, unlike bank regulators, which have a similar responsibility to help ensure the safety and soundness of the entities they supervise, FHFA does not have the statutory authority to examine third parties that do business with the enterprises. In addition to federal regulators, market participants such as Ginnie Mae and the enterprises monitor nonbank servicer activities to manage their risk exposure to nonbank mortgage servicers.

Nonbank Servicers Are Subject to Federal, State and Market Oversight

CFPB Monitors and Enforces Nonbank Servicer Compliance with Consumer Financial Laws

CFPB is responsible for issuing and enforcing regulations related to federal consumer financial protection laws, examining bank and nonbank mortgage servicers for compliance with consumer protection

[52]Federal Housing Finance Agency, Office of Inspector General, Systemic Implications Report: TBW-Colonial Investigation Lessons Learned.

[53]Department of Housing and Urban Development, Office of Inspector General, *Government National Mortgage Association, Washington, DC, Fiscal Years 2014 and 2013 Financial Statements Audit,* , 2015-FO-0003 (Washington, D.C.: Feb.27, 2015).

requirements, and tracking consumer complaints about mortgage servicing. For instance, in February 2013, CFPB issued new regulatory standards for how mortgage servicers handle borrower accounts and provide consumers information about their loans.[54] The rules established new requirements for servicers, including that servicers keep consumers informed about the status of their loan through monthly statements and provide delinquent homeowners timely information about loss mitigation opportunities.

In 2012, CFPB implemented its nonbank mortgage servicer examination program to assess servicer compliance with applicable consumer financial laws. CFPB officials said they use a risk-based approach to select servicers for examination that includes risk factors such as servicer size (volume of accounts serviced) and the number and types of consumer complaints received.[55] The mortgage servicing section of CFPB's most recent Supervision and Examination Manual defines the types of servicing activities that may be reviewed during an examination, including servicing transfers, payment processing, and loss mitigation efforts.[56]

As of August 2015, CFPB's examinations of nonbank servicers revealed various possible violations of relevant laws and regulations or operational deficiencies, and CFPB required corrective actions to address those deficiencies, as applicable. For example, one examination we reviewed noted that the servicer did not receive key information and documentation during the transfer of MSR from the previous servicer, such as paperwork for loss mitigation activities already in process for a borrower at the time of the transfer. CFPB required the servicer to strengthen its transfer policies and procedures to require all necessary information from the prior servicer at the loan transfer. In November 2015, CFPB summarized its

[54]Mortgage Servicing Rules Under the Real Estate Settlement Procedures Act (Regulation X), 78 Fed. Reg. 10696 (Feb. 13, 2014); Mortgage Servicing Rules Under the Truth in Lending Act (Regulation Z), 78 Fed. Reg. 10902 (Feb. 14, 2013).

[55] CFPB's examinations include follow-up reviews on a servicer's efforts to address specific corrective actions from previous examinations.

[56]Consumer Financial Protection Bureau, *CFPB Supervision and Examination Manual, version 2* (October 2012).

aggregate examination findings for both bank and nonbank servicers.[57] For example, CFPB found that at least one servicer did not send loss mitigation acknowledgment notices to borrowers who had requested payment relief on their mortgage payments, as required by Regulation X.[58] CFPB examiners also identified a deceptive practice related to how at least one servicer disclosed the terms of a payment plan that deferred mortgage payments. According to CFPB, the servicer's communications included misleading representations about how deferred payments worked. CFPB also directed at least one servicer to disclose clearly how interest accrues while on the plan and its effect on monthly payments after the deferment period concludes.

Some State Regulators Monitor Nonbank Servicers through their Licensing and Examination Programs

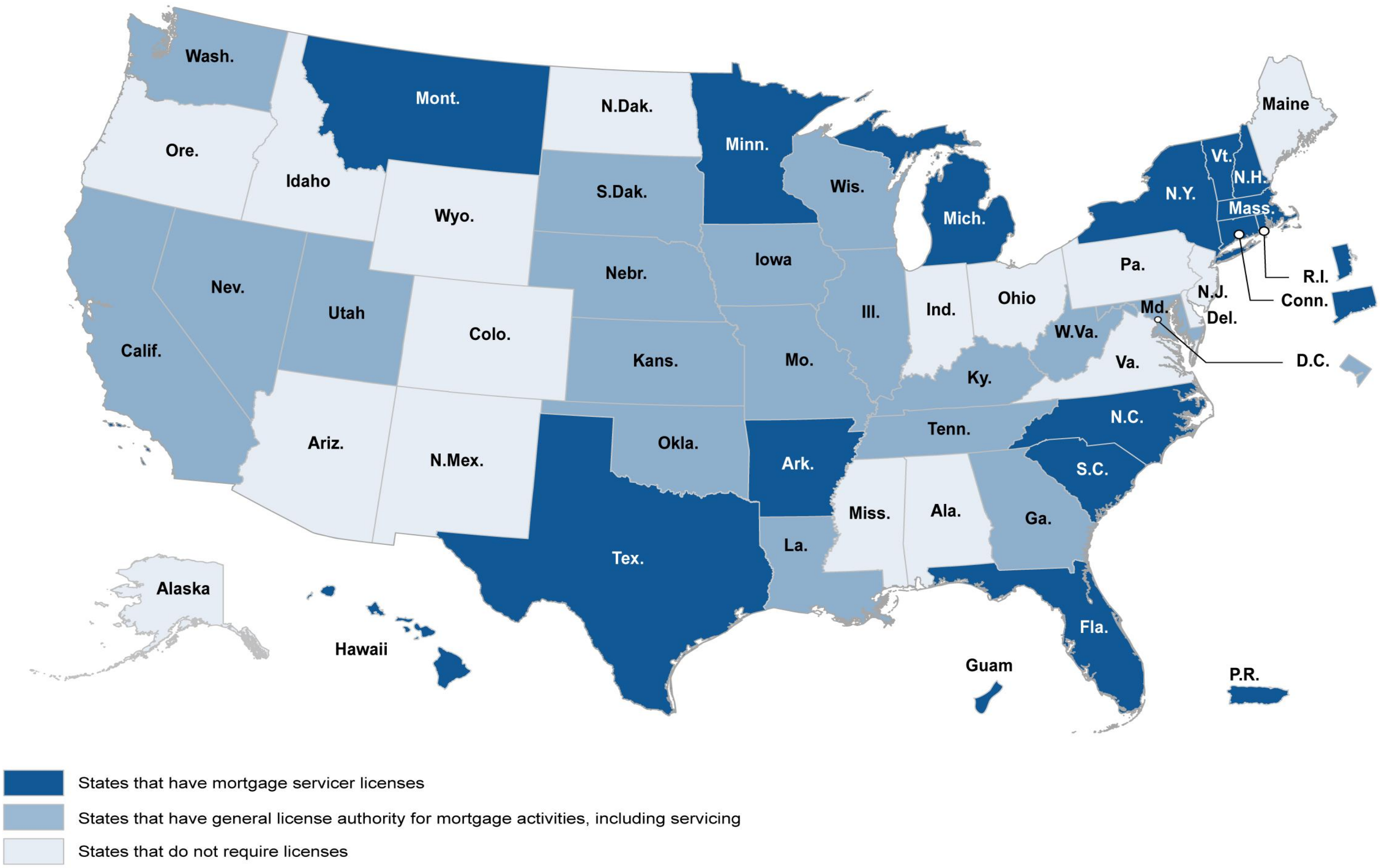
State regulators have varied prudential and operational requirements for nonbank servicers, which largely correlate to each state's schemes for licensing servicers and examination of nonbank servicers' activities. According to the Conference of State Bank Supervisors (CSBS), 36 states, district, and territories (including the District of Columbia, Guam and Puerto Rico), license mortgage servicers, as shown in figure 4. Of these 36, 17 states and districts require companies to hold a license specific to mortgage servicing.[59] Officials from one state we spoke with that requires specific mortgage servicing licenses said their state has its own financial requirements for nonbank servicers, including minimum standards for net worth and liquidity. To monitor the safety and soundness of nonbank servicers, this state also examines nonbank servicers every 1 to 3 years, depending on the servicer's size and compliance history. These examinations include a review of the nonbank servicer's organization structure, internal controls, financial condition, and ability to withstand economic downturns.

[57]Consumer Financial Protection Bureau, *Supervisory Highlights*, Issue 9, Fall 2015(Washington, D.C.: Nov. 3, 2015). This CFPB publication provides the public and the financial industry with a summary of any unfair practices, violations, and deception. CFPB does not differentiate in its highlights whether findings were based on examinations of bank or nonbank servicers.

[58]Under regulations governing loss mitigation activities, servicers must notify the borrower in writing within 5 days after receiving the borrower's loss mitigation application that the servicer acknowledges receipt of the application and that the servicer has determined that the loss mitigation application is either complete or incomplete. 12 C.F.R. § 1024.41(b)(2)(i)(B).

[59]According to CSBS, 840 nonbank companies were licensed as of August 2015.

Figure 4: Map of State, District and United States Territory Mortgage Servicing Licensing Requirements as of June 2015



Source: GAO analysis of Conference of State Bank Supervisors data; Map Resources (map). | GAO-16-278

The 19 other states and territories that license servicers require them to apply for general licensing authority, which may include a number of activities in addition to servicing, such as lending, handling escrow payments, or debt negotiation (see previous fig. 4). According to officials from one state with such requirements, their state requires nonbank mortgage servicers to be approved as a servicer with at least one federal housing agency, such as Ginnie Mae or the Federal Housing Administration. Officials from this state also said that servicers licensed in their state must maintain a minimum net worth and a surety bond and submit annual audited financial statements.

The 17 states that do not license nonbank servicers provide varied levels of oversight of nonbank servicers. For instance, we interviewed officials from one state that examines mortgage brokers and lenders at least once every 3 years. Officials from this state said that if their office receives complaints about licensees related to escrow payments and loan modifications, they work to find resolution for the consumer or take regulatory action as appropriate and permitted. Complaints filed against entities they do not oversee are forwarded to the appropriate federal regulator, such as CFPB. An official from another state said that their state office does not have legislative authority to license nonbank servicers and, therefore, has no oversight over them because they can examine only licensees. Additionally, the official said that their office forwards any complaints about mortgage servicing to its state attorney general.

Although state regulators, CFPB, Ginnie Mae, and the enterprises have all established a variety of standards that apply to nonbank servicers, CSBS and American Association of Residential Mortgage Regulators noted that nonbank servicers are not subject to consistently comprehensive safety and soundness standards. In response to the growth of nonbank mortgage servicers, CSBS and the American Association of Residential Mortgage Regulators issued proposed prudential standards for nonbank servicers in March 2015 for comment.[60] The proposed standards include a set of baseline prudential standards applicable to all nonbank mortgage servicers in eight areas: capital, liquidity, risk management, data standards, data protection (including cybersecurity), corporate governance (including auditing requirements), servicing transfer requirements, and change of control requirements. Under the proposed standards, more complex nonbank servicers would also have additional requirements for capital, liquidity, stress testing, and living will and resolution plans, which would illustrate a possible plan to recover in the event a servicer experiences hardship.[61] In its press release, CSBS stated that state regulators have primary credentialing and licensing authority over these nonbank servicers. They added that state prudential regulation of these

[60]American Association of Residential Mortgage Regulators and the Conference of State Bank Supervisors, *Proposed Regulatory Prudential Standards for Non-Bank Mortgage Servicers*, Executive Summary (Mar. 25, 2015).

[61]The additional standards would apply to firms according to factors such as the number or dollar amount of loans serviced, the composition of the servicing portfolio, and the entity's primary business (such as sub-servicing).

servicers would, among other goals, help provide better protection for borrowers, investors, and other stakeholders.

CSBS received 26 comment letters on the proposed prudential standards, and all but 1, which fully supported the proposal, raised concerns about the effect of the standards, especially on smaller servicers.[62] For example, 7 letters representing the interests of smaller servicers said that the proposed minimum net worth requirement of $2.5 million, which is similar to the enterprises' capital requirements discussed later, may not be attainable for some small servicers. Four letters suggested that, similar to CFPB's small servicer exemption, nonbank servicers that service smaller portfolios (5,000 or fewer loans) or smaller-value portfolios (totaling less than $750 million in unpaid principal balance) should be exempt from the proposed standards.

In addition, some commenters on the proposed prudential standards, as well as some nonbank servicers we interviewed, raised concerns that variations between federal and state regulations can result in regulatory burden and increase compliance costs that may ultimately be passed on to consumers. While understanding the importance of consumer protection regulations, they said that bank and nonbank servicers must comply with both federal and state laws. As an example, one servicer explained that it operates in one state where it must follow rules for contacting customers that are more specific than the federal requirements. Other servicers mentioned that complying with the varied foreclosure and mitigation requirements among states can be cumbersome and time consuming, especially in states that require judicial

[62]CSBS received 26 comments letters on the proposed prudential standards from the following organizations: American Bankers Association, Associated Mortgage Investors, Bennett Interests, California Mortgage Association, Community Mortgage Lenders of America, Creative Homebuyers Inc., Habitat for Humanity, Illinois Manufactured Housing Association, Manufactured Housing Institute, Manufactured Housing Institute Supplemental, Mortgage Bankers Association, National Reverse Mortgage Lenders Association, Ohio Manufactured Homes Association, Plaza Home Mortgage, Pueblo de Palmas Inc., Rishel Consulting, Shellpoint Partners, SRC Management, state associations joint comments, Texas Funding Corporation , Texas Land and Mortgage, Texas Mortgage Bankers Association, Triad Financial Services, Veterans United Home Loan, Williams Mullen, and Wisconsin Housing Alliance.

review for all foreclosures.[63] CSBS officials said they do not have a specific time frame for releasing the final prudential standards. They said they are reviewing the comments received and discussing how to appropriately scale the standards so as not to disadvantage smaller servicers while holding larger, more complex operations to sufficient standards. Moreover, each state can choose whether and how to adopt the standards, which could introduce additional variation among states.

State regulators may also coordinate nonbank servicer oversight via other state regulator associations and agreements. For example, CSBS convenes a Multi-State Mortgage Committee to coordinate examination of servicers that operate in 10 or more states.[64] The committee's 2014 report noted that committee-led examinations of nonbank servicers revealed the need for improvement in management information systems for accurate and efficient servicing of mortgage loans.[65] In 2014, the committee also led the approval of a nationwide protocol for mortgage supervision, which set forth goals for state coordination of nonbank servicer oversight.[66] As another example, CSBS and other state regulator authorities signed a memorandum of understanding that included planned steps to facilitate information sharing about examination of nonbank entities, including nonbank servicers, such as developing a list of nonbank entities subject to examination; developing protocols for scheduling, sharing and updating examination schedules;

[63]In judicial foreclosure states, lenders must provide evidence of delinquency to a court in order to move a borrower into foreclosure, which could result in longer foreclosure timelines. In nonjudicial foreclosure states, lenders can issue notices of default directly to the borrower without court action.

[64]The Multi-State Mortgage Committee includes 10 appointed members from various states that serve 2-year terms; members were last appointed in 2014. The current committee includes members from Arkansas, California, Florida, Illinois, Maryland, Massachusetts, New Hampshire, New York, Oregon, and Washington.

[65]American Association of Residential Mortgage Regulators and the Conference of State Bank Supervisors, *Multi-State Mortgage Committee, Report to State Regulators* (2014).

[66]The protocol outlined six goals: (1) protect consumers; (2) ensure the safety and soundness of multistate mortgage entities; (3) identify and prevent mortgage fraud; (4) supervise and examine in a seamless, flexible, and risk-focused manner; (5) minimize regulatory burden and expense; and (6) foster consistency, coordination, and communication among state regulators. As of June 2014, all states except Colorado had adopted the agreement.

and designating a single point of contact for each nonbank entity scheduled for examination.[67]

FHFA Recently Increased Its Indirect Oversight of Servicers Used by the Enterprises

FHFA provides indirect oversight of nonbank servicers through its supervision of the enterprises, including monitoring the enterprises' risk management processes and MSR transfer activities. Among other things, FHFA officials can participate in enterprise governance meetings to understand the enterprises' counterparty monitoring plans or meet directly with some servicers, as needed or requested. For example, as part of their efforts to monitor servicers' operational difficulties, FHFA officials said they worked with the servicers to develop and implement an action plan to help reduce the enterprises' risk to potential losses by that servicer.

As part of its oversight role, FHFA also reviews and approves MSR transfers over a specific threshold and has issued internal guidance to the enterprises on the execution of MSR transfers. The enterprises submit monthly reports to FHFA regarding all of their MSR transfers, including information on approval and transfer status, transferees, reason for the transfer, and the volume and value of the transfer.[68] FHFA monitors trends in the enterprises' segment of the mortgage servicing market, including trends in mortgage servicer agreements and counterparty risks posed to the enterprises. FHFA officials also monitor the types and numbers of loans being transferred from one servicer to another, which can indicate potential financial or operational problems with servicers.

In January 2015, in response to changes taking place in the servicing industry and to better ensure the safe and sound operation of the enterprises and provide greater transparency, clarity, and consistency to industry participants and other stakeholders, FHFA directed the enterprises to issue updated minimum financial eligibility requirements for all of their servicers, including net worth, capital ratio, and liquidity criteria. In May 2015, the enterprises issued the new standards, which apply to all

[67] In 2013, CSBS, the American Association of Residential Mortgage Regulators, the Money Transmitter Regulators Association, the National Association of Consumer Credit Administrators, the North American Collection Agency Regulatory Association, and the National Association of State Credit Union Supervisors signed the Nationwide Cooperative Agreement for State Governance of NonDepository Supervision.

[68] Value is based on unpaid principal balance of the loans in the transfer.

servicers.[69] According to FHFA, these requirements align the minimum financial requirements that servicers must meet in order to do business with Fannie Mae and Freddie Mac. FHFA officials said the new requirements became effective December 31, 2015.

Market Participants Monitor Nonbank Servicers

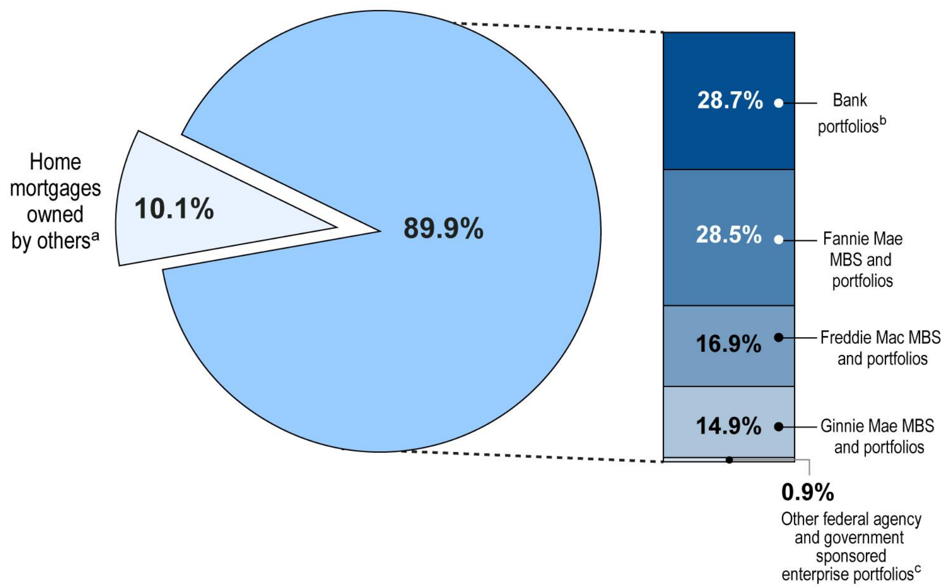
Market participants—including the enterprises, Ginnie Mae, and federal agencies that insure or own loans—also monitor the activities of a significant proportion of the mortgage market. As of the second quarter 2015, approximately 90 percent of all outstanding home mortgages either (1) were owned by a bank, federal agency or government sponsored enterprise (including Fannie Mae and Freddie Mac) or (2) were in MBS guaranteed by Ginnie Mae or issued by a government sponsored enterprise, as shown in figure 5.[70] Servicers of these loans must meet—or must ensure that entities servicing their loans meet—certain operational and financial requirements. For example, Freddie Mac's and Fannie Mae's servicing guides each identify minimum requirements for adequate staff and facilities for servicing, net worth, and liquidity, as well as internal audit and management control processes to evaluate servicing.[71] The remaining 10 percent of home mortgages are owned by various entities, including state and local governments, pension funds, and life insurance companies, or they are held in private-label securities. Some nonbank servicers that operate exclusively in this segment of the market are subject to less regulatory oversight. However, given data limitations, we did not determine the number or identities of nonbank servicers that do not service loans for federal agencies or federally regulated entities, including banks and the enterprises. We discuss limitations in the data available on nonbank servicers and the potential effect these limitations may have for regulatory oversight later in this report.

[69]Federal Housing Finance Agency, *Fannie Mae and Freddie Mac Issue New Eligibility Requirements for Seller/Servicers*, News Release (May 20, 2015).

[70]For the purposes of this analysis, banks also include credit unions. Additionally, this analysis includes a small number of mortgages owned by Ginnie Mae. In addition to Fannie Mae and Freddie Mac, the Federal Home Loan Banks and the Farm Credit System are government sponsored enterprises that also own home mortgages.

[71]Fannie Mae's servicing guide can be found at https://www.fanniemae.com/content/guide/servicing/index.html. Freddie Mac's servicing guide can be found at http://www.freddiemac.com/singlefamily/guide/.

Figure 5: Percentage of Home Mortgages Owned or Guaranteed by Entity, as of 2015Q2



Source: GAO analysis of data on the unpaid principal balance of outstanding home mortgage loans from the Board of Governors of the Federal Reserve System. | GAO-16-278

[a]Home mortgages owned by others are home mortgage loans owned by households and nonprofits; nonfinancial businesses; state and local governments, including state and local government employee retirement funds; life insurance companies; private pension funds; issuers of asset backed securities (such as private-label securities); finance companies; and real estate investment trusts.

[b]Bank portfolios are loans owned by federal- and state-chartered depository institutions, credit unions, foreign banking offices in the U.S., and banks in U.S. affiliated areas.

[c]Other federal agencies and government sponsored enterprises that own home mortgage loans are the Federal Housing Administration, the Department of Veterans Affairs, the Federal Deposit Insurance Corporation, the Department of Agriculture, the Farm Credit System, and the Federal Home Loan Banks.

The enterprises and Ginnie Mae review servicer activities to help ensure compliance with their requirements. For example, the enterprises review servicers' financial condition as well as their policies and procedures for loss mitigation, payment processing, and document management. Enterprise reviews of nonbank servicers that we examined noted operational areas that needed improvement and steps these servicers had taken to address identified weaknesses. The enterprises also have ratings programs to further monitor their servicers' performance. Similarly, Ginnie Mae maintains a watch list to internally identify issuers of MBS and servicers of mortgages that may be subject to additional risk monitoring based on their financial or operational status.

FHFA and Ginnie Mae officials, as well as enterprise representatives, told us that historically, bank servicers, which are subject to continuous prudential oversight by bank regulators, dominated the market. This limited the need for Ginnie Mae or the enterprises to provide additional monitoring beyond their existing processes. However, while banks continue to dominate the market, Ginnie Mae officials and enterprise representatives said that they have increased their monitoring of and requirements for nonbank servicers for a number of reasons. Some of the reasons cited were (1) the increased number of nonbank servicers, (2) the relative complexity of some nonbank servicers' servicing arrangements, and (3) counterparty risk posed to the enterprise. Additionally, Ginnie Mae officials expressed concern about their ability to fulfill some of these increased monitoring responsibilities given resource constraints.

Federal agencies that insure loans, including the Federal Housing Administration and the Rural Housing Service, or guarantee loans, such as the Department of Veterans Affairs, also monitor the activity of their approved nonbank servicers that service loans in their respective programs. These agencies have guidelines to which their approved servicers must adhere, including some requirements that servicers demonstrate financial stability. For example, the Federal Housing Administration requires servicers to maintain minimum net worth and capital thresholds. Additionally, the agency conducts an annual servicer recertification and requires that its servicers guard against servicing errors. The Rural Housing Service tests all of its servicers operations at least once every 2 years, and reviews various loan servicing components, such as application of payments and collection of delinquent accounts. Similarly, the Department of Veterans Affairs reviews all loans referred for foreclosure to ensure that the servicer assessed all possible loss mitigation options.

Other market participants that own mortgage loans, MBS, or MSR, such as investors in real estate investment trusts or private label securities, may contract with servicers to service their loans and establish operational and other requirements for their sub-servicers. For example, one investor we talked to said his company uses multiple servicers, including nonbank servicers, to take advantage of some nonbank servicers' operational capabilities, such as servicing delinquent accounts, accessing excess servicing capacity, and contingency planning should a servicer fail to perform. Officials from the real estate investment trust we interviewed told us that because they are the servicer of record and ultimately accountable for enterprise and agency servicer requirements, they review accounts being serviced by their contracted sub-servicers and meet frequently with their nonbank sub-servicers to ensure compliance. Further, they may also set additional incentives for servicer performance, such as rewards for increased numbers of loss mitigation and workout plans with borrowers. Similarly, private-label MBS are governed by servicing agreements specifying investors' expectations for servicers. However, while trustees of private-label securities offer some oversight, a 2011 Georgetown Public Law research paper noted that investors in these securities may not take actions to address servicer problems.[72] Lastly, representatives from private mortgage insurers told us that bank and nonbank servicers must follow requirements for loss mitigation steps, among other things, outlined in their insurance policies, which compensate lenders or investors for losses due to the default of a mortgage loan.[73]

Rating agencies also assess the financial profile and capital adequacy of servicers. According to representatives from one rating agency with whom we spoke, they evaluate servicer operations as part of rating MBS. The activities reviewed include a servicer's risk control policy, growth rate, and funding sources. Further, when rating agencies evaluate the capital adequacy of servicers, MSR are excluded from the capital calculation because of the variability in MSR valuations. Although they do not directly examine servicers, rating agency representatives said they also meet onsite with servicers, review file samples, and listen to customer calls to assess servicer performance.

Federal Agencies Lack Data and Authority to Oversee Third Party Servicers, including Nonbank Servicers

Data Limitations Challenge CFPB's Oversight of Nonbank Servicers

CFPB lacks a mechanism to collect comprehensive data on the identity of all nonbank servicers. No comprehensive list of nonbank servicers exists, in part because prior to the creation of CFPB in 2010, no federal regulator

[72] Levitin, Adam and Twomey, Tara, *Mortgage Servicing*, 28 Yale K. on Reg. 1-90 (2011).

[73] Private mortgage insurance protects a lender against loss if the borrower defaults on his or her mortgage loan. Private mortgage insurance premiums may be paid by the borrower, the lender, or an investor.

had responsibility for nonbank entities. According to CFPB officials, the agency lacks comprehensive data due to external data constraints, and collecting this information is challenging. Unlike the case of depository institutions where definitive lists exist, there is no single source of data that identifies all nonbank servicers. Although CFPB has been able to compile information on a number of nonbank servicers, the list of servicers identified is not complete and the various sources CFPB used have limitations. For example, CFPB obtains some data from CSBS through an agreement to share nonbank servicer data. But, these data are limited because state-specific servicing information is only required of companies that are Fannie Mae, Freddie Mac, or Ginnie Mae servicers. As a result, the number and identity of nonbank servicers that do not service for the enterprises or Ginnie Mae are unknown. In 2012, CFPB officials estimated that out of a total of 12,711 mortgage servicers, there were approximately 1,300 nonbank servicers for residential mortgage loans. CFPB officials stated that they relied on the best available data, including data they collect from self-reported servicers as well as information from CSBS and other industry data sources to develop this estimate. Although CFPB has a limited record of the servicers that have self-reported to be exempt from some of CFPB's servicing requirements via the small servicer exemption, CFPB does not require small servicers to affirmatively report their status.[74] Therefore, for servicers it has not already identified, CFPB may not be able to oversee compliance with laws and regulations consistently. For example, representatives from one consumer group we spoke with expressed concern that some small servicers escaped attention from regulators and more frequently violated consumer financial laws. CFPB, given its mandate to enforce consumer financial laws, is uniquely positioned to navigate the data challenges associated with compiling this information and putting in place a mechanism to do so.

As stated in its 2015 rule making agenda, CFPB is considering whether rules to require registration of certain nondepository lenders would

[74]Servicers that qualify as small servicers are exempt from certain parts of the mortgage servicing rules. A small servicer is a servicer that (1) services 5,000 or fewer mortgage loans for which the servicer (or an affiliate) is the creditor or assignee; (2) is a Housing Finance Agency (as defined in 24 C.F.R. § 266.5); or (3) is a nonprofit entity that services 5,000 or fewer mortgage loans for all of which the servicer or an associated nonprofit entity is the creditor. 12 C.F.R. § 1026.41(e)(4)(ii). A servicer that services any mortgage loan not originated or owned by the servicer or its affiliate does not qualify as a small servicer, even if it services 5,000 or fewer loans overall.

facilitate supervision.[75] However, CFPB officials told us that CFPB is still deciding whether to issue such a rule or what its scope would be, including which type of nonbank entities would be included. CFPB has not given a time frame for when a decision will be made. CFPB officials also told us that effective January 1, 2018, Regulation C will require Home Mortgage Disclosure Act (HMDA) reporters, including nonbank servicers that also originate loans, to report a legal entity identifier (LEI) with their data submission on mortgage disclosure data.[76] An LEI is a global code that uniquely identifies an entity to facilitate consistent identification of parties to financial transactions. However, if a servicer does not also originate loans, it may not be required to report HMDA data and therefore not required to obtain an LEI.[77] In its 2015 annual report, the Financial Stability Oversight Council (FSOC) noted that LEIs can be used to track the number of and other data on mortgage servicers, including nonbank servicers.[78] In that same report, FSOC recommended that agencies evaluate the use of LEI and promote, where appropriate, its use in reporting requirements and rule makings.

In our January 2009 report on reforming the financial regulatory structure, we established a framework for modernizing the financial regulatory system.[79] As part of this framework, we found that regulators should be able

[75]Semiannual Regulatory Agenda, 80 Fed. Reg. 78056, 78057 (Dec. 15, 2015).

[76]See Home Mortgage Disclosure (Regulation C), 80 Fed. Reg. 66128, 66178 (Oct. 28, 2015). Regulation C defines the coverage criteria for depository and nondepository financial institutions to determine whether or not such institutions are required to report HMDA data. 12 C.F.R. § 1003.2-3. If a financial institution meets the coverage criteria pursuant to Regulation C, it will be effectively required to obtain an LEI (if it does not already have one) and must provide it with each data submission beginning with its 2018 data to be filed by March 1, 2019.

[77]HMDA requires certain depository institutions and for-profit nondepository institutions to collect, report, and disclose data about originations and purchases of mortgage loans, as well as mortgage loan applications that do not result in originations (for example, applications that are denied or withdrawn). 80 Fed. Reg. at 66129. Under the revised Regulation C, effective January 1, 2018, HMDA reporting obligations will apply to nondepository institutions that originate at least 25 closed-end mortgage loans or at least 100 open-end lines of credit in each of the two preceding calendar years and that have a branch or home office in a Metropolitan Statistical Area on the preceding December 31. 80 Fed. Reg. at 66128. Nonbank servicers that do not meet those criteria will not be subject to HMDA-reporting or related LEI requirements.

[78]Financial Stability Oversight Council (FSOC), *Annual Report* (2015).

[79]Semiannual Regulatory Agenda, 80 Fed. Reg. 78056, 78057 (Dec. 15, 2015).

to, among other things, identify institutions and products that pose risks to the system and that similar institutions and products should be subject to consistent oversight. Other federal regulators require registration of entities under their supervision. For example, self-regulatory organizations, broker-dealers, certain transfer agents, clearing agencies, investment companies, and investment advisers are required to register with the Securities and Exchange Commission. Moreover, bank regulators are able to identify entities under their supervision through the bank chartering process, which includes information about third parties, such as nonbank servicers, which may be functioning as service providers for the bank. According to CFPB officials, CFPB's risk-based prioritization framework allows the agency to identify risks facing the nonbank mortgage servicing market. However, without being able to account for the nonbank servicers operating in the market through mechanisms such as registration or expanded use of LEIs, CFPB may face challenges as it seeks to fulfill its mission to enforce consumer protection laws and to study consumers, financial services providers, and consumer financial markets.

FHFA Has Limited Authority to Examine Third Parties Used by the Enterprises

Although FHFA's primary mission is to monitor the safety and soundness of the enterprises, FHFA does not have statutory authority to conduct examinations of third parties, including bank and nonbank servicers that the enterprises use. The enterprises rely on third parties—their approved servicers—to service the mortgage loans in their portfolios. According to FHFA's 2014 report to Congress, the agency's on-site targeted examinations and risk assessments of the enterprises are designed to identify existing and potential risks that could harm the enterprises and to determine the enterprises' compliance with applicable laws and regulations. FHFA officials said that they review the enterprises' risk management framework to determine whether the enterprises can effectively manage the financial, operational, and legal risks from their third parties, such as servicers. Additionally, FHFA has issued guidance and criteria to the enterprises for risk management of third parties, including advisory bulletins on the oversight of servicer relationships, mortgage servicing transfers and contingency planning for high risk and high volume counterparties.[80]

[80]Federal Housing Finance Agency, *Oversight of Single Family Seller/Servicer Relationships*, Advisory Bulletin 2014-07 (Dec. 1, 2014); *Mortgage Servicing Transfers*, Advisory Bulletin 2014-06 (June 11, 2014); and *Contingency Planning for High-Risk or High-Volume Counterparties*, Advisory Bulletin 2013-01 (Apr. 1, 2013).

FHFA officials told us that the enterprises have contractual agreements that include provisions and other arrangements with some large servicers that include provisions that would enable FHFA to examine servicer activities. However, officials said FHFA has not directed the enterprises to include such provisions consistently because amending existing contracts to include these provisions could potentially be cumbersome and because the contracts could still be challenged by servicers. Officials also said that some smaller servicers may not have contracts with the enterprises but rather are simply approved as servicers and required to follow existing servicing guidelines and policies. Further, officials said that, in some instances, nonbank servicers have agreed to meet with and provide access to FHFA without contractual provisions requiring them to do so. However, officials said that, although it has not happened, if a servicer were to contest FHFA's legal authority to examine a servicer directly as part of its assessment of an enterprise's risk management practices, the result could be delays in access and inefficient use of resources.

FHFA's lack of statutory authority to examine third parties that provide services to the enterprises, such as nonbank servicers, is inconsistent with the statutory authority granted to banking regulators by the Bank Service Company Act.[81] Bank regulators, which have similar responsibilities to ensure the safety and soundness of the entities they supervise, have statutory authority to examine third parties that provide services to their supervised banks, including nonbank servicers. For example, the Office of the Comptroller of the Currency (OCC) can review nonbank servicers that service loans for banks under its oversight authority. OCC officials said that they view this authority as important because, when serious issues arise with third parties, the agency has the ability to identify and address third-party deficiencies that could affect the regulated entity. In its current role as conservator of the enterprises, FHFA has very broad authority over the enterprises' operations. Under the conservatorship, FHFA is responsible for the overall management of the enterprises. While FHFA has delegated many operational and other duties to the enterprises' management and boards, the enterprises must consult with,

[81]Under the Bank Service Company Act, whenever a depository institution that is regularly examined by a federal banking regulator, or any subsidiary or affiliate of such a depository institution that is subject to examination by that agency, contracts with a third party to perform banking services, the third party's performance is subject to regulation and examination by the depository institution's regulatory agency to the same extent as if such services were being performed by the depository institution itself on its own premises. 12 U.S.C. § 1867(c).

and obtain approval from FHFA on critical matters. However, in its regulator capacity, FHFA officials said that, unlike bank regulators, FHFA's authority to examine third parties' operations directly in order to determine the enterprises' risk management effectiveness is not based on statutory authority and is therefore open to challenges from third parties. Further, they said that direct access to review the servicers' operations when necessary could be a useful supervisory tool. This tool could become more essential should the enterprises be brought out of conservatorship and FHFA resume its regulator role.

We have previously reported that a regulatory system should ensure that similar risks and services are subject to consistent regulation and that a regulator should have sufficient authority to carry out its mission.[82] Servicers of enterprise MBS and mortgages held in the enterprises' portfolios have a relationship to the enterprises that is similar to that between banks and their third-party servicers. In both cases, servicers may pose risks, such as the consumer effects associated with managing MSR transfers, as previously discussed. Because FHFA is responsible for examining how effectively the enterprises mitigate the risks posed by their servicers, FHFA may need to examine the third parties' activities. In its 2015 annual report, FSOC similarly noted that approaches and authorities to supervise third-party service providers vary across financial regulators, and it supported efforts to synchronize these authorities.[83] In that same report, FSOC supported the passage of new legislation to enhance the security of third-party service providers and the services they provide. Specifically, FSOC supported granting examination and enforcement powers to FHFA to oversee third-party service providers engaged with the enterprises.[84] Although FSOC's focus was on providers of information technology, this concept applies to all third-party service providers. Without adequate authority to directly monitor third parties, such as nonbank servicers, FHFA may be limited in its ability to supervise and monitor the enterprises' risk management. Furthermore, while FHFA could gain access to review the servicers' operations on an ad hoc basis through the enterprises' contractual

[82] GAO-09-216.

[83] Financial Stability Oversight Council (FSOC), *Annual Report* (2015).

[84] In its 2015 annual report, FSOC also supported granting examination and enforcement powers to the National Credit Union Administration to oversee third-party service providers engaged with credit unions.

agreements with some servicers, statutory authority provides certainty and clarity for FHFA's examination powers.

Conclusions

The increased presence of nonbank servicers in the mortgage market since the 2007-2009 financial crisis has created or magnified both benefits and challenges for consumers and the mortgage market. This growth has also generated increased scrutiny of nonbank servicers by federal and state bank regulators, as well as by market participants, and opportunities exist to enhance the supervision and monitoring of nonbank servicers.

- First, although CFPB is responsible for helping to ensure that nonbank servicers comply with federal laws governing mortgage lending and consumer protection, CFPB does not have a mechanism to develop a comprehensive list of nonbank servicers and therefore does not have a full record of entities under its purview. CFPB uses a risk-based framework and other mechanisms to identify risks in the nonbank mortgage servicing market. However, more comprehensive information on the identity and number of nonbank mortgage servicers to supplement the information CFPB already has could help CFPB to more fully understand or respond to consumer risks associated with nonbank servicers or to enforce compliance with consumer protection laws.

- Second, FHFA lacks the statutory authority to examine third parties, such as nonbank servicers, used by Fannie Mae and Freddie Mac. In contrast, bank regulators have such examination authority. As we have previously concluded, a regulatory system should ensure that similar risks and services are subject to consistent regulation and that a regulator should have sufficient authority to carry out its mission. Without statutory authority, FHFA lacks a supervisory tool to effectively monitor third-parties' operations and the enterprises' actions to manage any associated risks.

Matter for Congressional Consideration

To ensure that FHFA has adequate authority to ensure the safety and soundness of the enterprises and to clarify its supervisory role, Congress should consider granting FHFA explicit authority to examine third parties that do business with and play a critical role in the operations of the enterprises.

Recommendation for Executive Action

To improve its ability to monitor the consumer effect of nonbank servicers, the Director of the Consumer Financial Protection Bureau should take action to collect more comprehensive data on the identity and number of nonbank mortgage servicers in the market—for example, by requiring the registration of all nonbank entities or the use of legal entity identifiers.

Agency Comments and Our Evaluation

We provided a draft of this report to the American Association of Residential Mortgage Regulators; CFPB; CSBS; FHFA, including Fannie Mae and Freddie Mac; the Department of Agriculture, including the Rural Housing Service; the Department of Veterans Affairs; the Department of the Treasury; HUD, including the Federal Housing Administration and Ginnie Mae; and OCC for review and comment. CFPB, CSBS, FHFA, and Ginnie Mae provided written comments that we have reprinted in appendix IV, V, VI, and VII, respectively. The American Association of Residential Mortgage Regulators, CFPB, CSBS, the Department of Veterans Affairs, FHFA, Freddie Mac, HUD, and OCC also provided technical comments that we have incorporated, as appropriate. The Department of Agriculture, the Department of the Treasury, and Fannie Mae did not provide any comments.

In its written comments, CFPB agreed that collecting more comprehensive data on the identity and number of nonbank mortgage servicers in the market could prove useful in supplementing the amount of information already available from other sources but that lack of comprehensive data does not materially affect its work. CFPB acknowledged that due to constraints on available data, the Bureau did not have a complete list of the identity of all nonbank mortgage servicers and that better data in the mortgage servicing market could be useful in supplementing the information already available. However, CFPB stated that its use of a risk-based prioritization framework in its oversight of mortgage servicing, which we mentioned in the report, minimized the impact of a lack of a comprehensive list for two reasons. First, CFPB used state regulators' information on servicers to inform its work and collaborated with state supervisors through CSBS to gain an understanding of the mortgage servicing market. Second, CFPB used consumer complaints obtained through its consumer response system to supplement information from other sources to help prioritize its supervisory work in mortgage servicing. CFPB concluded that information on remaining small mortgage servicers not captured by its consumer response system was unlikely to change the risk assessment they conduct. While these current efforts and data sources may provide CFPB with sufficient information for a reasonable understanding of the mortgage servicing market, additional steps to collect comprehensive information on the identity of all mortgage servicers would better ensure effective oversight and consistent consumer protections. In addition, as we noted in the report, mortgage servicing is arranged by the owner of the mortgage, which means the borrower does not select the servicer of his loan. As a result, we maintain that it is important for CFPB to take steps—for instance, through agency actions currently under consideration to identify other nonbank entities—to collect more comprehensive data to further ensure that all nonbank servicers comply with federal laws governing mortgage lending and consumer protection.

In its written comments, CSBS stated that the draft provided compelling arguments for a coordinated state and federal supervision of nonbank mortgage servicers and that including such a recommendation in the report would be very effective. As we stated in the report, a number of regulators, both federal and state, directly and indirectly oversee various aspects of nonbank servicers' operations. We also reported that among other state coordination efforts, a nationwide protocol for mortgage supervision has recently been approved that set forth goals for state coordination of nonbank servicer oversight and that CSBS provides CFPB access to its database on servicers. While we acknowledge the importance of collaboration, we did not evaluate the level and effectiveness of coordination among the state and local supervisors. We will explore whether such an evaluation would be appropriate for future work. CSBS also stated that the state regulators were one of the primary drivers in the National Mortgage Settlement referenced in the draft. Based on this comment and other sources, we have added their role to footnote 33. Finally, CSBS stated that even though our statement that "CFPB does not have a mechanism to develop a comprehensive list of nonbank servicers…" is accurate, it did not present an accurate picture because CFPB has access to CSBS's NMLS, which contains information on the vast majority of nonbank servicers. We acknowledged in the report that CFPB used data from CSBS and other sources for information on nonbank mortgage servicers. However, we also noted that this data might not capture all nonbank servicers and CFPB officials stated that collecting comprehensive data would be challenging due to external constraints.

In its written comments, FHFA concurred with our general conclusion regarding consistent supervision. More specifically, FHFA generally agreed that there should be parity among financial institution regulators in oversight authority with respect to business counterparties of the entities they regulate.

In its written comments, Ginnie Mae generally agreed with our analysis on the trend of nonbank servicers' growth. They commented that while they took no position on the matter for congressional consideration, they believed there was a need to develop prudential oversight frameworks that reflected the unique need of Ginnie Mae and the evolution of the industry and that they were eager to collaborate with other agencies to find solutions. More specifically, Ginnie Mae stated that greater reliance on nonbanks servicers had required Ginnie Mae and other governmental entities to adapt their policies, practices, and capabilities to this changed environment. As such, the agency would continue its efforts to obtain funding to further develop capabilities that were noted in our draft report.

On separate dates in February 2016, the American Association of Residential Mortgage Regulators provided via email technical comments related to the draft report's analysis of the oversight of nonbank mortgage servicers and HUD provided technical comments related to the analysis on the recent trend of mortgage servicing. We summarize their most significant comments and our responses below.

- The American Association of Residential Mortgage Regulators commented on the significance of state regulators' role in mortgage regulation, particularly the ability to provide targeted oversight with respect to safety and soundness and state specific consumer protection laws via state licensing authority. The association further stated that state regulatory licensing and examination authority should not be seen as duplicative, but rather, it works in tandem with federal examination and enforcement authority to provide comprehensive regulation and oversight of the nonbank mortgage service industry. In our report, we provided examples of state regulators coordinating among themselves and with a federal agency to provide oversight of nonbank servicers. We also reported that some commenters to CSBS's proposed prudential standards and some nonbank servicers we interviewed raised concerns that variations between federal and state regulations could lead to regulatory burden. However, we did not draw any conclusions on this matter.

- HUD commented that the rise of nonbank servicers might have been a consequence of the increase in demand for loan servicer services to cope with the additional problem loans with delinquencies, defaults, loss mitigation efforts, loan modifications and refinances, and foreclosures. It further noted that the shift in MSRs to nonbank servicers might have been disproportionately from those troubled loans that were more difficult and costly to service. As such, HUD suggested that what might look like a performance problem by these servicers might well have been an improvement over what might have transpired without these new entrants into the mortgage servicing industry. In our draft report, we included a statement similar to HUD's perspective that some nonbank servicers expanded their businesses by specializing in delinquent loans as delinquency rates rose to historic levels and we acknowledged that along with some challenges, one of the benefits provided by nonbank servicer growth was increased capacity and improved consumer outcomes for delinquent loan servicing.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the appropriate congressional committees and members and other interested parties. This report will also be available at no charge on our website at http://www.gao.gov. Should you or your staff have questions concerning this report, please contact me at (202) 512-8678 or evansl@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in appendix VIII.

Signature of Lawrance L. Evans Lawrance L. Evans, Jr.

Lawrance L. Evans, Jr.
Director, Financial Markets
and Community Investment

Appendix I: Objectives, Scope, and Methodology

The objectives of our report were to examine (1) the characteristics of nonbank mortgage servicers and the recent trends in the mortgage servicing industry, (2) the impact of nonbank servicers on consumers and the mortgage market, and (3) the oversight framework for nonbank servicers.[1]

Examining Trends in the Mortgage Servicing Industry

To examine trends in the shares of mortgage loans serviced by bank and nonbank servicers, we used data from the Board of Governors of the Federal Reserve System (Federal Reserve), the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Federal Reserve Bank of Chicago, the Federal Financial Institutions Examination Council (FFIEC), and the Bureau of Economic Analysis for the period from the first quarter of 2012 through the second quarter of 2015.[2] Using these data, we first estimated the share of mortgages serviced by (1) bank, financial, and savings and loan holding companies, (2) insured depository institutions that are not subsidiaries of bank, financial, or savings and loan holding companies, and (3) credit unions (collectively referred to hereafter as banks). We estimated the share of mortgages serviced by banks using the unpaid principal balance of mortgages held by banks for investment, sale, or trading plus the unpaid principal balance of mortgages banks serviced for others as a percentage of the total unpaid principal balance of mortgages outstanding. We then estimated the share of mortgages serviced by nonbanks as the remainder. We assessed the reliability of the data from all the sources previously listed for the purpose of estimating the share of mortgages serviced by nonbank servicers by reviewing relevant documentation and electronically testing the data for missing values, outliers, and obvious errors, and we found them to be sufficiently reliable for this purpose.

Our estimates of the share of mortgages serviced by nonbank servicers are subject to limitations and should be interpreted with caution.

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[1]For the purposes of this report, we defined banks as bank holding companies, financial holding companies, savings and loan holding companies, insured depository institutions, and credit unions. We refer to these entities collectively as "banks." We define nonbank servicers as entities that are not bank servicers.

[2]For the purposes of this report, we consider mortgages to be home mortgage loans, defined as loans secured by residential properties. These include loans secured by properties with up to four units and farm houses, as well as home equity loans and home equity lines of credit, but exclude other loans (i.e., those secured by multifamily, commercial, and other farm properties).

- First, a key assumption underlying our methodology is that banks service all of the mortgages that they hold for investment, sale, or trading. To the extent that they do not do so, our estimate of the share of mortgages serviced by banks is too high.

- Second, our estimates of mortgages serviced by bank, financial, and savings and loan holding companies are derived from data from the Federal Reserve's Form FR Y-9C, which is reported on a consolidated basis and thus reflects all of the subsidiaries of the bank holding company, including both depository institution and non-depository institution subsidiaries. However, only bank, financial, and savings and loan holding companies with assets at or above a certain threshold file Form FR Y-9C. This threshold was $500 million through the fourth quarter of 2014 and increased to $1 billion starting in the first quarter of 2015. For bank, financial, and savings and loan holding companies with assets at or above the threshold, our estimates of mortgages serviced reflect mortgages serviced by both depository institution and non-depository institution subsidiaries. For bank, financial, and savings and loan holding companies with assets below the threshold, our estimates of mortgages serviced reflect only mortgages serviced by the depository institution subsidiaries as reported on forms FFIEC 031and 041 and do not reflect mortgages serviced by any non-depository institution subsidiaries. To the extent that non-depository institution subsidiaries of bank, financial, and savings and loan holding companies with assets below the threshold service mortgages, our estimates of the share of mortgages serviced by banks are too low and our estimates of the share of mortgages serviced by nonbanks are too high.

- Finally, although we estimated mortgages serviced by nonbanks as the difference between all mortgages and mortgages serviced by banks (including savings and loan holding companies), savings and loan holding companies did not report consolidated data on mortgages held for investment, sale, or trading and mortgages serviced for others prior to 2012. Starting in the first quarter of 2012, savings and loan holding companies filed Form FR Y-9C, which includes data on mortgages held for investment, sale or trading or mortgages serviced for others. Prior to that time, consolidated data on savings and loan holding companies were available through the Thrift Financial Reports, but those data did not include mortgages held for investment, sale, or trading or mortgages serviced for others. Thus, we cannot use our approach to estimate mortgages serviced by nonbanks prior to the first quarter of 2012.

To estimate the share of mortgages serviced by the 10 largest nonbank servicers as a percentage of all mortgages serviced by nonbanks, to determine mortgages serviced by the 20 largest servicers as a percentage of all mortgages, and to determine the number of nonbank servicers among the 20 largest servicers, we used data from Inside Mortgage Finance (IMF), the Nationwide Multistate Licensing System (NMLS), the National Information Center (NIC), and various company websites as well as our estimates of the unpaid principal balance of mortgages serviced by all nonbanks as described above. Specifically, we used data from IMF to identify the largest servicers by unpaid principal balance of mortgages serviced as well as the total unpaid principal balance of all mortgages serviced, and we used data from NMLS, NIC, and various company websites to determine whether those servicers were banks or nonbanks. To determine the amount of mortgages serviced by the 10 largest nonbank servicers, we used data as of the second quarter of 2015.[3] To identify the 20 largest servicers and their share of mortgages serviced, we used data as of the first quarter of 2012 and the second quarter of 2015.[4] We used company websites and NMLS and searched individual bank and nonbank servicer names in the NIC database to verify whether servicers met our definition of a nonbank and to exclude entities that are banks or nonbank affiliates of banks. To determine the reliability of data from IMF, NMLS, and NIC, we reviewed publicly available information on the data sources, and we determined the data were sufficiently reliable to estimate the shares of home mortgages serviced.

To estimate trends in market concentration for the mortgage servicing industry, we used data from IMF. To estimate the market concentration of the mortgage servicing industry and examine trends in market concentration, we calculated the Herfindahl-Hirschman Index (HHI)—a measure commonly used to assess the competitive environment of a market and enforce U.S. antitrust laws—as of the fourth quarter for each year from 2006 through 2014. We assessed the reliability of IMF data for the purpose of calculating the HHI by reviewing relevant documentation and selectively tracing data to source documents, and we found the data

[3]Inside Mortgage Finance, *Issue 2015:36* (Bethesda, Md.: Inside Mortgage Finance Publications, 2015).

[4]Inside Mortgage Finance, *Issue 2015:36*; Inside Mortgage Finance, *Issue 2012:20* (Bethesda, Md.: Inside Mortgage Finance Publications, 2012).

to be sufficiently reliable for this purpose. See appendix II for details on our market concentration analysis.

To estimate the percentage of mortgages serviced by nonbank servicers (by unpaid principal balance) that are held in mortgage-backed securities (MBS) guaranteed by Fannie Mae and Freddie Mac (the enterprises) or the Government National Mortgage Association (Ginnie Mae) or owned by the enterprises, we used data from Ginnie Mae, the enterprises, and SNL Financial as of the second quarter of 2015. Ginnie Mae and Fannie Mae each provided data on the total unpaid principal balance of mortgages serviced by all of their approved servicers and by their approved nonbank servicers. In addition, using an SNL Financial list of banks and Freddie Mac data fields that indicated institution type, we determined Freddie Mac's bank and nonbank servicers. Using these data as well as data on the unpaid principal balance serviced that Freddie Mac provided, we calculated the percentage of mortgages in Freddie Mac's MBS and portfolio serviced by nonbank servicers. Our methodology for identifying bank and nonbank servicers using data from Freddie Mac is subject to limitations, as discussed in appendix III. Despite these limitations, we found the data to be sufficient for our purpose to distinguish between Freddie Mac's bank and nonbank servicers.

To estimate the number of nonbank servicers operating in the mortgage servicing industry as of the second quarter of 2015, we used data from Ginnie Mae and the enterprises. We combined our determined list of Freddie Mac's nonbank servicers (as previously described) with the lists of approved nonbank servicers provided by Ginnie Mae and Fannie Mae and eliminated duplicate names of nonbank servicers that are servicing for more than one of these entities. The list of nonbank servicers we determined can be found in appendix III. While the enterprises could have provided us with historical bank/nonbank classification data on their mortgage servicers, to do so would have required an excessive level of manual effort due to frequent corporate mergers and acquisitions and related servicer changes over time.

To estimate the shares of delinquent loans serviced by banks and nonbank servicers, we used data from Ginnie Mae, the enterprises, and SNL Financial for the second quarter of 2015. For this analysis, we considered a loan to be delinquent if it was 90 days or 3 months or more past due or in foreclosure. Using data from Freddie Mac, we calculated the average share of delinquent loans for bank and nonbank servicers separately by first calculating the number of delinquent loans as a percentage of all loans serviced for each servicer and then calculating the average (mean) shares for bank and nonbank servicers. We obtained the results of the same calculation from Ginnie Mae and Fannie Mae. To assess the reliability of Ginnie Mae and enterprise data for the purpose of estimating the percentage of mortgages serviced by nonbanks and delinquent loans as a share of all loans for bank and nonbank servicers, we compared the data with other publicly available data and interviewed knowledgeable staff from the enterprises and Ginnie Mae, and we determined the data to be sufficiently reliable.

Examining the Effects of Nonbank Servicers on Consumers and the Mortgage Market

To analyze the benefits and risks associated with nonbank mortgage servicers and assess the effect of a large servicer's failure on the market and consumers, we reviewed relevant literature on mortgage servicing, as described later. Further, we interviewed federal and state regulators, consumer groups, and nonbank servicers. We also interviewed representatives from the enterprises; Ginnie Mae; the Federal Housing Administration and other federal agencies that insure loans in Ginnie Mae-guaranteed mortgage-backed securities (MBS); industry organizations that represent banks and mortgage servicers; rating agencies that rate MBS performance; third parties in the mortgage servicing industry, such as mortgage servicing brokers and market researchers; and companies that invest in mortgage servicing rights (MSR), such as real estate investment trusts (we refer to this group collectively as "market participants" in this report unless otherwise noted).

In particular, to assess the risks and benefits of nonbank servicers of delinquent loans, we reviewed two academic studies, identified in our literature search, in more detail. One study compared the effectiveness of banks and nonbanks as servicers of delinquent subprime loans in private-label securities.[5] The other study analyzed the incentives of mortgage servicers and potential risks of those incentives for market participants and consumers.[6] We reviewed the methodologies used in the two studies and determined that they used reasonable methodologies to analyze the issues they raised. While multiple reviewers determined that these studies are

[5]Carolina K. Reid, Michael J. Collins, and Carly Urban, "Servicer Heterogeneity: Does Servicing Matter for Loan Cure Rates?," *University of California, Berkeley: Fisher Center for Real Estate and Urban Economics Working Paper Series* (2014).

[6]See Adam Levitin, J. and Tara Twomey, *Mortgage Servicing*, 28 Yale J. on Reg. 1-90 (2011).

reliable for research purposes, we note that they have limitations and are not necessarily definitive.

To identify examples of operational difficulties that nonbank servicers might encounter, we reviewed examinations of nonbank mortgage servicers conducted by the Consumer Financial Protection Bureau (CFPB), focusing on the types of issues the examinations identified. For each CFPB examination, we identified the number of matters requiring attention; all areas CFPB reviewed and all violations within those areas, including the quality of the servicer’s risk controls and loss mitigation, the servicer’s consumer compliance rating, the overall risk assessed of the servicer, and the expected change in direction of risk; and whether CFPB issued a required corrective action for each area.[7] To review the CFPB examination files, one analyst reviewed and noted the examination findings, a second analyst independently reviewed those results, and then both analysts resolved any discrepancies and agreed on a final summary list of examination findings. However, examination findings are not representative of the broader population of nonbank mortgage servicers because CFPB uses a risk-based framework to select servicers for examination and conducts follow-up examinations of some servicers. Although CFPB provided a list of nonbank servicers examined since August 2015, the identities of examined servicers were deleted in the examination reports we reviewed due to the sensitive nature of such information. Similarly, to compare operational risks between bank and nonbank servicers, we analyzed the results of servicer examinations from the enterprises for their five largest bank and nonbank servicers based on unpaid principal balance serviced, respectively.[8] The review process included one analyst comparing examination results between bank and nonbank servicers, whose analysis was verified by a second analyst. Although examination findings and qualitative assessments sometimes included servicers’ performance as a seller of mortgages to the enterprises in addition to their servicing operations, we still used these as an indicator of a servicers’ operational risk level. Each servicer

[7]To conduct their examinations, CFPB selectively may review an organization’s broader system for compliance management and up to 11 review modules, including an “other” review module, focused on the servicer’s actual servicing performance. CFPB also conducts two types of examinations: point-in-time examinations, which assess servicers’ overall servicing performance, and target examinations, which focus on specific areas for review and include fewer examination steps.

[8]For one enterprise, we analyzed examinations of their six largest bank servicers.

examination identified needed corrective actions, which were categorized by level of risk. The enterprises used different terminology to categorize the risk posed by each examination finding (e.g., “high risk,” “low risk”), but the terms were similar enough to compare findings between the enterprises. We calculated the number of bank and nonbank servicers that received a “satisfactory” or “needs improvement” rating from the enterprises, and compared the results.

Assessing the Potential Impact of a Nonbank Servicer’s Failure

To learn more about the possible effects of a large nonbank servicer’s failure on the servicing market and consumers, we asked all parties we interviewed—including nonbank servicers, regulators, market participants, consumer groups and others, as described later—about the potential consequences of a servicer’s failure. We also reviewed relevant publications by government agencies, the enterprises, Ginnie Mae, and rating agencies on the consequences of past failures, as discussed later.

To analyze the extent to which the increased participation of nonbank servicers might decrease the effect of a large servicer’s failure by providing excess servicing capacity to the market, we reviewed documentation of servicer capacity agreements from the enterprises. One analyst independently reviewed the agreements and a second analyst verified the results. A third analyst reviewed the enterprises’ respective explanations of how they projected excess servicing capacity and determined them to be reliable for our purpose of comparing the excess capacity of their bank and nonbank servicers.

Evaluating the Oversight Framework for Nonbank Servicers

To describe the oversight structure for nonbank servicers, we reviewed literature, as described later, and conducted interviews with regulators and market participants to identify the entities that have a role in monitoring the activities of nonbank servicers. First, to analyze the regulatory framework for nonbank mortgage servicers, we reviewed applicable laws and regulations governing mortgage servicing activities, including consumer protection and debt collection laws. We interviewed officials from CFPB on their oversight process for nonbank servicers, such as examinations, enforcement of applicable laws and regulations, and data collection. We reviewed reports of examinations of nonbank servicers as evidence that CFPB had conducted such examinations since the initiation of examination programs in 2012. We interviewed Federal Housing Finance Agency (FHFA) officials about their oversight of the enterprises’ practices to manage risks associated with servicers and the agency’s authority to examine third parties that conduct business with the enterprises. We also reviewed recently implemented and proposed regulations and standards from CFPB, FHFA, and the Conference of State Bank Supervisors (CSBS), and we interviewed those agencies' officials and selected market participants about the potential effects of those regulations on nonbank servicers and consumers. We analyzed 26 comment letters submitted by various companies and groups regarding CSBS's proposed prudential standards for nonbank servicers as of June 23, 2015. One analyst created a summary of common themes from the comment letters, which were verified by a second analyst. We compared the current regulatory framework to GAO's criteria for a sound financial regulatory framework.[9] As additional criteria, we reviewed a recommendation by the Financial Stability Oversight Council (FSOC) for identifying supervised entities and examining third parties.[10] Using CSBS data, we determined the various licensing requirements for nonbank servicers, and our analysis identified that 17 states and U.S. territories require specific licenses for nonbank servicers, 19 states, including one district, require general licensing authority for nonbank entities to engage in mortgage-related activities, and 17 states and U.S. territories do not require licenses. To understand state oversight of nonbank servicers, we selected five states based on the following criteria:

- two states that require specific licenses applications for mortgage servicing;[11]
- one state that licenses mortgage servicers through a general licensing authority that may allow mortgage-related activities, including servicing; and
- two states that do not require licenses for nonbank servicers.

In addition to interviews with selected state regulators, we verified our findings with officials from CSBS and the American Association of Residential Mortgage Regulators and determined that the data were reliable for the purpose of identifying licensing requirements.

[9]GAO, *Financial Regulation: A Framework for Crafting and Assessing Proposals to Modernize the Outdated U.S. Financial Regulatory System,* GAO-09-216 (Washington, D.C.: Jan. 8, 2009).

[10]Financial Stability Oversight Council, *Annual Report* (2015).

[11]One of the two states that require specific license applications did not respond to our request for information.

To estimate the percentage of all outstanding mortgages whose servicers are subject to monitoring by Ginnie Mae, the government sponsored enterprises (including Fannie Mae and Freddie Mac), federal and state bank regulators, and other federal agencies, we used Federal Reserve data to calculate the percentage of all outstanding mortgages that were held in Ginnie Mae, Fannie Mae, or Freddie Mac MBS or that were held by U.S.-chartered banks, credit unions, banks in U.S.-affiliated areas, foreign banking offices in the U.S., federal agencies (including Ginnie Mae), or government sponsored enterprises for the second quarter of 2015.[12] We assessed the reliability of Federal Reserve data by reviewing relevant documentation, and we found the data to be sufficiently reliable for the purpose of estimating the percentage of outstanding home mortgages by servicers in this category.

To describe the oversight of nonbank servicers by entities that employ their services, we reviewed documents, such as servicer guidance and reports, from Ginnie Mae, the enterprises, the Federal Housing Administration, the Rural Housing Service and the Department of Veterans Affairs regarding their capital and operational requirements for servicers. We also interviewed representatives from an organization representing private mortgage insurers regarding their monitoring activities. In addition, we interviewed representatives from companies that invest in MBS or own mortgage loans about their servicer requirements and their processes for monitoring servicer activities and performance.

Interviews with Regulatory Officials, Market Participants and Consumer Groups

To understand recent trends, effects on consumers, and the oversight framework of nonbank servicers in the mortgage servicing industry, we conducted interviews with the following:

- officials from CFPB; the Federal Housing Administration and Ginnie Mae at the Department of Housing and Urban Development; FSOC and the Office of the Comptroller of the Currency at the U.S. Department of the Treasury;[13] FHFA and the FHFA Office of Inspector

[12]For the purposes of this analysis, government sponsored enterprises in addition to Fannie Mae and Freddie Mac that own home mortgages are the Federal Home Loan Banks and the Farm Credit System, and federal agencies in addition to Ginnie Mae that own home mortgages are the Federal Housing Administration, the Department of Veterans Affairs, the Department of Agriculture, and the Federal Deposit Insurance Corporation.

[13]FSOC officials were not interviewed but provided written comments on our report.

General; the Rural Housing Service at the U.S. Department of Agriculture; and the Department of Veterans Affairs.

- officials from CSBS, a rulemaking and representative organization of financial regulators from all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands;
- representatives from 10 nonbank servicers, including 9 of the 10 largest nonbank servicers, selected based on outstanding unpaid principal balance serviced. These 9 nonbank servicers serviced approximately 77.6 percent of the total outstanding unpaid principal balance serviced by all nonbank servicers as of December 31, 2014.[14] We also interviewed representatives from the largest nonbank sub-servicer— a third-party mortgage servicer that has no fiduciary ties to or investment in the loans they service —as of March 31, 2015.
- representatives from the enterprises, as issuers of MBS with underlying loans that are serviced by bank and nonbank servicers regarding their respective servicer requirements and capacity.
- representatives from four industry associations that were selected because they represent bank and nonbank servicers with a broad range of views and professional experiences related to mortgage servicing, including two that represent smaller nonbank mortgage servicers.[15] The associations were identified based on their published reports about nonbank servicers and recommendations by other interviewees.
- representatives from two rating agencies that rate the performance of MBS. They were selected based on their research specifically on nonbank servicers;

[14]One of the 10 largest nonbank servicers declined our request for an interview.

[15]For the purposes of this report, smaller nonbank servicers are nonbank servicers that were not 1 of the 10 largest nonbank servicers as of December 31, 2014.

- the monitor of the National Mortgage Settlement;[16]
- one academic and representatives from four research firms, based on their research on the mortgage servicing industry.
- representatives from two companies that invest in mortgage servicing rights, including one private investor and one real estate investment trust, which were selected based on our review of background articles and reports, as described below; and
- representatives from three consumer groups that have expertise in the affordable housing field, the mortgage market, and consumer law. These groups were selected because of their members' knowledge about the extent to which nonbank servicers may expose consumers and other institutions to their financial and operational risks (as opposed to issues with the quality of servicing).

Literature Review

To understand the mortgage market and the role of market participants, including nonbank servicers, we reviewed studies by GAO and publications related to the oversight of mortgage servicers and relevant federal regulations, notices that govern the operations of mortgage servicers. We also completed a literature search and reviewed recent reports and articles related to mortgage servicing and nonbank servicers, including academic and government reports, as well as articles and documents by or about the officials and market participants we interviewed, as described previously. We identified relevant literature for review by searching several databases, including Nexis.com and ProQuest, using the following terms: "bank," "nonbank," "home lending," "mortgage servicing," "origination," and names of nonbank servicers, dating back to the 2007-2009 financial crisis. We also identified literature based on recommendations from the interviewees previously described.

[16] On February 9, 2012, the U.S. Attorney General announced that the federal government and 49 states had reached a settlement agreement with the nation's five largest mortgage servicers to address mortgage servicing, foreclosure, and bankruptcy abuses (the "National Mortgage Settlement"). The monitor oversees the servicers and ensures their compliance with the agreement. The participating servicers must file regular reports with the monitor to detail their compliance. Based on these reports as well as its independent oversight, the monitor makes its own determinations on servicer performance and then issues its own reports to the courts and the participants on a semiannual basis. See United States v. Bank of America Corp., No. 1:12-cv-00361 (D.D.C. Apr. 4, 2012)

We used the reports and articles to provide background information and context about nonbank servicers in the mortgage market.

We conducted this performance audit from February 2015 to March 2016 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: GAO Analysis of Market Concentration

To estimate the market concentration of the mortgage servicing industry and examine trends in market concentration, we calculated the Herfindahl-Hirschman Index (HHI)—a measure commonly used to assess the competitive environment of a market and enforce U.S. antitrust laws—as of the fourth quarter for each year from 2006 through 2014. Market concentration is an indicator of the extent to which firms in the market can exercise market power—that is, raise prices, reduce output, diminish innovation, or otherwise harm customers as a result of weakened competitive constraints or incentives. The HHI equals the sum of the squared market shares of each firm operating in a market and thus reflects both the number of firms in the market and each firm's relative size.[1] The HHI ranges from 10,000 (if there is a single firm in the market) to a number approaching zero (in the case of a perfectly competitive market). Department of Justice (DOJ) and Federal Trade Commission (FTC) guidelines suggest that markets with HHIs less than 1,500 are not concentrated, those with HHIs greater than or equal to 1,500 and less than 2,500 are moderately concentrated, and those with HHIs of 2,500 or more are highly concentrated, although other factors play a role.[2] Using data from Inside Mortgage Finance, we defined the mortgage servicing market for each period as the total unpaid principal balance serviced by the 40 largest mortgage servicers and calculated each firm's market share as a percentage of that unpaid principal balance.[3] We assessed the reliability of data from Inside Mortgage Finance for the purpose of calculating the HHI by reviewing relevant documentation and selectively tracing data to source documents, and we found the data to be sufficiently reliable for this purpose.

[1]For example, a market with four firms with market shares of 30 percent, 30 percent, 20 percent, and 20 percent would have an HHI of 2,600 ($30^2 + 30^2 + 40^2 + 40^2 = 900 + 900 + 400 + 400 = 2,600$).

[2]Department of Justice and Federal Trade Commission, *Horizontal Merger Guidelines* (Aug.19, 2010).

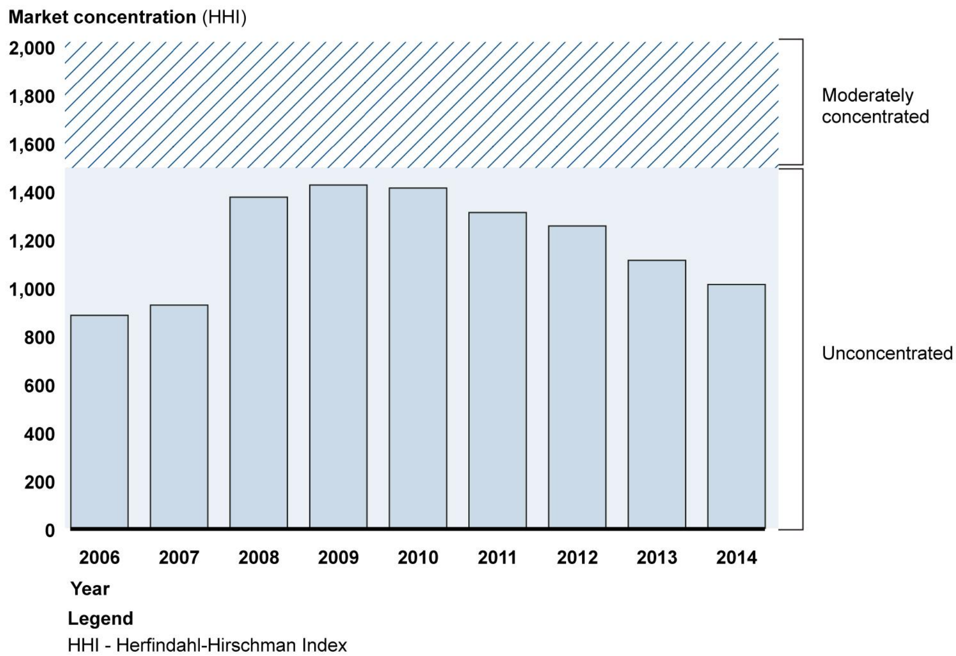
[3]The 40 largest servicers for each period may vary. For data on the 40 largest servicers from 2006 to 2012, see Inside Mortgage Finance, *The 2013 Mortgage Market Statistical Annual,* (Bethesda, Md.; Inside Mortgage Finance Publications, 2013); for 2013 data on the 40 largest servicers, see Inside Mortgage Finance, *Mortgage Market Statistical Annual 2014 Yearbook*, (Bethesda, Md.: Inside Mortgage Finance Publications, 2014); and for 2014 data, see Inside Mortgage Finance, *Mortgage Market Statistical Annual 2015 Yearbook*, (Bethesda, Md.: Inside Mortgage Finance Publications, 2015).

Our analysis of market concentration has limitations and should be interpreted with caution. Although we evaluate our estimate of the HHI for the mortgage servicing market using DOJ/FTC guidelines, we did not define the market for mortgage servicing using DOJ/FTC guidelines for defining antitrust markets. Rather, we calculated the HHI for the U.S. mortgage servicing industry using shares of outstanding mortgages in the United States serviced by the 40 largest servicers each year.[4] Because Inside Mortgage Finance data are limited to the 40 largest mortgage servicers for 2006 and 2007, we limited the servicers included in our calculations for all years, from 2006 through 2014, to the 40 largest servicers to treat each period consistently. Thus, we treated the 40 largest servicers for each period as the only competitors in the market. To the extent that the industry is segmented by regions, states, or other subnational areas, the HHIs for the mortgage servicing industry within those areas may differ from the HHI for the U.S. mortgage servicing industry as a whole. Additionally, many other factors contribute to the actual degree of concentration in a market, and the HHI can only indicate the potential for firms to exercise market power; it does not imply that firms will actually choose to exercise market power in ways that are detrimental to consumers.

Our analysis suggests that the mortgage servicing industry was likely unconcentrated throughout the period from the fourth quarter of 2006 through the fourth quarter of 2014, although it was more concentrated leading up to and during the 2007-2009 financial crisis. Our analysis also suggests that the mortgage servicing market has likely become less concentrated since 2009. Figure 6 shows our estimates of the concentration of the mortgage servicing industry for each year during this period based on our analysis.

[4] For the purposes of this report, we consider mortgages to be home mortgage loans, defined as loans secured by residential properties. These include loans secured by properties with up to four units and farm houses, as well as home equity loans and home equity lines of credit, but exclude other loans (i.e., those secured by multifamily, commercial, and other farm properties).

Figure 6: Concentration in the Market for Mortgage Servicing, from Fourth Quarter 2006 through Fourth Quarter 2014



Source: GAO analysis of data from Inside Mortgage Finance. | GAO-16-278

Note: To calculate the Herfindahl-Hirschman Index (HHI), we used data on the shares of home mortgage loans serviced by the 40 largest mortgage servicers as of the fourth quarter of each year from 2006 to 2014. The HHI is equal to the sum of the squared market shares of firms competing in a market and ranges from 0 to 10,000, with larger values indicating more concentration. Department of Justice (DOJ) and the Federal Trade Commission (FTC) guidelines suggest that markets with HHIs less than 1,500 are not concentrated, those with HHIs greater than or equal to 1,500 and less than 2,500 are moderately concentrated, and those with HHIs of 2,500 and higher are highly concentrated, although other factors play a role. Although we evaluate our estimate of the HHI for the mortgage servicing market using DOJ/FTC guidelines, we did not define the market for mortgage servicing using DOJ/FTC guidelines for defining antitrust markets. Rather, we calculated the HHI for the U.S. mortgage servicing industry using shares of outstanding home mortgage loans in the United States serviced by the 40 largest servicers each year. To the extent that the industry is segmented by regions, states, or other subnational areas, the HHIs for the mortgage servicing industry within those areas may differ from the HHI for the U.S. mortgage servicing industry as a whole. Due to data limitations, this calculation only includes data on the shares of home mortgage loans serviced by the 40 largest mortgage servicers. As a result, the true HHIs for the mortgage servicing market are likely smaller than the estimates presented here, suggesting the market is even less concentrated.

Appendix III: Nonbank Servicers Identified during Audit

We identified a partial list of nonbank mortgage servicers based on a review of the servicing portfolios of Fannie Mae and Freddie Mac (the enterprises) and Ginnie Mae. To generate this list, we requested and received a list of nonbank mortgage servicers associated with Ginnie Mae's portfolio from the agency and a similar list from Fannie Mae, based on our definition of "nonbank servicer" provided to both.[1] We also obtained a list from Freddie Mac of all mortgage servicers, banks and nonbanks, associated with Freddie Mac's servicing portfolio. Freddie Mac's list contained identifiers that allowed us to reliably distinguish between bank and nonbank mortgage servicers; however some entities' classifications were ambiguous. For those cases, we implemented a methodology to eliminate bank mortgage servicers from the Freddie Mac data, as explained below. We combined the resulting list of nonbank mortgage servicers derived from Freddie Mac's data with the lists of nonbank mortgage servicers provided by Ginnie Mae and Fannie Mae. We then standardized the spelling of company names and eliminated apparent duplicates. The 641 servicers in table 3 below reflect only those servicers we identified based on Ginnie Mae and enterprise data; other servicers are not included. For example, in 2012, CFPB officials estimated that there were approximately 1,300 nonbank servicers for residential mortgage loans, based on their analysis of data from the Conference of State Bank Supervisors (CSBS) and other industry data sources. As a result, this is not a comprehensive list of nonbank mortgage servicers and should not be treated as a complete listing of these entities.

Freddie Mac nonbank mortgage servicers included in this list are those that remained after we took a series of steps to remove bank mortgage servicers from the full list of Freddie Mac mortgage servicers we received from the agency. First, we considered an entity to be a bank and excluded it if it was identified by the enterprise as a commercial bank, credit union, or savings association in any field associated with the entity. Using first a unique regulatory identification number (ID) and then name of the entity, we also excluded any entity that appeared in the SNL Financial (SNL) list of all regulated U.S. depository institutions.[2] We

[1]For the purposes of this report, we defined banks as bank holding companies, financial holding companies, savings and loan holding companies, insured depository institutions, and credit unions, including any affiliates or subsidiaries of these types of institutions. For the purposes of this report, we refer to these entities collectively as "banks." We define nonbank servicers as entities that are not bank servicers.

[2]SNL is a private service that aggregates and disseminates data from quarterly regulatory reports, among other information.

matched the two lists by ID and name at both the servicer and corporate parent/holding company level when possible. If a Freddie Mac servicer's ultimate parent was identified as a bank by SNL, we considered the servicer to be a bank mortgage servicer. Therefore a servicer was eliminated from our list if it was a bank; if it was owned by a bank; or if its owner also owned a bank. Some entities did not have an ID to permit a robust crosschecking against SNL's master list of banks. In those cases we relied on matches by name, which introduced some potential for error into the identification procedure.

As noted earlier, the list in table 3 is not exhaustive of all nonbank mortgage servicers and is subject to error due to our methodology for coding nonbank mortgage servicers in Freddie Mac's list of servicers. Specifically, our method for identifying nonbank servicers is imperfect and may have resulted in some identification error, particularly for those institutions in Freddie Mac's portfolio that we were not able to crosscheck against the SNL database of banks using a unique identifier. In some cases we were not able to distinguish similarly named institutions from each other, specifically when there was no state information to assist in identification. As a result, table 3 may contain some depository institutions or affiliates and subsidiaries of depository institutions or financial holding companies, may exclude some nonbanks that actually met our criteria for inclusion or may contain some duplicates. Also, because we designated nonbank affiliates and subsidiaries of insured depository institutions as banks, we have excluded some entities others might designate as nonbank servicers. Further, some companies' names may be affected by our standardization exercise or may have typographic errors related to the primary datasets we use to construct the master list. Lastly, some servicers listed in Table 3 may no longer be active due to merger, acquisition or bankruptcy.

Table 3: Select Nonbanks Servicers Identified through Ginnie Mae and the Enterprises by Location

	Nonbank Servicer as identified	Location
1	1st 2nd Mortgage Company Of NJ, Inc.	NJ
2	1st Alliance Lending, LLC	--
3	1st Republic Mortgage Bankers, Inc.*	--
4	1stpalm Financial Services, LLC*	--
5	21st Mortgage Corporation	TN
6	360 Mortgage Group, LLC	TX
7	A+ Mortgage Services, Inc.	WI

	Nonbank Servicer as identified	Location
8	Academy Mortgage Corporation	UT
9	Acopia, LLC	TN
10	ACRE Capital LLC	TX
11	Advantage Investors Mortgage Corporation*	--
12	Advisors Mortgage Group, LLC	NJ
13	Aegis Mortgage Corporation*	--
14	Affiliated Mortgage Company	--
15	Agfirst Farm Credit Bank	SC
16	Agstar Financial Services	MN
17	AKT American Capital, Inc.	CA
18	Alabama Housing Finance Authority	AL
19	Alliance Financing Mortgage Company*	--
20	Allied Home Mortgage Corporation*	--
21	Allied Mortgage Group, Inc.	PA
22	Almandine Residual Holder I, LLC*	--
23	Alpha Mortgage Corporation*	--
24	Amcap Mortgage, Ltd.	TX
25	Amegy Mortgage Company, LLC	--
26	America First Tax Exempt Investors, L.P.*	--
27	American Bancshares Mortgage, LLC	FL
28	American Bantrust Mortgage Services Corporation*	--
29	American Federal Mortgage Corporation	NJ
30	American Finance House LARIBA	CA
31	American Financial Network, Inc.	CA
32	American Financial Resources, Inc.	NJ
33	American Home Mortgage Corporation*	--
34	American Home Mortgage Acceptance, Inc.*	--
35	American Internet Mortgage, Inc. DBA Aimloan.Com	CA
36	American Mortgage Service Company	OH
37	American Neighborhood Mortgage	--
38	American Neighborhood Mortgage Acceptance Company	NJ
39	American Pacific Mortgage Corporation	CA
40	American Portfolio Mortgage Corporation	IL
41	Americash	CA
42	AmeriFirst Financial Corporation	MI
43	Amerifirst Financial, Inc.	AZ
44	Amerihome Mortgage Corporation, LLC	CA

	Nonbank Servicer as identified	Location
45	Amerihome Mortgage Company, LLC	MI
46	Ameripro Funding	TX
47	Amerisave Mortgage Corporation	GA
48	Ameritrust Mortgage Corporation	IL
49	Amerus Mortgage, Inc.*	--
50	Angel Oak Home Loans LLC	GA
51	Apex Home Loans, Inc.	MD
52	Arbor Commercial Mortgage, LLC	NY
53	Ark-La-Tex Financial Services, LLC	TX
54	Arkansas Development Finance Authority	AR
55	Armstrong Mortgage Company	--
56	Arvest Mortgage Company	--
57	Aspire Financial, Inc.	TX
58	Assurance Financial Group, LLC	LA
59	Atlantic Bay Mortgage Group, Inc.	VA
60	Atlantic Home Loans, Inc.	NJ
61	Atlantic Pacific Mortgage Corporation	NJ
62	Augusta Mortgage Company	--
63	Aurora Financial Group, Inc.	NJ
64	Axia Financial, LLC	WA
65	Backend Mortgage Insurance*	--
66	Bankers Guarantee Title & Trust	OH
67	Barrons Mortgage Group	NC
68	Bay Equity, LLC	CA
69	Bay Valley Mortgage Group	CA
70	Bayview Loan Servicing, LLC	FL
71	Bellwether Enterprise Real Estate Capital, LLC*	--
72	Berkadia Commercial Mortgage LLC	PA
73	Berkeley Point Capital LLC	MD
74	Blair Services of America Inc.	NY
75	Bogman Inc.	MD
76	Broadhollow Funding*	--
77	Broadview Mortgage Corporation	CA
78	Broker Solutions, Inc. DBA New American Funding	CA
79	BVRT 2015-1 Trust*	--
80	C. U. Mortgage Services, Inc.	MN
81	Caliber Home Loans, Inc.	TX

	Nonbank Servicer as identified	Location
82	California Housing Finance Agency	CA
83	California Mortgage Advisors, Inc.	CA
84	C&F Mortgage Corporation	VA
85	Capital Center LLC	VA
86	Capital International Financial Inc.	FL
87	Capmark Finance, Inc.*	--
88	Cardinal Financial Company	PA
89	Cardinal Financial Company, L.P.	NC
90	Carnegie Mortgage, LLC	--
91	Carrington Mortgage Services, LLC	CA
92	Carteret Mortgage Corporation*	--
93	Cashcall, Inc.+*	--
94	Castle & Cooke Mortgage, LLC	UT
95	Castle Mortgage Corporation	AL
96	Castle Mortgage Corporation	CA
97	Catalyst Lending	CO
98	CBRE Capital Markets, Inc.	TX
99	Cendera Funding	TX
100	Centennial Corporate Financial*	--
101	Centerline Mortgage Partners Inc.	NY
102	Central Mortgage Corporation*	--
103	Century Mortgage Corporation*	--
104	Century Mortgage CO. dba Century Lending	KY
105	Cherry Creek Mortgage Company, Inc.	CO
106	Chicago Mortgage Solutions Corp dba InterBank Mortgage Company	IL
107	Chimera Investment Corporation*	--
108	Churchill Mortgage Corporation	TN
109	CIS Financial Services, Inc.	AL
110	Citizens First Wholesale Mortgage	FL
111	Citywide Home Loans, a Utah Corporation	UT
112	Clearwater Mortgage, LLC*	--
113	CMC Funding, Inc.	NC
114	CMG Mortgage, Inc.	CA
115	CMS Mortgage Group, Inc.*	--
116	Coastal States Mortgage Corporation*	--
117	Cobalt Mortgage, Inc.	--
118	Collateral Mortgage, Ltd.*	--

	Nonbank Servicer as identified	Location
119	Colorado Housing And Finance Authority	CO
120	ColumbiaNational Real Estate Finance, LLC	MD
121	Commerce Home Mortgage, Inc.	CA
122	Commerce Mortgage Corporation	--
123	Commonwealth Mortgage, LLC	MA
124	Community Banc Mortgage Company	IL
125	Community Mortgage Funding LLC	CA
126	Community Reinvestment Fund, Inc.	MN
127	Compu-Link Corporation dba Celink	MI
128	Comunity Lending, Inc.*	--
129	Continental Home Loans, Inc.*	--
130	Continental Mortgage Bankers, Inc.	--
131	Cornerstone Home Lending, Inc.	TX
132	Cornerstone Mortgage, Inc.	MO
133	Corridor Mortgage Group, Inc.	MD
134	Countryplace Mortgage, Ltd.	TX
135	Credit Suisse First Boston Mortgage Capital LLC	NY
136	Credit Union Mortgage Association	VA
137	Crescent Mortgage Company	--
138	Crosscountry Mortgage, Inc.	OH
139	Crossline Capital, Inc.*	--
140	Crown Mortgage Company	IL
141	CTX Mortgage Company, LLC*	--
142	Cuso Development Company, LLC	MI
143	Cuso Mortgage Corporation	ME
144	DAS Acquisition Company, LLC	MO
145	Data Mortgage Inc.	--
146	Davis-Penn Mortgage Company	TX
147	de Oro Home Loans*	--
148	Delmar Financial Company	MO
149	Deval, LLC*	--
150	Developer'S Mortgage Company	--
151	DHI Mortgage Company, Ltd.	TX
152	Direct Mortgage Corporation	UT
153	Ditech Financial, LLC	MN
154	DLJ Mortgage Capital, Inc.	NY
155	DMR Financial Services, Inc.*	--

	Nonbank Servicer as identified	Location
156	Dollar Mortgage Corporation*	--
157	Dovenmuehle Mortgage, Inc.	IL
158	Draper And Kramer Mortgage Corp DBA 1st Advantage Mortgage	IL
159	E Mortgage Management, LLC	NJ
160	Eastland Financial Corporation	CA
161	Embrace Home Loans, Inc.	RI
162	EMI Equity Mortgage, Inc.	PR
163	Encore Mortgage Services, Inc.*	--
164	Envoy Mortgage, Ltd.	TX
165	Equity Loans, LLC	GA
166	Equity Mortgage Corporation*	--
167	Equity Now Inc.	NY
168	Equity Resources, Inc.	OH
169	Eustis Mortgage Corporation	LA
170	Everett Financial Inc DBA Supreme Lending	TX
171	Evergreen Moneysource Mortgage DBA Evergreen Home Loans	WA
172	Fairmont Funding, Ltd.*	--
173	Fairway Independent Mortgage Corporation	WI
174	Fay Servicing, LLC	IL
175	FBC Mortgage, LLC	FL
176	FCI Lender Services, Inc.	CA
177	Fearon Financial, LLC	OH
178	Fed Funding Mortgage Corporation*	--
179	Fidelity Home Mortgage Corporation*	--
180	Fidelity Mortgage Corporation*	--
181	Finance Of America Mortgage LLC	PA
182	Financial Partners Credit Union	CA
183	Financial Research Services*	--
184	First American Capital Group Corporation	--
185	First American Mortgage Trust	--
186	First California Mortgage Company	CA
187	First Centennial Mortgage Corporation	IL
188	First Choice Loan Services, Inc.	--
189	First Colony Mortgage Corporation	UT
190	First Community Mortgage, Inc.	--
191	First Continental Mortgage, Ltd.	TX
192	First Equity Mortgage, Inc.	KY

	Nonbank Servicer as identified	Location
193	First Equity Mortgage Bankers, Inc.	IL
194	First Equity Mortgage Company	FL
195	First Guaranty Mortgage Corporation	VA
196	First Guaranty Mortgage Corporation	--
197	First Heritage Mortgage, LLC	VA
198	First Home Mortgage Corporation	MD
199	First Housing Development Corporation	FL
200	First Magnus Financial Corporation*	--
201	First Mortgage Corporation	CA
202	First Mortgage Company, Inc.	ID
203	First Mortgage Company, LLC	OK
204	First National Mortgage Company	MI
205	First Option Mortgage, LLC	GA
206	First Residential Mortgage Corporation*	--
207	First Savings Mortgage Corporation	VA
208	First World Mortgage Corporation	CT
209	Firstcity Mortgage, Inc.*	--
210	Firstkey Mortgage, LLC	NY
211	Fisher Financial Group dba Nations Choice Mortgage	AZ
212	Flat Branch Mortgage, Inc.	MO
213	FM Home Loans LLC	NY
214	Franklin American Mortgage Company	TN
215	Franklin First Financial, Ltd, Inc.	NY
216	Freedom Mortgage Corporation	NJ
217	Gateway Mortgage Corporation	WI
218	Gateway Mortgage Group, LLC	OK
219	Geo-Corp, Inc.	CA
220	Georgetown Mortgage, LLC	TX
221	Georgia Housing And Finance Authority DBA State Home Mortgage	GA
222	Gershman Investment Corporation dba Gershman Mortgage	MO
223	GFS Capital Holdings*	--
224	GMAC Mortgage LLC	PA
225	Gmfs, LLC	LA
226	GMH Mortgage Services, LLC	PA
227	Golden Empire Mortgage, Inc.	CA
228	Golden First Mortgage Corporation*	--
229	Golden Mortgage Bankers*	--

	Nonbank Servicer as identified	Location
230	Government And Judiciary Retirement	--
231	Graystone Solutions Inc.+*	--
232	Green Tree Servicing LLC	MN
233	Greensboro Housing Finance Agency*	--
234	Greentree Mortgage Company, L.P.	NJ
235	Greystone Servicing Corporation, Inc.	VA
236	GS Commercial Real Estate L.P.	NJ
237	GSF Mortgage Corporation	WI
238	GTL Investments, Inc.	MI
239	Guaranteed Rate, Inc.	IL
240	Guaranty Loan & Real Estate Company	AR
241	Guaranty Trust Company	--
242	GuardHill Financial Corporation	NY
243	Guardian Mortgage Company, Inc.	--
244	Guidance Residential, LLC	VA
245	Guild Mortgage Company	CA
246	Hallmark Home Mortgage, LLC	IN
247	Hamilton Mortgage Corporation*	--
248	Hamilton National Mortgage Company	PA
249	Harbor Financial Mortgage Corporation*	--
250	Hartford Funding, Ltd.	NY
251	Heartland Home Finance, Inc.*	--
252	Highlands Residential Mortgage	TX
253	Hightechlending, Inc.	CA
254	Holliday Fenoglio Fowler, L.P.	PA
255	Home American Mortgage Corporation	CO
256	Home Financing Center	FL
257	Home Mortgage Inc.*	--
258	Home Point Financial Corporation	NJ
259	Home Point Financial Corporation	MI
260	Home Savings Mortgage*	--
261	HomeAmerican Mortgage Corporation	CO
262	HomeBridge Financial Services	NJ
263	Homeloan.com, Inc.*	--
264	HomeServices Lending, LLC dba Champion Realty Mortgage	IA
265	Homestar Financial Corporation	GA
266	Homestead Funding Corporation	NY

	Nonbank Servicer as identified	Location
267	Homestead USA, Inc.*	--
268	Hometrust Mortgage Company	TX
269	Homeward Residential, Inc.	TX
270	Homewise, Inc.	NM
271	Honolulu Homeloans, Inc.	HI
272	Honor Credit Union	MI
273	Hope Enterprise Corporation	MS
274	Houstonian Mortgage Group, Inc.	TX
275	Howard Hanna Financial Services, Inc. DBA Howard Hanna Mortgage Services	PA
276	Hunt Capital Partners, LLC*	--
277	Huron Valley Financial, Inc.	MI
278	Idaho Housing And Finance Association	ID
279	iFreedom Direct Corporation	UT
280	Impac Funding Corporation*	--
281	Impac Mortgage Corporation	CA
282	Independent Realty Capital Corporation*	--
283	Inlanta Mortgage, Inc.	WI
284	Integrity Home Mortgage Corporation	VA
285	Intercap Lending Inc.	NM
286	Intercoastal Mortgage Company	VA
287	Interlinc Mortgage Services, LLC	TX
288	International City Mortgage	CA
289	Iowa Bankers Mortgage Corporation	IA
290	Irwin Mortgage Corporation*	--
291	iServe Residential Lending, LLC	--
292	James B. Nutter & Company	MO
293	J.G. Wentworth Home Lending, Inc.	VA
294	JMAC Lending Inc.	CA
295	JMJ Financial Group	CA
296	John Hancock Mutual Life Insurance Company, Inc.*	--
297	Jones Lang Lasalle Operations, LLC	IL
298	K. Hovnanian American Mortgage LLC	FL
299	Kemps Landing Capital, LLC*	--
300	Kentucky Housing Corporation	KY
301	Key Mortgage Services, Inc.	IL
302	Kodiak Island Housing Authority	AK

	Nonbank Servicer as identified	Location
303	Kondaur Capital Corporation	--
304	Lake Mortgage Company, Inc.	IN
305	Lakeview Loan Servicing, LLC	FL
306	Land/Home Financial Services	CA
307	Lasalle Mortgage Company LLC*	--
308	Leader Mortgage Company, Inc.	MA
309	LeaderOne Financial Corporation	KS
310	LeaderOne Financial Corporation	--
311	Lehman Brothers Holdings, Inc.*	--
312	LenderLive Network, Inc.	CO
313	Lenox Financial Mortgage Corporation	CA
314	LHM Financial Corporation	AZ
315	Liberty Mortgage Banking*	--
316	Liberty Mortgage Company Inc.	--
317	Live Well Financial, Inc.	VA
318	Loan Link Financial Services*	--
319	Loan Simple, Inc.	CO
320	Loancare LLC	VA
321	loanDepot.com, LLC	CA
322	Logan Finance Corporation	AR
323	Lyons Mortgage Services, Inc.	NY
324	M/I Financial, LLC	OH
325	Mann Mortgage, LLC	MT
326	Marix Servicing, LLC	AZ
327	Market Mortgage Company, Ltd.	OH
328	Maryland Department of Housing & Community Development	MD
329	Mason McDuffie Mortgage Corporation	CA
330	Massachusetts Housing Finance Agency	MA
331	Massachusetts Housing Partnership*	MA
332	Matrix Financial Services Corporation	MN
333	Matrix Financial Services Corporation	AZ
334	McCue Mortgage Company	CT
335	McLean Mortgage Corporation	VA
336	MCS Mortgage Bankers, Inc.	NY
337	Megastar Financial Corporation	CO
338	Melville Funding, LLC*	--
339	Member Advantage Mortgage, LLC	MI

	Nonbank Servicer as identified	Location
340	Member First Mortgage, LLC	MI
341	Member Home Loan, LLC	TX
342	Members Mortgage Company, Inc.	MA
343	Memorial Park Mortgage, Ltd.*	--
344	Meridian Residential Capital, LLC dba First Meridian Mortg	--
345	Meridias Capital, Inc.*	--
346	Merit Mortgage Services, Inc.+*	--
347	Merrimack Mortgage Company, Inc.	NH
348	Metropolitan Home Mortgage, Inc.	CA
349	Michigan Mutual, Inc.	MI
350	Michigan State Housing Development Authority*	MI
351	Mid America Mortgage, Inc.	TX
352	Mid-Island Mortgage Corporation	NY
353	Midland Mortgage Corporation	SC
354	Midwest Loan Services, Inc.	--
355	Mila, Inc.*	--
356	MLD Mortgage, Inc.	NJ
357	MMS Mortgage Services, Ltd., DBA Member Mortgage Services, Ltd.	MI
358	Morgan Stanley Mortgage Capital Holdings LLC	NY
359	Moria Development Inc.	AZ
360	Mortgage 1, Inc.	MI
361	Mortgage America, Inc.	PA
362	Mortgage Capital Partners	CA
363	Mortgage Center, L.C.	MI
364	Mortgage Clearing Corporation	OK
365	Mortgage Financial, Inc.	MA
366	Mortgage I, Inc.	MI
367	Mortgage Investors Corporation	FL
368	Mortgage Investors Group	TN
369	Mortgage Lenders network USA, Inc.*	--
370	Mortgage Lenders Of America	KS
371	Mortgage Management Consultants	CA
372	Mortgage Master, Inc.*	--
373	Mortgage Network, Inc.	MA
374	Mortgage Research Center, LLC	--
375	Mortgage Solutions, LLC	MO
376	Mortgage Solutions Of Colorado, LLC	CO

	Nonbank Servicer as identified	Location
377	MortgageAmerica, Inc.*	--
378	Mount Olympus Mortgage Company	CA
379	Mountain State Mortgage Centers, Inc.*	--
380	Mountain West Financial, Inc.	CA
381	Movement Mortgage, LLC	VA
382	MSR Trust	NY
383	MVB Mortgage Corporation*	--
384	National Title Insurance Company*	--
385	Nations Direct Mortgage, LLC	CA
386	Nations Lending Corporation	--
387	Nations Reliable Lending, LLC	TX
388	Nationstar Mortgage LLC	TX
389	Nationwide Advantage Mortgage Company	IA
390	Natixis Real Estate Capital Inc.*	--
391	NE Moves Mortgage, LLC	MA
392	Neighborhood Finance Corporation	IA
393	Neighborhood Housing Services of America*	--
394	Neighborhood Housing Services Silicon Valley	CA
395	Neighborhood Mortgage Solutions LLC	MI
396	Network Capital Group, Inc.*	--
397	Network Funding, L.P.	TX
398	Network Mortgage Services, Inc.	WA
399	New Century Mortgage Corporation*	--
400	New Day Financial, LLC	--
401	New Hampshire Housing Finance Authority	NH
402	New Jersey Housing And Mortgage Finance Agency	NJ
403	New Mexico Mortgage Finance Authority	NM
404	New Penn Financial, LLC	WI
405	New Penn Financial, LLC	PA
406	Nfm, Inc.	MD
407	NHS Neighborhood Lending Services*	--
408	Nickels & Smith Company	--
409	North Dakota Housing Finance Agency	ND
410	Northern Ohio Investment Company	OH
411	Northmarq Capital LLC	MN
412	Norwich Commercial Group, Inc. DBA Norcom Mortgage	CT
413	Nova Financial and Investment Corporation	AZ

	Nonbank Servicer as identified	Location
414	Novastar Home Mortgage, Inc.*	--
415	NTFN, Inc.	TX
416	NVR Mortgage Finance, Inc.	VA
417	NYCB Mortgage Company, LLC	--
418	Oak Grove Commercial Mortgage LLC	MN
419	Oak Mortgage Company, LLC	NJ
420	Ocala Funding*	--
421	Ocala Servicing, LLC*	--
422	Oceanside Mortgage	NJ
423	Oceanside Mortgage Company	--
424	Ocwen Loan Servicing, LLC	FL
425	Olympia Mortgage Corporation*	--
426	On Q Financial Inc.	AZ
427	Opes Advisors, Inc.	CA
428	Orchid Island Trs, LLC*	--
429	Origen Servicing, Inc., dba Origen Home Loans	MI
430	Owners Choice Funding, Inc.	NY
431	P/R Mortgage & Investment Corporation	IN
432	Pacific Commonwealth Mortgage Company	CA
433	Pacific Crest Mortgage Corporation*	--
434	Pacific Residential Mortgage, LLC	OR
435	Pacific Servicing, LLC	NY
436	Pacific Union Financial, LLC	TX
437	Pacific Union Financial, LLC	CA
438	PAM MSR Trust 1, LLC*	--
439	Paramount Equity Mortgage, LLC	CA
440	Paramount Residential Mortgage Group, Inc.	CA
441	Parkside Lending, LLC	CA
442	Peninsula Mortgage Bankers Corporation*	--
443	Pennsylvania Housing Finance Agency	PA
444	PennyMac Corporation	CA
445	PennyMac Loan Services, LLC	CA
446	Perimeter Mortgage Funding Corporation*	--
447	Perl Mortgage, Inc.	IL
448	PHH Home Loans LLC	NJ
449	PHH Mortgage Corporation	NJ
450	Pike Creek Mortgage Services, Inc.*	--

	Nonbank Servicer as identified	Location
451	Pillar Multifamily, LLC	VA
452	Pingora Loan Servicing, LLC	CO
453	Pingora Loan Servicing, LLC	DE
454	Pinnacle Capital Mortgage Corporation	CA
455	Planet Home Lending, LLC	CT
456	Platinum Home Mortgage Corporation	IL
457	Platinum Home Mortgage Corporation	--
458	Platinum Mortgage, Inc.	AL
459	Plaza Home Mortgage, Inc.	CA
460	Plymouth Exchange Mortgage Corporation*	--
461	PMAC Lending Services, Inc.	CA
462	PMI Mortgage Insurance Company*	--
463	Poli Mortgage Group, Inc.	MA
464	Primary Capital Mortgage, LLC	GA
465	Primary Residential Mortgage, Inc.	UT
466	Primelending, A Plainscapital Company	TX
467	Princeton Mortgage Corporation	NJ
468	Prospect Mortgage, LLC	CA
469	Prosperity Home Mortgage, LLC	--
470	Prosperity Home Mortgage Company, LLC	VA
471	Provident Asset Management, L.P.*	--
472	Provident Funding Associates, L.P.	CA
473	Prudential Affordable Mortgage Company	NJ
474	Prudential Huntoon Paige Associates, Limited	NJ
475	Pulte Mortgage LLC	CO
476	Quantum Servicing Corporation	FL
477	Quicken Loans Inc.	MI
478	R P Funding, Inc.	FL
479	Ranlife	UT
480	Raymond James & Associates, Inc.*	--
481	RBS Financial Products Inc.	CT
482	ReadyCap Commercial, LLC*	--
483	Realty Mortgage Corporation*	--
484	Red Mortgage Capital, LLC*	--
485	Red Stone Partners, LLC*	--
486	Redwood Residential Acquisition Corporation	CA
487	Regency Mortgage Corporation	NH

	Nonbank Servicer as identified	Location
488	Reliance First Capital, LLC	--
489	Residential Bancorp	OH
490	Residential Credit Solutions, Inc.	TX
491	Residential Home Funding Corporation	NJ
492	Residential Mortgage, LLC	AK
493	Residential Mortgage Services, Inc.	ME
494	ResMac, Inc.	FL
495	Resurgent Capital Services, LP - Interim Servicing*	--
496	Reunion Mortgage Inc.*	--
497	Rhode Island Housing And Mortgage Finance Corporation	RI
498	RICHMAC Funding LLC	CT
499	Right Start Mortgage, Inc.	CA
500	RMC Mortgage Corporation	GA
501	RMR Financial dba Princeton Capital & First Capital	CA
502	Rocky Mountain Mortgage Company	TX
503	Rose Mortgage Corporation*	--
504	Roundpoint Mortgage Servicing Corporation	NC
505	Royal Pacific Funding	CA
506	Royal United Mortgage LLC	IN
507	RP Funding, Inc.	FL
508	RPM Mortgage, Inc.	CA
509	RRAC SPV-FRE Trust*	--
510	Ruoff Mortgage Company, Inc A/K/A Ruoff Home Mortgage	IN
511	Rushmore Loan Managment Services, LLC	CA
512	Sabal Financial Group, LLC*	--
513	Sabal TL1, LLC*	--
514	Sacramento 1st Mortgage, Inc. dba Comstock Mortgage*	--
515	San Diego Funding	CA
516	Sandler O'Neill Mortgage Finance, L.P.	TN
517	Schaefer Mortgage Corporation*	--
518	SecurityNational Mortgage Company	UT
519	Select Portfolio Servicing, Inc.	UT
520	Selene Finance L.P.	TX
521	Self-Help Ventures Fund	NC
522	Seneca Mortgage Servicing, LLC	NY
523	Sente Mortgage, Inc.	TX
524	Servis One, Inc. dba BSI Financial Services, Inc.	PA

	Nonbank Servicer as identified	Location
525	Seterus, Inc.*	--
526	Sfmc, L.P.	TX
527	Shannon Funding, LLC	WA
528	Shea Mortgage	CA
529	Sibcy Cline Mortgage Services, Inc.	OH
530	Sierra Pacific Home Loans, Inc.*	--
531	Sierra Pacific Mortgage	CA
532	Sierra Pacific Mortgage Company, Inc.	CA
533	Sirva Mortgage Inc.	OH
534	Siwell, Inc. DBA Capital Mortgage Services Of Texas	TX
535	Skyline Financial Corporation	CA
536	SMFC	--
537	Solutions Funding, Inc. dba Airmortgage*	--
538	Sound Mortgage, Inc.+*	--
539	South Carolina State Housing Finance & Development Authority	--
540	South Pacific Financial Corporation	CA
541	South Pacific Financial Corporation	--
542	Southeast Mortgage of GA Inc.	GA
543	Southern Trust Mortgage, LLC	VA
544	Southwest Stage Funding Llc DBA Cascade Financial Services	--
545	Specialized Loan Servicing LLC	CO
546	Springs Mortgage Corporation*	--
547	St. James Mortgage Corporation	MI
548	Standard Mortgage Corporation	LA
549	Standard Pacific Mortgage, Inc.	CA
550	Statebridge Company LLC*	--
551	Stearns Lending, LLC	CA
552	Sterling Mortgage Group, LLC*	--
553	Stockton Mortgage Corporation	KY
554	Stonegate Mortgage Corporation	IN
555	Streeter Brothers Mortgage Corporation	MT
556	Suburban Mortgage, Inc.	--
557	Summit Financial Center, Inc.*	--
558	Summit Funding, Inc.	CA
559	Summit Mortgage Corporation	MN
560	Sun American Mortgage Company	AZ
561	Sun West Mortgage Company, Inc.	CA

	Nonbank Servicer as identified	Location
562	SunAmerica Investments Inc.*	--
563	Sunshine Mortgage Corporation+*	--
564	SWBC Mortgage Corporation	TX
565	Syracuse Securities, Inc.	NY
566	Taylor Bean & Whitaker+*	--
567	TBI Mortgage Company	PA
568	Terwin Advisors, LLC dba The Winter Group*	--
569	Texas Department Of Housing And Community Affairs	TX
570	Texas State Affordable Housing Corporation	TX
571	TH Mortgage Opportunity Corporation	MN
572	The Bankers Guarantee Title & Trust Company	OH
573	The Community Preservation Corporation*	--
574	The Lending Partners, LLC	TX
575	The Money House, Inc.	--
576	The Money Source, Inc.	NY
577	The Mortgage House, Inc.	CA
578	The Northern Ohio Investment Company	OH
579	The Wisconsin Housing & Economic Development Authority*	WI
580	Tidewater Home Funding, LLC	VA
581	Tidewater Mortgage Services, Inc.	VA
582	T.J. Financial, Inc.	CA
583	Total Mortgage Services, LLC	CT
584	Towd Point Loan Servicing, LLC	NY
585	Towne Mortgage & Realty Company	--
586	Towne Mortgage Company	MI
587	Transland Financial Services*	--
588	Transnational Financial Network*	--
589	Trident Mortgage Company	PA
590	Troxler & Associates, Inc.*	--
591	Truhome Solutions, LLC	--
592	Tuttle & Company*	--
593	Union Home Mortgage Corporation	OH
594	United Federal Savings*	--
595	United Fidelity Funding, Corporation	MO
596	United Financial Mortgage Corporation DBA Mortgage Service A*	--
597	United General Mortgage Corporation*	--
598	United Mortgage Corporation	NY

	Nonbank Servicer as identified	Location
599	United Security Financial, Corporation	UT
600	United Shore Financial Services, LLC., dba Shore Mortgage	MI
601	Universal American Mortgage Company, LLC	FL
602	Universal Lending Corporation	CO
603	US Mortgage Corporation	NY
604	Utah Housing Corporation	UT
605	Vanderbilt Mortgage & Finance	TN
606	Vandyk Mortgage Corporation	MI
607	Vanguard Funding LLC	NJ
608	Venta Financial Group, Inc.*	--
609	Veritas Funding LLC	UT
610	Vermont Housing Finance Agency*	VT
611	Village Capital & Investment,	--
612	Village Mortgage Company	CT
613	V.I.P. Mortgage, Inc.	AZ
614	Virginia Housing Development Authority	VA
615	Vitek Real Estate Industries Group, Inc.	CA
616	W. J. Bradley Mortgage Capital Corporation	CO
617	Walker & Dunlop, LLC*	--
618	Walker Jackson Mortgage Corporation*	--
619	Wall Street Mortgage Bankers Ltd DBA Power Express	NY
620	Wallick And Volk, Inc.	WY
621	Ward Cook, Inc.*	--
622	Washtenaw Mortgage Company*	--
623	Waterstone Mortgage Corporation	WI
624	Watson Mortgage Corporation	FL
625	WEI Mortgage Corporation	VA
626	Mortgage Access Corp. DBA Weichert Financial Services	NJ
627	Wendover Financial Services	NC
628	Wendover Financial Services Corporation	PA
629	West Virginia Housing Development Fund	WV
630	Western States Mortgage Corp. dba Residential Capital Corporation*	--
631	Weststar Mortgage, Inc.	--
632	Weststar Mortgage Corporation	NM
633	WestStar Mortgage, Inc.	VA
634	William Raveis Mortgage, LLC	CT
635	Wisconsin Housing & Economic Development Authority	WI

	Nonbank Servicer as identified	Location
636	Wisconsin Mortgage Company	WI
637	Witmer Funding, LLC*	--
638	W.J. Bradley Mortgage Capital, LLC	CO
639	WR Starkey Mortgage, LLP	TX
640	Wyndham Capital Mortgage	NC
641	Wyoming Community Development Authority	WY

Source: GAO analysis of Ginnie Mae, Freddie Mac and Fannie Mae servicer portfolios.

Note: Data reflects lists of nonbank servicers received from Ginnie Mae and Fannie Mae based on our definition of “nonbank servicer” and our methodology for eliminating banks from Freddie Mac’s servicing portfolio. To generate this list, we defined an entity as a bank servicer if it is a bank; is owned by a bank; or its owner also owns a bank. Our process for eliminating banks principally relied on unique regulatory IDs to eliminate banks from Freddie Mac’s list of servicers and is subject to error.

*Institutions for which no federal ID was included. For these entities, we relied on the entities’ name to identify and eliminate banks. This approach introduced additional error in our process and some bank servicers may remain. Companies with no information in location column reflect servicers for which that information was not provided in the source data.

Appendix IV: Comments from the Consumer Financial Protection Bureau

cfpb Consumer Financial Protection Bureau

1700 G Street NW, Washington, DC 20552

February 19, 2016

Lawrance Evans, Jr.
Director, Financial Markets and Community Investment
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Evans:

Thank you for the opportunity to comment on the Government Accountability Office's draft report titled *Nonbank Mortgage Servicers: Existing Regulatory Oversight Could Be Strengthened* (GAO-16-278). We greatly appreciate GAO's consultation and collaboration with the Consumer Financial Protection Bureau over the course of this engagement and believe that the report provides important information regarding the nonbank mortgage servicing market.

The Bureau also appreciates and acknowledges the report's discussion of the importance of effective oversight to protect consumers in this area. Through existing mechanisms and data sources, the Bureau is able to effectively assess risks to consumers in the nonbank mortgage servicing market. Though the Bureau has necessary information regarding institutions with the vast majority of market share in the nonbank mortgage servicing market, due to constraints on available data, the Bureau does not have a complete list of the identity of all nonbank mortgage servicers. For the reasons discussed below, however, the Bureau does not believe that this materially affects our ability to fulfill our mission and protect consumers in the mortgage servicing market. The Bureau acknowledges that better data in the mortgage servicing market could prove useful in supplementing the significant volume of information on this market already available through other sources.

The Bureau utilizes a risk-based prioritization framework in its oversight of mortgage servicing and other consumer financial products and services, as mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act. The Dodd-Frank Act, which created the Bureau, gave the agency the responsibility to examine covered persons—including nonbank mortgage servicers—for compliance with Federal consumer financial law.[1] The Act requires that the Bureau exercise that authority "based on the assessment by the Bureau of the risks posed to consumers in the relevant product markets and geographic markets."[2] In doing so, the Bureau must consider, as applicable, the institution's asset size, its transaction volume involving consumer financial products or services, the risks to consumers created by the provision of such products or services, "the extent to which such institutions are subject to oversight by State authorities for consumer protection," and "any other factors that the Bureau determines to be relevant to a class of covered

[1] 12 U.S.C. § 5514(b)(1), Pub. L. 111-203, Title X, § 1024(b)(1) (July 21, 2010).
[2] *Id.* § 5514(b)(2).

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persons."[3] This approach is informed not just by quantitative information about the institutions but also by field and market intelligence, including: consumer complaints; information from housing counselors and other government agencies; and information about the servicer's management and strength of compliance management. The Bureau applies this same approach across both the bank and nonbank mortgage servicing market to assess risks and prioritize its supervision work across the entire market and believes that this approach has been successful in detecting, assessing, and addressing risks facing consumers.

Thus there are two independent reasons why the concern stated in the draft report—that the Bureau does not have a comprehensive list of the identity of all nonbank mortgage servicers—does not have a material impact on our work and, therefore, should not be overstated. First, state regulators have an extensive supervisory framework, including related entity level information, that the Bureau uses to inform its work. In addition, the Bureau has a robust regulatory relationship with state mortgage regulators through the Conference of State Bank Supervisors and other state regulatory organizations, which includes an information sharing agreement, related supervision protocols, concurrent examination work, and direct access to the Nationwide Multistate Licensing System and Registry, which is the state regulators' database for licensing and registering nonbank financial entities, including mortgage servicers. This information contributes significantly to our understanding of the mortgage servicing market.

Second, the Bureau has created a substantial, nationwide consumer response system that takes complaints filed against mortgage servicers, among other financial providers. Each mortgage servicing complaint typically leads to a process whereby that company is on-boarded to the Bureau's automated portal, which includes gathering specific information about the company. Since the Bureau's launch in July of 2011, the agency has received over 175,000 mortgage servicing complaints. This independent source of information directly from consumers across the nation helps to supplement information the Bureau has from other sources and, as noted above, is used to prioritize our supervisory work in mortgage servicing. Based on these two sources of information, as well as other information sources, the Bureau has a comprehensive understanding of the identity of the vast majority of the current nonbank mortgage servicing market. Accordingly, although it might be helpful to know of any remaining small mortgage servicers not captured by our consumer response system, the state regulatory framework, and the other information the Bureau uses, such small mortgage servicers are unlikely to change the risk assessment we conduct as required by statute.

The Bureau looks forward to continuing to work with GAO as it monitors progress in how regulators oversee the nonbank mortgage servicing market. The Bureau is committed to effective oversight of this market to ensure that the Bureau fulfills its consumer financial protection mission as outlined in the Dodd-Frank Act.

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[3] *Id.*

Sincerely,

David Bleicken
Acting Associate Director
Supervision, Enforcement, and Fair Lending

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Appendix V: Comments from the Conference of State Bank Supervisors

CSBS SINCE 1902

CONFERENCE OF STATE BANK SUPERVISORS

February 10, 2016

Lawrence L. Evans
Director, Financial Markets and Community Investment
Government Accountability Office
Washington, DC

Dear Mr. Evans:

Thank you for the opportunity to review and comment on the GAO's draft regarding nonbank mortgage servicers entitled *"Existing Regulatory Oversight Could be Strengthened."* We offer the following comments and recommendations.

Coordination

The draft provides compelling arguments for strengthening the regulatory oversight of nonbank servicers and identifies the benefit of a more coordinated state and federal supervisory approach to these entities. We believe it would be very effective if a recommendation for coordinated state and federal supervision of nonbank mortgage servicers was included in the report.

It becomes clear in the body of the draft that a coordinated approach to these entities is desirable. There is considerable interplay between depository and non-depository servicers, whether by the transfer of mortgage loans during bulk sale, or the usage of third party servicers to fulfill certain business requirements. The report illustrates the different government agencies involved in the oversight of these servicers citing data analyzed and interviews held with the various stakeholders including the Federal Reserve Board of Governors, FHFA, Fannie Mae and Freddie Mac, Ginnie Mae, the CFPB, and State mortgage regulators.

The report references the failure of Taylor, Bean, and Whitaker (TBW) on page 27, stating that Ginnie Mae and the enterprises would likely bear the brunt of the costs in the event of a failure, and that the ease with which servicing could be continued seamlessly without consumers experiencing harm would depend on the individual nature of the failure.

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The Failure of TBW illustrates a compelling need for a coordinated approach to supervision for these entities. The deficiencies within TBW's operations were first brought to light by a state mortgage regulatory examination of the company that resulted in a cease and desist and ultimately a consent order defining how the company could move forward. This examination report was furnished to HUD upon request and prior to any of the actions undertaken by the federal agencies. Upon review of the report and the public action on TBW, FHA removed TBW's authority to underwrite FHA loans, without notifying state regulators. What followed was the prompt failure of the company, leaving state regulators to ensure that people who had loans in TBW's pipeline had financing alternatives. State regulators also worked to ensure that the thousands of people whose loans were serviced by TBW did not experience harm. Due to the absence of a coordinated scheme of oversight, and in spite of months of diligent efforts by state regulators to place individual loans with different servicers, there were borrowers who experienced harm in the aftermath of the servicing transfers according to numerous press accounts.[1]

Prudential Standards

To further the point that we believe a more coordinated effort is needed in the oversight of non-bank servicers, the report cites the work for a set of prudential standards for servicers on page 32. As the work is not finalized, CSBS believes inserting language within the paragraph to state the standards that were issued for comment would remove speculation that any final decisions had been made.

National Mortgage Settlement (NMS)

State mortgage regulators have been at the core of regulating these entities and were one of the primary drivers in the NMS referenced on page 18 in the draft. This highly coordinated effort among state and federal agencies highlights the benefits of a coordinated approach to oversight. The footnote at the bottom of the page reference's the NMS, but neglects to mention the state regulators role in the settlement. State Mortgage Regulators played a vital role in the examinations of non-bank servicers, evidenced by their examination and settlement with GMAC/Ally, providing valuable evidence that illustrated the need for agreed upon industry servicing standards.[2]

[1] http://money.cnn.com/2012/01/18/real_estate/foreclosure_homes/

[2] Refer to Department of Justice press release at: http://www.justice.gov/opa/pr/federal-government-and-state-attorneys-general-reach-25-billion-agreement-five-largest

2

Comprehensive List of Non-Bank Mortgage Servicers

The report finds that the "CFPB does not have a mechanism to develop a comprehensive list of nonbank servicers..." We believe that the NMLS does contain information on the vast majority of nonbank servicers. Even though every state does not require nonbank servicers to be licensed, most firms would very likely be included in NMLS since most would service loans in other states that require licensure. CFPB does have access to this data. While the statement in the report is accurate since we cannot be sure the list is "comprehensive," we do not believe it presents an accurate picture.

In closing, CSBS believes a highly coordinated approach toward the oversight of these complex entities, that includes both state and federal participants, will result in an umbrella of oversight that avoids consumer harm, strengthens the GSE's position in the event of a failure, and allows for a clear regulatory structure of prudential supervision.

Best regards,

John W. Ryan

President & CEO

3

Appendix VI: Comments from the Federal Housing Finance Agency

Federal Housing Finance Agency
Constitution Center
400 7th Street, S.W.
Washington, D.C. 20219
Telephone: (202) 649-3800
Facsimile: (202) 649-1071
www.fhfa.gov

February 10, 2016

Mr. Lawrance L. Evans
Director, Financial Markets and Community Investments
U.S. Government Accountability Office
441 G Street, NW
Washington, D.C. 20548

Dear Mr. Evans:

The Federal Housing Finance Agency (FHFA) reviewed the U.S. Government Accountability Office's report entitled *Nonbank Mortgage Servicers: Existing Regulatory Oversight Could be Strengthened* (GAO-16-278).

The report discusses the increased presence of nonbank mortgage servicers in the mortgage market, as well as the oversight framework for nonbank servicers, and notes certain differences in the authority of the various regulators that directly or indirectly conduct oversight of nonbank mortgage servicers.

FHFA agrees with the report's general conclusion that similar risks and servicers should be subject to consistent regulation and with the report's recommendation for parity among financial institution regulators in oversight authority with respect to business counterparties of the entities they regulate. As noted in the report, the Financial Stability Oversight Council included a similar observation and recommendation in its *2015 Annual Report*.

Thank you for the opportunity to comment.

Sincerely,

Alfred M. Pollard
General Counsel

Appendix VII: Comments from Ginnie Mae

Ginnie Mae
Our Guaranty Matters

Office of the President
550 12th Street, SW, Third Floor
Washington, DC 20024
(202) 475-4900

February 16, 2016

Mr. Lawrance L. Evans
Director, Financial Markets and Community Investments
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Evans,

Ginnie Mae appreciates your work on the trend toward nonbank servicers, and the opportunity to review the draft of your report. We think the draft is an excellent distillation of the subject -- particularly from a consumer protection point of view.

Ginnie Mae is on record as stating that nonbank servicers have brought needed capacity and innovation to the industry, and that there are benefits to the diversity of service providers that has resulted from this trend. We have also stated, however, that there are enhanced risks that result from the greater reliance on nonbanks, and that Ginnie Mae and other governmental entities must adapt their policies, practices and capabilities to this changed environment. This is a significant undertaking.

We take no position on the recommendation that FHFA be given examination authority over Fannie Mae and Freddie Mac nonbank servicers. However, our experience provides compelling evidence of the need, to develop prudential oversight frameworks that reflect the unique needs of the Ginnie Mae issuers which are different than those for Fannie Mae and Freddie Mac servicers.

Ginnie Mae guaranteed MBS, which funded 38% of mortgage originations in 2015, are collateralized by government insured loans, which have more liberal credit terms than conventional loans. Ginnie Mae issuers are responsible for advancing payments to security holders and to cover all expenses not reimbursed by insuring agencies. Fannie Mae and Freddie Mac do not have these requirements. Accordingly, and we will continue our efforts – noted in your report – to obtain funding that will enable the development of sufficient capabilities.

We respectfully request that policymakers be mindful of the need to have coordinated and commensurate responses to this issue. Toward this end, we are eager to collaborate with other agencies to find solutions that are appropriate to the circumstances without being unduly burdensome to an industry that is still remaking itself after the unprecedented stresses of the financial crisis.

Sincerely,

Theodore W. Tozer
President
Ginnie Mae

Mailing Address
451 Seventh Street SW, B-133
Washington, DC 20410

Appendix VIII: GAO Contacts and Acknowledgements

GAO Contacts

Lawrance L. Evans, Jr. (202) 512-8678, evansl@gao.gov

Staff Acknowledgements

In addition to the contact named above, Karen Tremba (Assistant Director), Erica Miles (Analyst-in-Charge), Bethany Benitez, Steven Campbell, Pamela Davidson, John Karikari, Courtney LaFountain, Robert Letzler, Daniel Powers, Jennifer Schwartz, Jena Sinkfield and James Vitarello made key contributions to this report

Appendix IX: Accessible Data

Agency Comment Letter

Text of Appendix IV: Comments from the Consumer Financial Protection Bureau

Page 1

cfpb

1700 G Street NW, Washington, DC 20552

February 19, 2016

Lawrance Evans, Jr.

Director, Financial Markets and Community Investment

U.S. Government Accountability Office

441 G Street, NW

Washington, DC 20548

Dear Mr. Evans:

Thank you for the opportunity to comment on the Government Accountability Office's draft report titled Nonbank Mortgage Servicers: Existing Regulatory Oversight Could Be Strengthened (GA0-16-278). We greatly appreciate GAO's consultation and collaboration with the Consumer Financial Protection Bureau over the course of this engagement and believe that the report provides important information regarding the nonbank: mortgage servicing market.

The Bureau also appreciates and acknowledges the report's discussion of the importance of effective oversight to protect consumers in this area. Through existing mechanisms and data sources, the Bureau is able to effectively assess risks to consumers in the nonbank mortgage servicing market. Though the Bureau has necessary information regarding institutions with the vast majority of market share in the nonbank mortgage servicing market, due to constraints on available data, the Bureau does not have a complete list of the identity of all nonbank mortgage servicers. For the reasons discussed below, however, the Bureau does not believe that this materially affects our ability to fulfill our mission and protect consumers in the mortgage servicing market. The Bureau acknowledges that better data in the mortgage servicing market could prove useful in supplementing the significant volume of information on this market already available through other sources.

The Bureau utilizes a risk-based prioritization framework in its oversight of mortgage servicing and other consumer financial products and services, as mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act. The Dodd-Frank Act, which created the Bureau, gave the agency the responsibility to examine covered persons-including nonbank mortgage servicers- for compliance with Federal consumer financial. law.[1]The Act requires that the Bureau exercise that authority "based on the assessment by the Bureau of the risks posed to consumers in the relevant product markets and geographic markets."[2] In doing so, the Bureau must consider, as applicable, the institution's asset size, its transaction volume involving consumer financial products or services, the risks to consumers created by the provision of such products or services, "the extent to which such institutions are subject to oversight by State authorities for consumer protection," and "any other factors that the Bureau determines to be relevant to a class of covered

Page 2

persons."[3] This approach is informed not just by quantitative information about the institutions but also by field and market intelligence, including: consumer complaints; information from housing counselors and other government agencies; and information about the servicer's management and strength of compliance management. The Bureau applies this same approach across both the bank and nonbank mortgage servicing market to assess risks and prioritize its supervision work across the entire market and believes that this approach has been successful in detecting, assessing; and addressing risks facing consumers.

[1] 12 U.S.C. § 5514(b)(1), Pub. L. 111-203, Title X, § 1024(b)(1) (July 21, 2010).

[2] 2 Id § 5514(b)(2).

[3] Id

Thus there are two independent reasons why the concern stated in the draft report that the Bureau does not have a comprehensive list of the identity of all nonbank mortgage servicers- does not have a material impact on our work and, therefore, should not be overstated. First, state regulators have an extensive supervisory framework, including related entity level information, that the Bureau uses to inform its work. In addition, the Bureau has a robust regulatory relationship with state mortgage regulators through the Conference of State Bank Supervisors and other state regulatory organizations, which includes an information sharing agreement, related supervision protocols, concurrent examination work, and direct access to the Nationwide Multistate Licensing System and Registry, which is the state regulators' database for licensing and registering nonbank: financial entities, including mortgage servicers. This information contributes significantly to our understanding of the mortgage servicing market.

Second, the Bureau has created a substantial, nationwide consumer response system that takes complaints filed against mortgage servicers, among other financial providers. Each mortgage servicing complaint typically leads to a process whereby that company is on-boarded to the Bureau's automated portal, which includes gathering specific information about the company. Since the Bureau's launch in July of 201 I, the agency has received over 175,000 mortgage servicing complaints. This independent source of information directly from consumers across the nation helps to supplement information the Bureau has from other sources and, as noted above, is used to prioritize our supervisory work in mortgage servicing. Based on these two sources of information, as well as other information sources, the Bureau has a comprehensive understanding of the identity of the vast majority of the current nonbank mortgage servicing market. Accordingly, although it might be helpful to know of any remaining small mortgage servicers not captured by our consumer response system, the state regulatory framework, and the other information the Bureau uses, such small mortgage servicers are unlikely to change the risk assessment we conduct as required by statute.

The Bureau looks forward to continuing to work with GAO as it monitors progress in how regulators oversee the nonbank mortgage servicing market. The Bureau is committed to effective oversight of this market to ensure that the Bureau fulfills its consumer financial protection mission as outlined in the Dodd-Frank Act.

Page 3

Sincerely,

David Bleicken

Acting Associate Director

Supervision, Enforcement, and Fair Lending

Text of Appendix V: Comments from the Conference of State Bank Supervisors

Page 1

CSBS

CONFERENCE OF STATE BANK SUPERVISORS

1129 20th Street, N.W. ninth Floor Washington, DC 20036

February 10, 2016

Lawrence L. Evans

Director, Financial Markets and Community Investment

Government Accountability Office

Washington, DC

Dear Mr. Evans:

Thank you for the opportunity to review and comment on the GAO's draft regarding nonbank mortgage servicers entitled "Existing Regulatory Oversight Could be Strengthened." We offer the following comments and recommendations.

Coordination

The draft provides compelling arguments for strengthening the regulatory oversight of nonbank servicers and identifies the benefit of a more coordinated state and federal supervisory approach to these entities. We believe it would be very effective if a recommendation for coordinated state and federal supervision of nonbank mortgage servicers was included in the report.

It becomes clear in the body of the draft that a coordinated approach to these entities is desirable. There is considerable interplay between depository and non-depository servicers, whether by the transfer of mortgage loans during bulk sale, or the usage of third party servicers to fulfill certain business requirements. The report illustrates the different government agencies involved in the oversight of these servicers citing data analyzed and interviews held with the various stakeholders including the Federal Reserve Board of Governors, FHFA, Fannie Mae and Freddie Mac, Ginnie Mae, the CFPB, and State mortgage regulators.

The report references the failure of Taylor, Bean, and Whitaker (TBW) on page 27, stating that Ginnie Mae and the enterprises would likely bear the brunt of the costs in the event of a failure, and that the ease with which servicing could be continued seamlessly without consumers experiencing harm would depend on the individual nature of the failure.

Page 2

The Failure of TBW illustrates a compelling need for a coordinated approach to supervision for these entities. The deficiencies within TBW's operations were first brought to light by a state mortgage regulatory examination of the company that resulted in a cease and desist and ultimately a consent order defining how the company could move forward. This examination report was furnished to HUD upon request and prior to any of the actions undertaken by the federal agencies. Upon review of the report and the public action on TBW, FHA removed TBW's authority to underwrite FHA loans, without notifying state regulators. What followed was the prompt failure of the company, leaving state regulators to ensure that people who had loans in TBW's pipeline had financing alternatives. State regulators also worked to ensure that the thousands of people whose loans were serviced by TBW did not experience harm. Due to the absence of a coordinated scheme of oversight, and in spite of months of diligent efforts by state regulators to place individual loans with different servicers, there were borrowers who experienced harm in the aftermath of the servicing transfers according to numerous press accounts.[4]

Prudential Standards

[4] http://money.cnn.com/2012/01/18/real_estate/foreclosure_homes/

To further the point that we believe a more coordinated effort is needed in the oversight of non-bank servicers, the report cites the work for a set of prudential standards for servicers on page 32. As the work is not finalized, CSBS believes inserting language within the paragraph to state the standards that were issued for comment would remove speculation that any final decisions had been made.

National Mortgage Settlement (NMS)

State mortgage regulators have been at the core of regulating these entities and were one of the primary drivers in the NMS referenced on page 18 in the draft. This highly coordinated effort among state and federal agencies highlights the benefits of a coordinated approach to oversight. The footnote at the bottom of the page reference's the NMS, but neglects to mention the state regulators role in the settlement. State Mortgage Regulators played a vital role in the examinations of non-bank servicers, evidenced by their examination and settlement with GMAC/Ally, providing valuable evidence that illustrated the need for agreed upon industry servicing standards.[5]

Page 3

Comprehensive List of Non-Bank Mortgage Servicers

The report finds that the "CFPB does not have a mechanism to develop a comprehensive list of nonbank servicers…" We believe that the NMLS does contain information on the vast majority of nonbank servicers. Even though every state does not require nonbank servicers to be licensed, most firms would very likely be included in NMLS since most would service loans in other states that require licensure. CFPB does have access to this data. While the statement in the report is accurate since we cannot be sure the list is "comprehensive," we do not believe it presents an accurate picture.

In closing, CSBS believes a highly coordinated approach toward the oversight of these complex entities, that includes both state and federal participants, will result in an umbrella of oversight that avoids consumer harm, strengthens the GSE's position in the event of a failure, and allows for a clear regulatory structure of prudential supervision.

[5] Refer to Department of Justice press release at: http://www.justice.gov/opa/pr/federal-government-and-state- attorneys-general-reach-25-billion-agreement-five-largest

Best regards,

John W. Ryan

President & CEO

Text of Appendix VI: Comments from the Federal Housing Finance Agency

Page 1

Federal Housing Finance Agency

Constitution Center

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Washington, D.C. 20219

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www.fhfa.gov

February 10, 2016

Mr. Lawrance L. Evans

Director, Financial Markets and Community Investments

U.S. Government Accountability Office

441 G Street, NW

Washington, D.C. 20548

Dear Mr. Evans:

The Federal Housing Finance Agency (FHFA) reviewed the U.S. Government Accountability Office's report entitled Nonbank Mortgage

Servicers: Existing Regulatory Oversight Could be Strengthened (GA0-16-278).

The report discusses the increased presence of nonbank mortgage servicers in the mortgage market, as well as the oversight framework for nonbank servicers, and notes certain differences in the authority of the various regulators that directly or indirectly conduct oversight of nonbank mortgage servicers.

FHFA agrees with the report's general conclusion that similar risks and servicers should be subject to consistent regulation and with the report's recommendation for parity among financial institution regulators in oversight authority with respect to business counterparties of the entities they regulate. As noted in the report, the Financial Stability Oversight Council included a similar observation and recommendation in its 2015 Annual Report.

Thank you for the opportunity to comment.

Sincerely,

Alfred M. Pollard

General Counsel

Text of Appendix VII: Comments from Ginnie Mae

Page 1

Ginnie Mae

Our Guaranty Matters

Office of the President

550 12th Street, SW, Third Floor

Washington, DC 20024

(202) 475-4900

February 16, 2016

Mr. Lawrance L. Evans

Director, Financial Markets and Community Investments

U.S. Government Accountability Office

441 G Street, N.W.

Washington, D.C. 20548

Dear Mr. Evans,

Ginnie Mae appreciates your work on the trend toward nonbank servicers, and the opportunity to review the draft of your report. We think the draft is an excellent distillation of the subject -- particularly from a consumer protection point of view.

Ginnie Mae is on record as stating that nonbank servicers have brought needed capacity and innovation to the industry, and that there are benefits to the diversity of service providers that has resulted from this trend. We have also stated, however, that there are enhanced risks that result from the greater reliance on nonbanks, and that Ginnie Mae and other governmental entities must adapt their policies, practices and capabilities to this changed environment. This is a significant undertaking.

We take no position on the recommendation that FH FA be given examination authority over Fannie Mae and Freddie Mac nonbank servicers. However, our experience provides compelling evidence of the need, to develop prudential oversight frameworks that reflect the unique needs of the Ginnie Mae issuers which are different than those for Fannie Mae and Freddie Mac servicers.

Ginnie Mae guaranteed MBS, which funded 38% of mortgage originations in 2015, are collateralized by government insured loans, which have more liberal credit terms than conventional loans. Ginnie Mae issuers are responsible for advancing payments to security holders and to cover all expenses not reimbursed by insuring agencies. Fannie Mae and Freddie Mac do not have these requirements. Accordingly, and we will continue our efforts - noted in your report - to obtain funding that will enable the development of sufficient capabilities.

We respectfully request that policymakers be mindful of the need to have coordinated and commensurate responses to this issue. Toward this end, we are eager to collaborate with other agencies to find solutions that are appropriate to the circumstances without being unduly burdensome to an industry that is still remaking itself after the unprecedented stresses of the financial crisis.

Sincerely,

Theodore W. Tozer

President

Ginnie Mae

Mailing Address

451 Seventh Street SW, B-133

Washington, DC 20410

Data Tables

Data Table for Highlights Figure and Figure 3: Share of Home Mortgages Serviced by Bank and Nonbank Servicers, from First Quarter 2012 through Second Quarter 2015

	Quarters	Nonbank servicers	Bank servicers
2012	Q1	6.8	93.2
	Q2	10.4	89.6
	Q3	10.6	89.4
	Q4	11.7	88.3
2013	Q1	13.2	86.8
	Q2	16.2	83.8
	Q3	17.9	82.1
	Q4	18.9	81.1
2014	Q1	20.5	79.5
	Q2	21.4	78.6
	Q3	21.9	78.1
	Q4	22.6	77.4
2015	Q1	23.3	76.7
	Q2	24.2	75.8

Data Table for Figure 2: Share of Home Mortgages Serviced by the 10 Largest Nonbank Servicers, as of 2015Q2

Nonbank servicers	Bank Servicers
24.2%	75.8%

Other nonbank servicers	10 largest nonbank servicers
23.6%	76.4%

Data Table for Figure 5: Percentage of Home Mortgages Owned or Guaranteed by Entity, as of 2015Q2

Pie Chart Data

Percentage for bank portfolios, Fannie Mae MBS and portfolios, Freddie Mac MBS and portfolios, Ginnie Mae MBS and portfolios, Other federal agency and government sponsored enterprise portfolios combined	89.9%
Percentage for Home mortages owned by others[a]	10.1%

Bar Chart Data.

Bank portfolios[b]	28.7%
Fannie Mae MBS and portfolios	28.5%
Freddie Mac MBS and portfolios	16.9%
Ginnie Mae MBS and portfolios	14.9%
Other federal agency and government sponsored enterprise portfolios[c]	0.9%

Data Table for Figure 6: Concentration in the Market for Mortgage Servicing, from Fourth Quarter 2006 through Fourth Quarter 2014

Year	Market concentration (HHI)
2006	883.217
2007	925.114
2008	1372.69
2009	1423.3
2010	1410.65
2011	1309.16

Year	Market concentration (HHI)
2012	1253.46
2013	1110.97
2014	1010.83

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