

# Cooley

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On September 22, 2022, the Consumer Financial Protection Bureau issued a [request for information](#) (RFI) asking the public for ideas about how to improve consumer experiences refinancing their mortgages and, for consumers with hardships, novel methods for offering loss mitigation. According to [CFPB Director Rohit Chopra](#), “[t]he mortgage market has not provided products that allow all households to save money by refinancing,” which is a reference to the fact that consumers with smaller loan balances do not always benefit from refinancing their existing mortgage obligations. The innovation-focused RFI also reflects a change in the bureau’s position on encouraging innovation in the financial services markets, as the RFI issuance coincided with the bureau’s [announcement that it will no longer offer protections to individual companies](#) via its Compliance Assistance Sandbox and No-Action Letters programs. Interested parties may submit comments on the RFI through the [Federal eRulemaking Portal](#), by email or via direct mail. **Comments must be received by November 28, 2022.**

## Innovative mortgage refinance ideas

In its RFI, the CFPB raises concerns that today’s mortgage refinance market provides limited opportunities for consumers to refinance smaller mortgages – a limitation the bureau states has disproportionately affected Black and Hispanic consumers, consumers with low-to-moderate incomes, and consumers in rural areas. To address this concern, the bureau is soliciting comment on ways to encourage refinancing activities, such as the use of streamlined refinance programs. The CFPB also raises in the RFI the possibility that adjustments to its ability-to-repay rules, which were enacted in the aftermath of the 2008 financial crisis, could stimulate positive refinance activity. Of additional interest, the bureau asks commenters about the viability of new refinance products, such as those that would have an automatic refinancing trigger when certain conditions are met, or adjustable-rate mortgage loans where the interest rate moves downward but never increases above its original rate.

## Innovations in loss mitigation

The bureau’s RFI highlights the success of COVID-related loss mitigation programs through which borrowers quickly received payment relief during the pandemic while having to provide to mortgage servicers virtually no documentation to support their hardship. These COVID-related programs stood in stark contrast to programs available after the 2008 financial crisis, such as the Home Affordable Modification Program (HAMP), which required borrowers to submit significant amounts of paperwork to support their hardship and financial situation. The CFPB is requesting comment on the ongoing viability of this type of loss mitigation relief, in particular with respect to assisting consumers impacted by natural disasters. The bureau also is asking for recommendations to amend current mortgage servicing rules in a way that promotes the continued viability of automatic or streamlined loss mitigation options.

## What’s next?

The notice and comment process can be slow, but this RFI presents an opportunity for innovative participants in the mortgage market – lenders, investors and fintechs – to share novel ideas for helping traditionally underserved sections of the homeownership universe. On the mortgage servicing front, the RFI also offers market participants an opportunity to highlight the friction between the loss mitigation requirements set forth in 12 CFR § 1024.41 and the expeditious delivery of loss mitigation assistance to consumers.

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