

PFI Advisory

September 10, 2013

Special Attention: PFI MPF® Program Management and Servicing Management

Subject: Consumer Financial Protection Bureau 2013 Mortgage Servicing Rules and the Small Servicer Exemption

The MPF Provider has received inquiries from PFIs regarding the small servicer exemption¹ (the “Exemption”) under the Consumer Financial Protection Bureau’s 2013 Final Servicing Rules (“Servicing Rules”). In order to qualify for the Exemption, a servicer: (i) must service (together with affiliates) 5,000 or fewer mortgages in a particular calendar year and (ii) be the creditor that originated all of the loans it services (either itself or through an affiliate), or be the assignee that owns all the mortgages it services.

PFIs have questioned whether the Exemption is affected by the MPF Provider’s use of the naming convention “master servicer” in connection with certain oversight and cash management services it provides (either itself or through its vendor, Wells Fargo Bank, N.A.). **These oversight and cash management services have no impact on whether the Exemption is available to a PFI.**

For purposes of the 2013 Servicing Rule, a servicer is an entity that is responsible for the servicing of a federally related mortgage loan (including the person who makes or holds such loan if such person also services the loan).² A master servicer is the entity that owns the right to service a federally related mortgage loan mortgage and a subservicer is an entity that does not own the right to perform servicing, but that performs servicing on behalf of a master servicer.³ A PFI that sold mortgages to a Federal Home Loan Bank on a servicing retained basis (“Mortgages”) would be a master servicer, not a subservicer, because it owns the right to service the Mortgages. The fact that the MPF Provider or Wells Fargo Bank, N.A. is called a master servicer in certain MPF Program documents and that the MPF Provider or Wells Fargo Bank, N.A. provides certain services does not affect whether a PFI meets the various criteria of the Exemption, *i.e.*, that it does not service more than the maximum number of mortgages permitted and that it originated or was assigned the Mortgages it services.

The preceding general discussion of the Rules does not constitute and is not intended to be relied on by PFIs as accounting or legal advice with respect to those rules or the applicability of the Exemption. Each PFI is expected to consult with its own counsel for advice concerning the Rules or the applicability of the Exemption.

If you have any questions, please contact your MPF Bank Representative or call the MPF Customer Support Desk at 877-INFO-MPF (877-463-6673).

¹ 12 C.F.R. §1024.41 (effective 2014)

² 12 C.F.R. §1024.2

³ 12 CFR §1024.31 (effective 2014)