American Bankers Association
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CBA CONSUMER BANKERS ASSOCIATION

June 6, 2016

Via ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

Re: Request for Comment on Proposed Rule, CG Docket No. 02-278

Dear Ms. Dortch:

The American Bankers Association[1] and the Consumer Bankers Association[2] (the Associations) appreciate the opportunity to submit this comment in response to the Federal Communications Commission's (Commission) request for comment[3] on proposed revisions to its rules under the Telephone Consumer Protection Act[4] (TCPA) to implement a provision of the Bipartisan Budget Act of 2015 (2015 Budget Act or Act). That provision exempts from the TCPA's prior express consent requirement autodialed and prerecorded calls "made solely to collect a debt owed to or guaranteed by the United States" (Exemption).[5]

Enacted in 1991, the TCPA is primarily a privacy statute, written to protect consumers from intrusive and unwanted telemarketing calls, but it also has other purposes. One such purpose was cost reduction in a time when cell phones were considered a luxury item. The restrictions on automated calls to wireless numbers expressly were written, in part, to control the shifting of telemarketers' advertising costs to consumers by the use of random and sequential generators to run mass calling campaigns.[6] This restriction had merit in 1991 when wireless service was expensive, relatively rare, and almost never used by consumers as their primary means of telephone communication. The Commission's recent interpretations of the TCPA, however, fail to reflect technological change and consumer communication preferences, preventing consumers

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[1] The American Bankers Association is the voice of the nation's $16 trillion banking industry, which is composed of small, regional and large banks that together employ more than 2 million people, safeguard $12 trillion in deposits and extend more than $8 trillion in loans.
[2] Founded in 1919, the Consumer Bankers Association (CBA) is the trade association for today's leaders in retail banking - banking services geared toward consumers and small businesses. The nation's largest financial institutions, as well as many regional banks, are CBA corporate members, collectively holding well over half of the industry's total assets. CBA's mission is to preserve and promote the retail banking industry as it strives to fulfill the financial needs of the American consumer and small business.
[3] Notice and Request for Comment, Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, 81 Fed. Reg. 31889 (May 20, 2016) (hereinafter, Proposed Rule).
[4] Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq.
[5] Bipartisan Budget Act of 2015 (hereinafter, Budget Act), Pub. L. No. 114-74, § 301, 129 Stat. 588.
[6] *See Rules and Regulations Implementing the Telephone Consumer Protection Act*, 18 FCC Rcd 14014, 14092 (2003) ¶ 133 (citing S. REP. No. 102-178 at 5, *reprinted in* 1991 U.S.C.C.A.N. 1968, 1972-73 (1991)).

from receiving important communications from businesses and government entities on their mobile phones, communications that provide important information that consumers want and need to receive.

This untenable situation prompted the Administration, beginning in 2013, to include in its budget proposals a request to exempt from the TCPA's prior express consent requirement calls to mobile phones to collect on debts owed to or guaranteed by the United States. In 2015, Congress enacted a statutory provision codifying the exemption.

Clearly, both the Administration and the Congress recognize that borrowers trying to manage their finances responsibly are best served if they communicate with their lender. Communications between a borrower and lender may help the borrower prevent missed payments, minimize negative impacts to a borrower's credit report, take advantage of loan modification or other workout programs, and avoid default. Successful loan workouts and other foreclosure alternatives also reduce credit risk and financial losses to the United States, helping taxpayers recoup the $139.3 billion of delinquent debt owed to or guaranteed by the United States.[7] Using efficient dialing technology to communicate with borrowers enables more contacts and important conversations to occur with fewer personnel, reducing the cost of servicing and collections. This, in turn, promotes the affordability and availability of consumer credit.

Moreover, borrowers increasingly expect the convenience of being able to use mobile financial services. Nearly 50% of U.S. households are now "wireless-only," with that percentage rising to over 70% for adults between 25 and 29.[8] Many low income consumers rely on their cell phone for Internet access and other communications, because purchasing multiple devices, such as landlines and laptops, can be prohibitively expensive. Recently, the Federal Deposit Insurance Corporation (FDIC) found that customers with limited involvement with their bank *prefer* text messages to e-mails when receiving alerts from financial institutions, because texts are faster, easier to receive, attention grabbing, and quicker and easier to digest.[9] It is critical that lenders be able to reach borrowers through the telecommunications devices that borrowers prefer.

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[7] *See* U.S. DEPT. OF THE TREASURY, FISCAL YEAR 2014 REPORT TO THE CONGRESS ON UNITED STATES GOVERNMENT RECEIVABLES AND DEBT COLLECTION ACTIVITIES OF FEDERAL AGENCIES 1 (May 2015), *available at* https://fiscal.treasury.gov/fsservices/gov/debtColl/pdf/reports/debt14.pdf.

[8] STEPHEN J. BLUMBERG & JULIAN V. LUKE, U.S. DEPT. OF HEALTH & HUMAN SERVICES, CTR. FOR DISEASE CONTROL & PREVENTION, NAT'L CTR. FOR HEALTH STATISTICS, WIRELESS SUBSTITUTION: EARLY RELEASE OF ESTIMATES FROM THE NATIONAL HEALTH INTERVIEW SURVEY, JANUARY-JUNE 2015 (2015), *available at* http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201512.pdf (Tables 1 & 2).

[9] FED. DEPOSIT INS. CORP., QUALITATIVE RESEARCH ON MOBILE FINANCIAL SERVICES FOR UNDERSERVED CONSUMERS 21 (Oct. 30, 2015), *available at* https://www.fdic.gov/about/comein/2015/come-in-2015.pdf. The FDIC further asserted text alerts (1) give consumers access to account information; (2) help consumers avoid fees; and (3) help monitor accounts for fraud. *Id.* at 19. According to an "Unbanked MFS User" interviewed as part of the study, "[t]ext-its immediate. Email, you have to go in and actually be checking your email account." *Id.* at 21. Building on this research, the FDIC is exploring the potential for mobile banking to promote and support underserved consumers' banking relationships in part by increasing the communications and alerts sent to those underserved consumers that use mobile services. FED. DEPOSIT INS. CORP., FIL-32-2016, REQUEST FOR COMMENTS ON MOBILE FINANCIAL SERVICES STRATEGIES AND PARTICIPATION IN ECONOMIC INCLUSION DEMONSTRATIONS 3 (2016), *available at* https://www.fdic.gov/news/news/financial/2016/fil16032.pdf. The Bureau of Consumer Financial Protection also concluded that alerts to cell phones help consumers, including low income consumers, access financial services and manage personal finances:

In establishing the Exemption, Congress struck a balance between the privacy interests that the TCPA was enacted to protect and the benefits described above. We are deeply concerned that, in the proposed rule, the Commission has improperly replaced the policy determination made by Congress with its own. The Commission has proposed limitations on the Exemption that are not authorized by the text of 2015 Budget Act legislation, would significantly hinder the ability of mortgage and Federal student loan servicers to provide loss mitigation and assist delinquent borrowers, and are inconsistent with the rules and standards of other Federal agencies.

The limitations in the proposed rule would (1) exempt only calls made after the borrower is delinquent or, alternatively, in default; (2) exclude from exemption calls made to a number that belonged to a borrower but has been reassigned unbeknownst to the caller; and (3) extend the call restrictions to landline calls, to make such calls even more difficult than under current law. These limitations—which have no basis in the text of the 2015 Act—would significantly impair the very communications that Congress exempted from the TCPA. Making those communications more burdensome and less efficient with borrowers who use cell phones—as the proposed rule would do—impedes what Congress sought to accomplish.

Furthermore, the Associations urge the Commission to harmonize its rule with the servicing rules of other Federal agencies that require financial institutions to contact distressed borrowers to provide assistance to those borrowers. Indeed, in the Act, Congress directed the Commission to consult with the Department of the Treasury (Treasury), in order to avoid the imposition of inconsistent standards. As proposed, the Commission's rule imposes a limit of *three* calls that lenders may initiate to distressed borrowers under the Exemption. This three-call limit is inconsistent with borrower contact requirements of the Treasury's Home Affordable Modification Program (HAMP), the mortgage servicing rules of the Bureau of Consumer Financial Protection, and Federal Housing Administration (FHA) requirements. The three-call limit also deprives the Exemption of much of its purpose and potential value. It is incumbent on the Commission to engage with other agencies to ensure that modifications are made in the final rule to avoid conflict with those agencies' rules.

I. The 2015 Budget Act Should Be Applied to All Types of Government Obligations

The 2015 Budget Act exempts from the TCPA's consent requirements, calls made regarding debt "owed to or guaranteed by the United States."[10] This statutory language does not restrict the types of debt to which the Exemption applies. Therefore, the Exemption should be interpreted to include all loans or other debt (1) insured, guaranteed, coinsured, or reinsured, in whole or in part, by the U.S. government or any agency or instrumentality thereof, directly or indirectly; or (2) as to which the U.S. government or any agency or instrumentality thereof may become

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> By enabling consumers to track spending and manage personal finances on their devices through mobile applications or *text messages*, mobile technology may help consumers achieve their financial goals. For economically vulnerable consumers, mobile financial services accompanied by appropriate consumer protections can enhance access to safer, more affordable products and services in ways that can improve their economic lives.

BUREAU OF CONSUMER FIN. PROT., MOBILE FINANCIAL SERVICES: A SUMMARY OF COMMENTS FROM THE PUBLIC ON OPPORTUNITIES, CHALLENGES, AND RISKS FOR THE UNDERSERVED 10 (Nov. 2015), *available at* http://files.consumerfinance.gov/f/201511_cfpb_mobile-financial-services.pdf (emphasis added).

[10] Budget Act, *supra* note 5, at § 301.

obligated, directly or indirectly, to reimburse a third party for all or part of a default or loss claim arising thereunder or relating thereto, including the following.

A. Loans and Securities Issued or Guaranteed by Government Agencies

The Exemption should include calls made regarding loans insured or guaranteed by the Federal Housing Administration (FHA), the Department of Veterans Affairs Home Loan Program (VA), the U.S. Department of Agriculture (USDA) Rural Development program, and the Department of Housing and Urban Development's Office of Public and Indian Housing (PIH), and to student loans issued or reinsured by the U.S. Department of Education (DoE). By extension, the Exemption should also apply to securitized mortgage loans that are guaranteed by Ginnie Mae.[11] Loans guaranteed by FHA, VA, USDA Rural Development, and PIH carry the full faith and credit guaranty of the U.S. government, as do Ginnie Mae securities and loans reinsured by DoE.[12]

Because the loans described above are guaranteed or reinsured by the Federal government, we believe that calls made regarding these loans clearly fall within the Exemption.

B. Loans Owed to or Guaranteed by Fannie Mae and Freddie Mac

The 2015 Budget Act Exemptions also should apply to loans owed to or guaranteed by Fannie Mae and Freddie Mac (the Enterprises). Fannie Mae and Freddie Mac were chartered by Congress.[13] The Enterprises provide liquidity, stability, and affordability to the U.S. housing market by purchasing mortgage loans from banks and other mortgage originators and packaging the loans into securities that are sold to investors (mortgage-backed securities or MBS). Significantly, Fannie Mae and Freddie Mac guarantee the payment of principal and interest payments on the MBS that they issue. They also hold mortgage loans and MBS as investments in their own portfolios.

The Federal Housing Finance Agency (FHFA) placed Fannie Mae and Freddie Mac into conservatorship on September 6, 2008. In conservatorship, owners of Enterprise stock no longer have voting rights; all such rights are vested in FHFA as Conservator. In addition, as Conservator, FHFA has authority to control the assets and operations of the firms and clears all major decisions.

In conjunction with conservatorship, the Treasury entered into Senior Preferred Stock Purchase Agreements (Stock Purchase Agreements) with the Enterprises to ensure that they maintain a positive net worth and are able to meet their obligations to debt and MBS holders. Since the

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[11] Ginnie Mae is a wholly-owned government corporation that is the guarantor of securities issued by approved lenders who participate in its programs. FHA, VA, USDA, and PIH insure or guarantee the loans underlying Ginnie Mae securities.

[12] Under the Federal Family Education Loan (FFEL) Program, private lenders made Federal student loans to students, and guaranty agencies insured these funds, which were, in turn, reinsured by the Federal government. *See* FFEL Program Lender and Guaranty Agency Reports, U.S. Dept. of Educ., *available at* https://studentaid.ed.gov/sa/about/data-center/lender-guaranty. As a result of the Health Care and Education Reconciliation Act of 2010, no new FFEL Program loans have been made as of July 1, 2010. *Id.* Nonetheless, members of the Associations continue to service these loans.

[13] *See* 12 U.S.C. § 1716 et seq. (establishing Fannie Mae); 12 U.S.C. § 1451 et seq. (establishing Freddie Mac).

Stock Purchase Agreements were executed, the U.S. government has effectively owned Fannie Mae and Freddie Mac and has *de facto* guaranteed payment on their debt and MBS. As a result, the loans they make are owed to or guaranteed by the U.S. government, and calls regarding those loans fall within the Exemption.

Treasury Funding Commitment. Under the Stock Purchase Agreements, Treasury committed to provide up to $200 billion in funding to each Enterprise.[14] In return for its funding commitment, Treasury received: (a) a $1 billion equity stake in each Enterprise in the form of a new class of senior preferred stock[15]; and (b) warrants for the purchase of 79.9% of the common stock of each Enterprise. The Stock Purchase Agreements also require Treasury's approval for certain transactions.

All Profits Transferred to Treasury. In 2012, the Stock Purchase Agreements were amended to require that the Enterprises pay Treasury a quarterly net worth sweep, based on a formula.[16] This means that all Enterprise profits are now transferred to Treasury. Importantly, the net worth sweep (and the dividend payments that pre-dated the sweep) does not reduce the amounts that the Enterprises draw from Treasury under the Stock Purchase Agreements. In discussing the 2012 amendments to the Stock Purchase Agreements, FHFA observed that the net worth sweep "ensures all the Enterprises' earnings are to be used to benefit taxpayers."[17] These payments, and the fact that the agreements provide no avenue for repayment of the debts owed to Treasury, comport with the concept of ownership and further illustrate how the government has assumed responsibility for the Enterprises and their financial obligations, including the loans and securities that they guarantee.

Capital Rebuilding and Distributions Prohibited. Because the Enterprises must distribute all profits to Treasury, they cannot retain capital from the earnings generated by their business operations (other than a limited amount that will decrease to zero in 2018) or return capital to stockholders other than Treasury. As a result, the $200 billion funding commitment from Treasury is effectively the only real source of dependable capitalization for Fannie Mae and Freddie Mac that will enable them to fulfill their guarantees.

No Expiration Date. The Stock Purchase Agreements do not have an expiration date. Thus, the government's effective ownership in the Enterprises will continue unless and until Congress acts to change this arrangement.[18]

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[14] If FHFA determines that a GSE's liabilities have exceeded its assets under generally accepted accounting principles, Treasury will contribute cash capital to the GSE in an amount equal to the difference between liabilities and assets. An amount equal to each such contribution will be added to the senior preferred stock held by Treasury.
[15] The senior preferred stock held by Treasury ranks above all other preferred stock, common stock, or other capital stock issued by the Enterprises; existing preferred and common shares have been subordinated to the government's stake.
[16] Prior to the net worth sweep, the Enterprises were required to pay a 10% dividend to Treasury.
[17] FED. HOUSING FIN. AGENCY, SENIOR PREFERRED STOCK PURCHASE AGREEMENTS (2016), *available at* http://www.fhfa.gov/conservatorship/pages/senior-preferred-stock-purchase-agreements.aspx.
[18] The U.S. government's involvement in the Enterprises is likely to continue even if and when Congress acts to end the conservatorships of these entities and put in place more permanent reform of the government's role in the secondary mortgage market.

In sum, the Enterprises remain in conservatorship, the Federal government has ultimate control over the management of the companies, and U.S. taxpayers are obligated to provide funding to the Enterprises of up to $200 billion each. Unless and until Congress acts to reform the role of the government in the secondary mortgage market, the Federal government effectively owns and controls Fannie Mae and Freddie Mac and guarantees payment on their debt and MBS. For these reasons, loans owed to or guaranteed by Fannie Mae or Freddie Mac are within the scope of debt Congress sought to encompass when enacting the Exemption.

II. The Proposed Rule Includes Limitations on the Exemption that Were Not Contemplated by Congress

The Commission has proposed limitations on the Exemption that contravene both the text and spirit of the 2015 Budget Act. The Act delineated the types of conditions the Commission could impose on this Exemption: it gave the Commission the authority only to "restrict or limit the number and duration of calls" made to a wireless number to collect on a debt owed to or guaranteed by the United States.[19] Despite these clear parameters, the Commission has proposed restrictions that go far beyond restrictions and limits on the number and duration of calls. These restrictions contravene the intent of Congress, as reflected in the Administration's Budget request, "to ensure that all debt owed to the United States is collected as efficiently as possible . . . ."[20] Further, these improper restrictions would impair critical communications between distressed borrowers and lenders by imposing significant barriers to these communications. We urge the Commission to remove these restrictions in the final rule.

A. The Commission Improperly Proposed to Limit the Exemption to Calls Made After the Borrower Is Delinquent or, Alternatively, in Default

The Commission improperly proposes to limit the Exemption to calls made *after* the borrower is delinquent or, alternatively, in default.[21] As discussed above, these limitations exceed the clearly defined limitations allowed by Congress, which authorized restrictions only on the number or duration of exempted calls. On this basis alone, the Commission should remove any requirement that an exempt call can occur only after a loan is either delinquent or in default.

Communications between lenders and borrowers *prior* to delinquency are an important tool for lenders to help a borrower avoid delinquency, as well as default, not infrequently for reasons that are unrelated to non-payment. For example, pre-delinquency calls are made to inform borrowers of servicing address changes, changes in payment amount, property tax increases, and insurance obligations. Because the information conveyed in these calls facilitates timely and accurate payment of the borrower's loan, they are calls concerning the collection of a debt and should fall within the Exemption. In this way, such calls are also important tools by which lenders manage

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[19] Budget Act, *supra* note 5, at § 301(a)(2).
[20] OFFICE OF MGMT. & BUDGET, FISCAL YEAR 2016: ANALYTICAL PERSPECTIVES OF THE U.S. GOVERNMENT 128 (2015). The Administration has sought the Exemption since at least its Fiscal Year 2013 Budget request. *See, e.g.*, OFFICE OF MGMT. & BUDGET, FISCAL YEAR 2015: ANALYTICAL PERSPECTIVES OF THE U.S. GOVERNMENT 123 (2014); OFFICE OF MGMT. & BUDGET, FISCAL YEAR 2013: ANALYTICAL PERSPECTIVES OF THE U.S. GOVERNMENT 168 (2012).
[21] Proposed Rule, *supra* note 3, at ¶ 8.

credit risk. For these reasons, we urge the Commission to reconsider its proposal that calls covered by the Exemption be limited to those made after delinquency.

Limiting exempt calls to those made after a borrower is in default would further curtail important communications by lenders to help borrowers facing financial hardship. It is well-established that the earlier a servicer is able to communicate with a financially distressed borrower, the more likely the servicer will be able to offer the borrower a loan modification, forbearance, interest rate reduction, or other alternative that will help prevent the borrower from losing his or her home to foreclosure.

Calls made pursuant to existing servicing regulations and requirements are not telemarketing "robocalls" that the TCPA's consent requirements were intended to prevent. Rather, they are calls to connect borrowers with live agents for the purpose of educating delinquent borrowers about options offered by a creditor that help the borrower to avoid foreclosure. During live contact, servicers advise borrowers of alternatives or programs that may be available to help them get into more cost effective repayment plans or become current on loan payments, including potential modification to the loan.[22] In the case of a mortgage, once a borrower defaults due to nonpayment, foreclosure is imminent and the likelihood that a borrower will successfully submit a timely and complete loss mitigation application is very low.

Together, public and private efforts have helped nearly seven million Americans obtain mortgage assistance to prevent avoidable foreclosures.[23] Unfortunately, however, many borrowers do not contact their servicer proactively to take action to prevent the loss of their homes. Such inaction is risky because the longer a borrower remains delinquent, the more difficult it can be to avoid foreclosure.[24] However, by telephoning a delinquent borrower (i.e., establishing "live contact"), servicers are able to begin working with the borrower to help keep them in their home. In addition, early corrective action may reduce avoidable interest costs, limits the negative impact that delinquency and foreclosure have on credit reports, and facilitates household budgeting and planning. In fact, one study found that repayment plans established when a loan was 30 days late had a default rate that was 27 percent lower than plans established when a loan was 60 days late.[25] For these reasons, regulators, policymakers, and servicers concur that it is of utmost importance to make live contact with borrowers as early as possible to

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[22] *See* 12 C.F.R. § 1024.41(c)(2)(ii) (describing loss mitigation procedures); BUREAU OF CONSUMER FIN. PROT., SUMMARY OF THE FINAL MORTGAGE SERVICING RULES 4 (Jan. 17, 2013), *available at* http://files.consumerfinance.gov/f/201301_cfpb_servicing-rules_summary.pdf ("[Servicer] personnel should be accessible to the borrower by phone to assist the borrower in pursuing loss mitigation options, including advising the borrower on the status of any loss mitigation application and applicable timelines.").

[23] U.S. DEPT. OF THE TREASURY, FINANCIAL STABILITY: MAKING HOME AFFORDABLE (2016), *available at* https://www.treasury.gov/initiatives/financial-stability/TARP-Programs/housing/mha/Pages/default.aspx.

[24] Fannie Mae and Freddie Mac have aligned their loan modification incentives with the number of days the mortgage loan is delinquent when the borrower enters a trial period plan.

[25] Amy Crews Cutts & William A. Merrill, *Interventions in Mortgage Default: Policies and Practices to Prevent Home Loss and Lower Costs*k, at tbl. 2 (Freddie Mac, Working Paper No. 08-01, 2008), *available at* http://www.freddiemac.com/news/pdf/interventions_in_mortgage_default.pdf. This statistic is merely suggestive of a benefit to early intervention, since borrowers who are willing to begin a repayment plan at 30 days may be more likely to become current even without a repayment plan.

assess the borrower's financial situation and provide information about potential loss mitigation options.[26]

The importance of facilitating communications from a lender to a distressed borrower is underscored by the significant, negative consequences of default. When default occurs, contract provisions are triggered that can accelerate the loan and require immediate repayment of the entire mortgage debt; failure to do so can then lead to foreclosure.

Default will also lower the borrower's credit score and limit the borrower's ability to access financial products in the future. For this reason, it is critical that the Exemption apply to calls made to troubled borrowers as early as possible.

B. The Commission Should Not Limit the Exemption to Calls Made to Numbers Provided by the Customer

The Budget Act did not limit the Exemption to calls made to numbers that were provided to the lender by the borrower, nor did the Act authorize the Commission to impose such a restriction. This restriction does not concern the number or duration of exempted calls; instead it concerns how the lender obtained the phone number to which an exempted call is directed. As such, the limitation is not allowable under the Act.

Moreover, this restriction would contravene the purpose of the 2015 Budget Act Exemption, which is to enable companies to call borrowers *without* prior consent. Under the Commission's existing interpretation of express consent, the proposed "provided number" condition would limit exempted calls to borrowers that have already provided their mobile number to the lender—or consented—rendering the Exemption largely superfluous.

In many cases, such as acquisition of a loan from another creditor or servicer, the caller's records simply will not show how a customer's number was obtained. Even where the lender's records show that a number was acquired from the borrower, a "provided number" condition effectively shifts to the lender the burden of proving that fact in the event of a challenge. Class action attorneys might readily assemble a purported class of borrowers who received and benefited from calls subject to the Exemption, but who do not remember furnishing their numbers to the calling lender. Such claims might survive summary judgment and impose substantial litigation costs on lenders, regardless of their merit, driving up the cost of consumer credit.

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[26] *See* Kristopher Gerardi & Wenli Li, *Mortgage Foreclosure Prevention Efforts*, 95 Fed. Reserve Bank of Atlanta Econ. Rev., 1, 8–9 (2010), *available at* https://www.frbatlanta.org/research/publications/economic-review/2010/vol95no2_foreclosure-prevention-efforts.aspx; Michael A. Stegman *et al.*, *Preventative Servicing is Good for Business and Affordable Homeownership Policy*, 18 Housing Policy Debate 243, 274 (2007), *available at* http://clas.wayne.edu/Multimedia/DUSP/files/L_Ding/PreventiveServicing_Ding_2007.pdf; Freddie Mac, *Foreclosure Avoidance Research II: A Follow-Up to the 2005 Benchmark Study* 8 (2008), *available at* http://www.freddiemac.com/service/msp/pdf/foreclosure_avoidance_dec2007.pdf*;* Freddie Mac, *Foreclosure Avoidance Research* (2005), *available at* http://www.freddiemac.com/singlefamily/service/pdf/foreclosure_avoidance_dec2005.pdf*;* Office of the Comptroller of the Currency, *Foreclosure Prevention: Improving Contact with Borrowers* (June 2007), *available at* http://www.occ.gov/topics/communityaffairs/publications/insights/insights-foreclosureprevention.pdf*;* John C. Dugan, Comptroller, Office of the Comptroller of the Currency, *Remarks Before the NeighborWorks America Symposium on Promoting Foreclosure Solutions* (June 25, 2007), *available at* http://www.occ.gov/news-issuances/speeches/2007/pub-speech-2007-61.pdf.

C. The Exemption Should Not Exclude Calls Made to Reassigned Numbers

It would be impermissible and harmful to borrowers if the Commission excluded from the Exemption calls made to a "reassigned number," or a number that belonged to a borrower but had been subsequently reassigned to another consumer unbeknownst to the caller. As with the "provided number" condition, limiting the Exemption for calls made to reassigned numbers is not a restriction concerning the number or duration of exempted calls. Consequently, the proposed limitation is not permissible under the Act. Congress clearly determined that the benefit of making the calls outweighs the minimal inconvenience of individuals mistakenly dialed.

Even with best practices and strict compliance procedures, lenders cannot completely avoid calling reassigned wireless telephone numbers. Telephone companies recycle as many as 37 million telephone numbers each year,[27] and yet there is no public wireless telephone directory or tool available to identify numbers that have been reassigned. The Commission's reassigned numbers proposal is particularly at odds with the requirements of HAMP, which mandates that calls be made to distressed borrowers at their last known phone number of record. Any imposition of liability for a lender that calls a reassigned number is likely to raise regulatory risk that would lead lenders not to use the Exemption to make calls to distressed borrowers, effectively defeating the purpose of the Exemption and forcing lenders to use less efficient means to try to contact borrowers.

The imposition of liability for calls made to reassigned numbers is wholly unnecessary to protect the privacy of other consumers. Because the calls subject to the Exemption are intended to address the needs of individual borrowers, there is no need or incentive for a lender to call anyone but the intended recipients or their agents or designees. Furthermore, lenders make significant efforts to promote accuracy in the numbers they call, such as providing borrowers multiple means to edit contact information, confirming a borrower's contact information during any call with the borrower, or providing instructions for reporting a wrong number call.

D. The Commission Should Not Impose Restrictions on Calls for Which Congress Did Not Grant Authority to the Commission to Restrict

Under the Commission's existing rules, non-telemarketing calls—including calls subject to the Exemption—do not require any consent when made to a residential line. As far back as 1992, the Commission concluded that non-telemarketing, debt-related calls to landlines are exempt from the TCPA's consent requirements, because they "do not convey an unsolicited advertisement and do not adversely affect residential subscriber rights."[28] In subsequent proceedings, the Commission has confirmed this conclusion.[29] We urge the Commission to adhere to its own longstanding treatment of landline communications.

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[27] Alyssa Abkowitz, *Wrong Number? Blame Companies' Recycling*, Wall Street J. (Dec. 1, 2011), *available at* http://www.wsj.com/articles/SB10001424052970204012004577070122687462582#ixzz1fFP14V4h.

[28] *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, 7 FCC Rcd 8752, 8772 (1992).

[29] *See, e.g.*, *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, 27 FCC Rcd 1830 (2012) (stating rule that calls that "do not contain telemarketing messages[] would not require any consent when made to residential wireline consumers").

In the 2015 Budget Act, Congress exempted calls made not only to a cell phone but also calls to a pager, specialized mobile radio service, other radio common carrier service, *or residential line*.[30] Notably, Congress did *not* grant the Commission the authority to restrict or limit calls made to the last category of calls—i.e., calls to a residential line. Despite this absence of authority, the Commission contends that Congress had "delegated the Commission the authority to limit the number and duration of *all* calls made pursuant to the [Exemption]."[31]

We disagree. The Commission cannot re-write the Act to grant itself the authority to impose restrictions that Congress did not allow.[32]

In sum, Congress enacted the Exemption to make it *easier* for lenders to contact distressed borrowers of debts owed to or guaranteed by the U.S. government, to provide needed assistance to those borrowers. We are deeply concerned that the Commission is considering making it *more difficult* for lenders to communicate with such borrowers who use residential lines, despite the absence of any indication in the record that Congress sought to impose restrictions on these communications.[33] We urge the Commission not to impose restrictions on non-telemarketing calls, including calls encompassed by the Exemption, which are made to landlines.

III. The Proposed Restrictions Are Inconsistent with Well-Established Mortgage Servicing Policy and Conflict with Existing Regulatory Requirements

The Commission states, unequivocally, that the proposed restrictions will not "Duplicate, Overlap, or Conflict" with any other Federal regulation.[34] Despite this statement, the Commission's proposed limitations on the exemption are in *direct* conflict with existing regulatory requirements and are inconsistent with the goals and objectives underlying those rules.[35] Significantly, the Commission proposes limiting the number of calls that may be initiated to "three calls per month, per delinquency only after delinquency."[36] A limit of three calls per month is incompatible with the rules and standards listed below and grossly insufficient for lenders to communicate with borrowers and provide necessary guidance and assistance.[37]

Below is a non-exhaustive list of current requirements that would conflict with the Commission's proposal; more detailed descriptions are included in the Appendix.

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[30] Budget Act, *supra* note 5, at § 301(a) (amending 47 U.S.C. §§ 227(b)(1)(A)(iii) & 227(b)(1)(B)).
[31] Proposed Rule, *supra* note 3, ¶ 24 (emphasis added).
[32] *See* MCI Telecomm. Corp. v. Am. Tel. & Telegraph Co., 512 U.S. 218, 231-32 (1994) (holding that Commission's decision to make tariff filing optional for certain carriers was not valid exercise of its statutory authority, where Communications Act mandated filing by every carrier, because Commission's "fundamental revision of the statute . . . was not the idea Congress enacted into law").
[33] *See* Proposed Rule, *supra* note 3, ¶¶ 22-23.
[34] *Id.* ¶ 26 (stating "None" under the heading "Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules"). Consistent with the Commission's statement, correspondence from Chairman Wheeler to several members of Congress stated that "Commission staff worked closely with the CFPB staff in drafting the NPRM and developing the aforementioned proposals and has also consulted closely with the Department of Treasury . . . and other federal stakeholders." *See* Letters from Thomas Wheeler, Chairman, Fed. Commc'n Comm'n, to Members of Congress (2016), *available at* https://apps.fcc.gov/edocs_public/attachmatch/DOC-338172A1.pdf.
[35] Each of these rules and standards is discussed in detail in the Appendix.
[36] Proposed Rule, *supra* note 3, ¶ 18.
[37] The deficiency in the Commission's proposal to limit calls to after the borrower is delinquent, or in default, is discussed in section 2.A above.

- Bureau's Mortgage Servicing Rules. Servicers must make a "good faith effort" to establish "live contact" with delinquent borrowers within 36 days of delinquency, which often requires more than three initiated calls. In addition, the Commission proposes permitting exempted calls only to the borrower, which is at odds with the Bureau's regulations mandating that contact be made, under certain circumstances, with borrower agents or successors in interest.

- FHA. Servicers must call delinquent borrowers a minimum of *two times per week* until contact is established or the servicer determines that the mortgaged property is vacant or abandoned.

- VA. Servicers must make an effort to establish live contact with a borrower, provide financial counseling, and assess potential alternatives for relief. These efforts often require that more than three calls be initiated.

- Home Affordable Modification Program (HAMP). Servicers must make a *minimum of four telephone calls* to delinquent borrowers at the borrower's last known phone numbers of record (at different times of the day) over a period of at least 30 calendar days.

- National Mortgage Settlement. The National Settlement adopted HAMP's requirement that a *minimum of four calls* be placed over a 30-day period.

- Fannie Mae and Freddie Mac Servicing Requirements. Servicers must attempt to contact a delinquent borrower at least every fifth day at varying times throughout the day.

- Office of the Comptroller of the Currency (OCC) Consent Agreements. The OCC approved bank compliance plans that included procedures for telephoning delinquent borrowers to inform them about loss mitigation options.

- DoE Guidance. DoE's directive that lenders contact distressed student loan borrowers on borrowers' cell phones may put lenders at odds with the Commission's proposed three-call limit on such communications.[38]

Limiting the duration of an exempted voice call is also inconsistent with servicing requirements.[39] Inevitably, this limitation would interfere with important conversations between

[38] Under the section titled *Allow Servicers to Contact Federal Student Loan Borrowers via their Cell Phones*, the DoE asserts "[i]f servicers are able to contact a borrower, they have a much better chance at helping that borrower resolve a delinquency or default . . . . With phone numbers changing or being reassigned on a regular basis, it is virtually impossible for servicers to use auto-dialing technology . . . . Congress should change the law to ensure that servicers can contact borrowers using modern technology and help them get into the right repayment plan and avoid the consequences of default or resolve their default." U.S. Dept. of Educ., *Strengthening the Student Loan System to Better Protect All Borrowers* (Oct. 1, 2015), at 16, *available at* https://www2.ed.gov/documents/press-releases/strengthening-student-loan-system.pdf.

[39] Proposed Rule, *supra* note 3, ¶ 18.

distressed borrowers and lenders when the lender is providing assistance. Moreover, there is no need for such a limitation to protect the borrower's privacy interests, as the borrower can simply hang up the phone if he wishes to end the call. We urge the Commission not to impose a maximum duration for an exempted call.

In sum, conflicts between the proposed rule and other Federal agencies' rules and standards demonstrate that the Commission should refrain from promulgating regulations that would significantly impact communications between lenders and borrowers. Instead, we urge the Commission to defer to the significant experience and expertise of Federal housing regulators, researchers, policymakers, and servicers regarding the types of communication that are most effective in conveying information that will help troubled borrowers obtain an interest rate reduction, forbearance, or other assistance with their loan.

Conclusion

As recognized by multiple entities within the federal government, communication between lenders and their customers is necessary to manage finances and avoid default. The rules of the other federal agencies embody this principle by requiring that lenders place multiple calls to achieve live contact with the borrower. Congress passed the 2015 Budget Act's Exemption to the TCPA to facilitate these important communications with respect to loans insured or guaranteed by the Federal government. The Commission should issue a rule that helps achieve, not undercut, that purpose.

Sincerely,

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APPENDIX

In addition to conflicting with the goals and objectives underlying existing servicing requirements, the Commission's proposed limitations on the exemption are inconsistent with specific provisions in those requirements, as discussed below.

I. Conflict with Bureau's Mortgage Servicing Rules

A. Frequency of Phone Contact

The Bureau's Mortgage Servicing Rules require that servicers engage in various communications with delinquent borrowers.[40] Among other requirements, servicers must attempt to make a "good faith effort" to establish "live contact" with a delinquent borrower within 36 days of delinquency.[41] To meet the live contact requirement, servicers must have a telephone conversation with the borrower or speak with the borrower in-person to discuss the circumstances of the borrower's delinquency. Leaving a phone message is not sufficient. Servicers must make a good faith effort to establish live contact each billing cycle for which a borrower has been delinquent for at least 36 days.

The Mortgage Servicing Rules do not define what constitutes a "good faith effort" to establish live contact. However, the Bureau's official staff commentary provides that good faith efforts to establish live contact consist of "reasonable steps under the circumstances to reach a borrower and may include telephoning the borrower on more than one occasion or sending written or electronic communication encouraging the borrower to establish live contact with the servicer."[42]

A lender seeking to adhere to these requirements can easily run afoul of the Commission's proposed restrictions on the Exemption. The Bureau's directive to telephone the borrower on

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[40] 12 C.F.R. § 1024.39. Importantly, the Bureau's live contact requirement is only one element of a multi-faceted approach to communicating with financially distressed borrowers. Servicers must also provide past due borrowers written information describing loss mitigation options and how to contact housing counseling organizations, among other requirements. The written notice must:

- Encourage the borrower to contact the servicer;
- Provide the borrower with a telephone number to access servicer personnel assigned to the borrower as well as the servicer's address;
- Describe examples of loss mitigation options that may be available from the servicer;
- Provide instructions for applying for loss mitigation (or describe how to obtain more information about loss mitigation options); and
- Provide contact information for housing counseling organizations.

12 C.F.R. § 1024.39(b)(2).

[41] 12 C.F.R. § 1024.39(a) & cmt. 39(a) - 2. For purposes of the Live Contact requirement, delinquency begins on the day that a payment sufficient to cover principal, interest, and, if applicable, escrow for a given billing cycle is due and unpaid, even if the borrower is afforded a period after the due date to pay before the servicer assesses a late fee. Therefore, a servicer must make a good faith effort to contact a borrower between the date when the borrower's mortgage payment is due and not paid in full and 36 days after that date. Comment 39(a)-1 of the Mortgage Servicing Rules further clarifies that a borrower who is performing as agreed under a loss mitigation option designed to bring the borrower current on a previously missed payment is not delinquent for purposes of section 1024.39 of those rules. *See* 12 C.F.R. § 1024.39 cmt. 39(a) - 1.

[42] 12 C.F.R. § 1024.39 cmt. 39(a) - 2.

multiple occasions and until live contact is established will place the lender in non-compliance with the Commission's limit of three initiated calls to a distressed borrower.

B. Persons Who May Be Called

Borrower's Representative/Agent. The Commission's proposal to restrict the person to whom exempted calls may be directed also is inconsistent with the Mortgage Servicing Rules' live contact requirement. The Commission proposes to limit the exemption to calls to the person or persons obligated to pay the debt.[43] In support, the Commission states that "it appears impossible that calls to non-debtors . . . would directly result in collection from the debtor."[44] This restriction conflicts with the Mortgage Servicing Rules and their corresponding official staff commentary, which permit servicers to establish live contact with a person authorized by the borrower to communicate with the servicer on the borrower's behalf.[45] For example, a person may require a person claiming to be an agent of the borrower to provide documentation to that effect.

We strongly urge the Commission to clarify that the Exemption includes calls to a borrower's agent. Excluding such calls from the universe of exempted calls could negatively impact the ability of a servicer to provide important loss mitigation information to the borrower via his or her designee.

Successors in Interest. Another conflict between the proposed rule and the Mortgage Servicing Rules concerns the ability of a lender to contact a deceased borrower's successor in interest. The Mortgage Servicing Rules require that servicers have policies and procedures reasonably designed to ensure that, upon notification of the death of a borrower, the servicer promptly identifies and facilitates communication with a successor in interest of the deceased borrower with respect to the property that secures the deceased borrower's mortgage loan. A successor in interest has traditionally been interpreted as the spouse, child, or heir of a deceased borrower or other party with an interest in the mortgaged property.

Importantly, the Bureau has proposed to expand dramatically the individuals who constitute a successor in interest and the information that such individuals are entitled to receive.[46] Under the Bureau's rulemaking, certain Mortgage Servicing Rules, including the live contact requirement, would apply to successors in interest who have acquired an ownership interest in the property *regardless of whether the successor in interest is liable on the mortgage loan obligation*.[47] Thus, the Bureau's proposed rules require that a lender contact a borrower's successor in interest, in

[43] Proposed Rule, *supra* note 3, ¶ 13.
[44] *Id.*
[45] 12 C.F.R. § 1024.39 cmt. 39(a)-4.
[46] Amendments to the 2013 Mortgage Rules under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z), 79 Fed. Reg. 74176 (Dec. 15, 2014).
[47] Subpart C of the Servicing Rules addresses servicing transfers; escrow accounts; error resolution; information requests; lender-placed insurance; servicing policies, procedures, and requirements; early intervention; continuity of contact; and loss mitigation.

direct conflict with the Commission's proposal to restrict a lender's contact to the borrower only.[48]

We strongly encourage the Commission to collaborate with the Bureau regarding the potential implications of the latter's rulemaking, which is expected to be finalized this summer. A narrow interpretation of the parties whom can be called under the Exemption could work at cross purposes with the Bureau's rulemaking on successors in interest and subject banks and other servicers to competing and conflicting agency objectives.

C. Missing Documentation

The proposed rule also contradicts the Mortgage Servicing Rules' requirements for lenders to contact borrowers to obtain missing documentation. Those Rules require servicers to make a good faith effort to obtain missing documentation when a borrower submits an incomplete loss mitigation application.[49] A good faith effort commonly involves placing a telephone call to the borrower. Initiating this communication to a borrower is particularly important because the Mortgage Servicing Rules *prohibit* servicers from extending an offer of loss mitigation based upon a borrower's incomplete loss mitigation application, subject to certain exceptions.[50] Members of ABA's Servicing Working Group report that they routinely communicate with loss mitigation applicants *multiple times* over the course of a week. Plainly, such outreach will often exceed the Commission's proposed three-call limit on lenders' calls to distressed borrowers. It would harm consumers if a servicer were unable to underwrite a loss mitigation application due to the proposed three-call limit or due to restrictions on contacting a borrower prior to default.

II. Conflict with Standards Established by Federal Insurers and Guarantors

As described below, the Federal government has established several programs to insure or guarantee residential mortgage loans. Agencies responsible for administering these programs have promulgated regulations or issued guidance on servicing practices that are inconsistent with the Commission's proposed rule.

A. FHA Loans

FHA servicing requirements mandate that servicers call delinquent borrowers a minimum of *two times per week* until contact is established or the servicer determines that the mortgaged property is vacant or abandoned.[51] When establishing live contact, the servicer must determine whether the borrower is occupying the property, ascertain the reason for the delinquency, and inform the borrower about the availability of loss mitigation options. Plainly, the FHA's two-call per week requirement overlaps, if not conflicts, with the Commission's proposed three-call limit.

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[48] The Bureau's proposal would also expand the types of situations to which the successor in interest requirements would apply to include property transfers as a result of divorce, legal separation, transfers to a family trust, or a transfer to a spouse or child.
[49] 12 C.F.R. § 1024.41(c)(2)(ii).
[50] *Id*. at § 1024.41(c)(2)(i).
[51] *See* C.F.R. § T. 24, Subt. B. Ch. II. Subch. C. Pt. 203, Subpt C (HUD); U.S. HOUS. & URBAN DEV. SINGLE-FAMILY HOUS. POLICY HANDBOOK 4000.1, SECT. III. A. 2 (2016), *available at* http://portal.hud.gov/hudportal/documents/huddoc?id=40001HSGH.pdf. The servicer is expected to vary the times and days of the week of call attempts to maximize the likelihood of making contact with the borrower.

B. VA Loans

While not as prescriptive as FHA rules, requirements for servicing VA loans also require servicers to contact delinquent borrowers by telephone. Servicers must make an effort to establish live contact with a borrower and must have staff trained in techniques of loan servicing and counseling delinquent borrowers to advise borrowers how to cure delinquencies, protect their equity and credit rating, and, if the default is uncurable, pursue alternatives to avoid foreclosure.[52] During live contact, the servicer must also seek to determine whether the granting of forbearance or other relief assistance would be appropriate.

The VA's servicing requirements illustrate further how calls to delinquent borrowers are educational in nature and are in borrowers' best interest. The Commission should not interfere with or limit standards that the VA establishes for communicating with veterans who are at risk of losing their homes to foreclosure.

III. Conflict with HAMP

HAMP is overseen by Treasury and is designed to offer homeowners who are at risk of foreclosure reduced monthly mortgage payments that are affordable and sustainable over the long term.[53] The program provides clear and consistent loan modification guidelines and includes incentives for borrowers, servicers, and investors. HAMP facilitates and standardizes mortgage modification and related foreclosure alternatives; this program does not guarantee residential mortgage loans.

Importantly, servicers participating in HAMP must adhere to strict guidelines. HAMP requires that servicers make a *minimum of four telephone calls* to delinquent borrowers at the borrower's last known phone numbers of record at different times of the day over a period of at least 30 calendar days.[54] These efforts to contact the borrower may be halted *only* when the borrower has been successfully contacted and has either accepted or declined the offer of financial counseling. Plainly, HAMP's requirement that a minimum of four calls be placed over a 30-day period conflicts with the Commission's proposed three-call limit during the same period of time.

Even though HAMP will expire on December 31, 2016, its emphasis on establishing live contact underscores the importance of person-to-person conversations in helping borrowers to prevent foreclosure. It represents one more example of a Federal agency's existing public policy that encourages early intervention when a borrower becomes delinquent, not curtail it. HAMP's requirements illustrate the clear conflict between the proposed restrictions to the exemption and existing Federal rules, and cast doubt on the degree of consultation, if any, the Commission engaged in with other Federal agencies, as required by the 2015 Budget Act.

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[52] Servicing procedures for holders, 38 C.F.R. § 36.4278 (f)-(g).

[53] Families in HAMP typically reduce their monthly payments by a median of more than $530 each month.

[54] Making Home Affordable (MHA), *Handbook for Servicers of Non-GSE Mortgages*, v. 5.1, § 2.2.1, pp. 75-76 (2016), *available at* https://www.hmpadmin.com/portal/programs/docs/hamp_servicer/mhahandbook_51.pdf.

IV. Conflict with Other Servicing Standards

A. National Settlement

In response to the unprecedented financial crisis, the Federal government, joined by 49 State attorneys general, entered into settlements with the nation's five largest servicers in February 2012 (the National Settlement). The National Settlement adopted HAMP's requirement that a minimum of four calls be placed over a 30-day period. Prerecorded automatic messages are insufficient to comply with the National Settlement's live contact requirements.[55] The Commission's proposed limitations to the exemption are wholly inconsistent with the National Settlement's four-call minimum and its goal of facilitating early conversations with delinquent borrowers.

B. Consent Agreements

Apart from the National Settlement, the OCC entered into Consent Agreements with individual banks regarding their mortgage servicing practices. These enforcement actions required banks to, among other requirements, submit a plan related to loss mitigation activities. The plans were required to include a timeline for ensuring effective oral communication with delinquent borrowers. The banks' servicing plans, which were approved by the OCC, included procedures for telephoning delinquent borrowers to inform them about loss mitigation options. The Consent Agreements are one more example of how telephone contact to facilitate early intervention is widely recognized as a fundamental tenet of high-quality mortgage servicing.

V. Conflict with GSE Servicing Standards

Fannie Mae and Freddie Mac have established "servicing guides" that set forth the requirements for servicing loans that the Enterprises own or guarantee. A servicer that does not service loans in accordance with the guides will be in breach of contract and may incur various fees or penalties, or have their ability to service loans revoked. In conservatorship, the Federal Housing Finance Agency clears all changes and updates to Fannie Mae and Freddie Mac servicing requirements.

Fannie Mae and Freddie Mac servicers must attempt to contact a delinquent borrower at least every fifth day at varying times throughout the day.[56] The Commission's proposed rule would be significantly narrower than Fannie Mae's and Freddie Mac's servicing requirements.

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[55] Complaint at A-23, *United States v. Bank of America, et al.*, No. 1:12-cv-00361-RMC, Section IV. D. 1 (National Mortgage Settlement), *available at* https://d9klfgibkcquc.cloudfront.net/Consent_Judgment_BoA-4-11-12.pdf.

[56] Freddie Mac Servicing Guide 9102.3 and Fannie Mae Servicing Guide Chapter D2-2. Servicers must continue to attempt live contact until the earlier of the 210th day after the due date of an unpaid monthly installment or quality right party contact is achieved and:

- The servicer determines that the borrower does not want to pursue an alternative to foreclosure, or the delinquency is cured;
- The servicer achieves quality right party contact and has obtained from the borrower a promise to pay the delinquent amount by a specified date (not to exceed 30 days);
- A complete Borrower Response Package is received; or
- The borrower enters into a relief or workout option with the servicer.

VI. Conflict with DoE's Guidance Regarding Student Loans

The DoE has emphasized the benefits to student borrowers when lenders contact them at wireless numbers. In its recent report regarding "Strengthening the Student Loan System to Better Protect All Borrowers," the DoE asserted "[i]f servicers are able to contact a borrower, they have a much better chance at helping that borrower resolve a delinquency or default."[57] Notably, the DoE described the current challenges for lenders seeking to help distressed student borrowers, stating that "[w]ith phone numbers changing or being reassigned on a regular basis, it is virtually impossible for servicers to use auto-dialing technology."[58] The Commission should help facilitate communications between student loan borrowers and their lenders, not impose barriers to those communications.

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[57] U.S. Dept. of Educ., *Strengthening the Student Loan System to Better Protect All Borrowers* (Oct. 1, 2015), *available at* http://www2.ed.gov/documents/press-releases/strengthening-student-loan-system.pdf.
[58] *Id.*