GAO Highlights

Highlights of GAO-16-448, a report to the Chairman, Committee on Financial Services, House of Representatives

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MORTGAGE SERVICING

Community Lenders Remain Active under New Rules, but CFPB Needs More Complete Plans for Reviewing Rules

Why GAO Did This Study

As of September 30, 2015, community lenders held about $3.1 billion in MSRs on their balance sheets. Servicing is a part of holding all mortgage loans, but an MSR generally becomes a distinct asset when the loan is sold or securitized. In response to the 2007–2009 financial crisis, regulators have implemented new rules related to mortgage servicing and regulatory capital to protect consumers and strengthen the financial services industry. GAO was asked to review the effect of these rule changes on U.S. banks and credit unions, particularly community lenders. This report examines (1) community lenders' participation in the mortgage servicing market and potential effects of CFPB's mortgage servicing rules on them, (2) potential effects of the treatment of MSRs in capital rules on community lenders' decisions about holding or selling MSRs, and (3) the process regulators used to consider impacts of these new rules on mortgage servicing and the capital treatment of MSRs.

GAO analyzed financial data, reviewed relevant laws and documents from regulatory agencies, and interviewed 16 community lenders selected based on size and volume of mortgage servicing activities, as well as industry, consumer groups, and federal officials.

What GAO Recommends

CFPB should complete a plan to measure the effects of its new regulations that includes specific metrics, baselines, and analytical methods to be used. CFPB agreed to take steps to complete its plan for conducting a retrospective review of the mortgage servicing rules and refine the review's scope and focus.

View GAO-16-448. For more information, contact Mathew J. Sciré at (202) 512-8678 or sciremj@gao.gov.

What GAO Found

Community banks and credit unions (community lenders) remained active in servicing mortgage loans under the Consumer Financial Protection Bureau's (CFPB) new mortgage-servicing rules. Among other things, these rules are intended to provide more information to consumers about their loan obligations. The share of mortgages serviced by community lenders in 2015—about 13 percent—remained small compared to larger lenders, although their share doubled between 2008 and 2015. Large banks continue to service more than half of residential mortgages. Many lenders GAO interviewed said changes in mortgage-related requirements resulted in increased costs, such as hiring staff and updating systems. However, many also stated that servicing mortgages remained important to them for the revenue it can generate and their customer-focused business model.

Banking and credit union regulators' new capital rules changed how mortgage servicing rights (MSR) are treated in calculations of required capital amounts, but GAO found that these new rules appear unlikely to affect most community lenders' decisions to retain or sell MSRs. For example, GAO found that in the third quarter of 2015, about 1 percent of community banks had to limit the amount of MSRs that counted in their capital calculations due to the amount of these assets they held. This may result in some institutions choosing to raise additional capital or sell MSRs to meet required minimum capital amounts, depending on banks' holdings of other types of assets. A few banks with large concentrations of MSRs that GAO spoke with said they were considering selling MSRs or other changes to their capital but market participants told us that the MSR capital treatment was only one of several factors influencing their decisions. Separate capital rules for credit unions also are unlikely to affect most credit unions. For example, credit unions told GAO they did not expect to make changes to their MSR holdings and one credit union explained that it is because MSRs represented a small percentage of their overall capital.

Banking regulators and CFPB estimated the potential impacts of their new rules prior to issuing them by, for example, estimating potential costs of compliance. Banking regulators included the capital rules in a retrospective review of all their rules required by statute, although this review is to be completed before the MSR requirements are fully implemented by the end of 2018. Banking regulators also said they often conduct other informal reviews as needed to evaluate their rules' effectiveness. CFPB also has a statutory retrospective review requirement, but its plans for retrospectively reviewing its mortgage-servicing rules are incomplete. CFPB has not yet finalized a retrospective review plan or identified specific metrics, baselines, and analytical methods, as encouraged in Office of Management and Budget guidance. In addition, GAO found that agencies are better prepared to perform effective reviews if they identify potential data sources and the measures needed to assess rules' effectiveness. CFPB officials said it was too soon to identify relevant data and that they wanted flexibility to design an effective methodology. However, without a completed plan, CFPB risks not having time to perform an effective review before January 2019—the date by which CFPB must publish a report of its assessment.