

November 10, 2010

The Honorable Timothy F. Geithner
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

The Honorable Shaun Donovan
Secretary
U.S. Department of Housing and Urban Development
451 Seventh Street, SW
Washington, DC 20410

The Honorable Ben Bernanke
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Dear Secretary Geithner, Secretary Donovan and Chairman Bernanke:

The undersigned trade associations, representing the real estate finance industry, appreciate the Board's and HUD's efforts to improve disclosures to mortgage borrowers under the Truth in Lending Act (TILA) and Real Estate Settlement Procedures Act (RESPA). At this point, however, Special Advisor to the President Elizabeth Warren and Treasury staff have begun discussions internally and with stakeholders to combine the two disclosures into a single, integrated disclosure, and we understand that effort will be a first priority of the new Bureau of Consumer Financial Protection (Bureau).

Every segment of the financial services industry shares the objective of doing something "exceptional" to improve the mortgage disclosure process for consumers and we fully support this important work. Both disclosures are provided to borrowers throughout the mortgage process and integrating them will greatly increase transparency and consumer understanding of the mortgage transaction.

Notwithstanding, it is important to recognize that this vital initiative is being undertaken in the midst of a surfeit of proposed and final regulations that require fundamental changes to the mortgage finance business model and a generation of systems which support it.

Major changes under TILA, including HOEPA revisions, and new loan officer compensation rules, along with new RESPA disclosures, SAFE Act compliance and appraisal standards, to name a few, have stretched thin the compliance capabilities of financial institutions. If these efforts are not coordinated going forward, the cumulative regulatory burden will threaten the availability of housing finance options.

Likewise, these initiatives have stretched the abilities of stakeholders to consider proposals and provide needed input. The numerous rules recently issued by the Board and other agencies are listed in Attachment A. Many more are to come under the Dodd-Frank Wall Street Reform and Consumer Protection Act (DFA).

Accordingly, while we believe disclosure improvement should be the first priority, considering these other imperatives and the need to assure energies are directed to this important effort, we believe it is essential that all federal regulatory efforts to establish new mortgage disclosure requirements under RESPA and TILA and DFA be accomplished in an orderly and coordinated manner.

To this end, we urge you to work with Professor Warren, and subsequently the Bureau Director, to develop a comprehensive plan for disclosure reform that includes an agenda and timetable to propose, finalize and implement all mortgage disclosure revisions by the Board, Bureau and other agencies in an orderly manner.

The plan should establish RESPA-TILA integration as a first priority and assure that other rules to improve mortgage disclosures complement that effort. ***Accordingly, we believe efforts of individual agencies, including the Board's to improve TILA disclosures, at this point should be rescheduled to later in the process, to avoid diverting the efforts of stakeholders into what may become a fruitless pursuit and/or confusing the joint RESPA-TILA simplification effort itself.*** Moreover, to maximize public involvement, we believe the plan should be made public so stakeholders can appropriately allocate their resources.

Integration of RESPA and TILA Disclosures Should Indeed Be the First Priority

Our industry knows too well that consumers are inundated with countless ill-timed, uncoordinated and confusing disclosures during the mortgage process, which, as a result, are often ignored despite their importance. Both independent and governmental studies confirm that consumers are confused, and may even be misled, by the array of required forms. For nearly two decades, mortgage lenders and their trade associations have advocated a comprehensive overhaul of the mortgage disclosure process generally and joint RESPA -TILA reform in particular.

We believe that if the TILA and RESPA disclosures were made truly simpler and combined, or at least made harmonious and complementary – and if they and other essential information were provided to consumers in a coordinated manner at rational times in the process – consumers would be far better equipped to navigate the market, understand their mortgage and settlement costs, and shop intelligently to meet their financing needs.

We believe improving the transparency of the process is essential to true reform and needs to be the first stage of the reform process. The way should be cleared for stakeholders to channel their energies into this effort to facilitate its successful achievement.

Assuming that RESPA and TILA integration is accomplished, the next important step would be to simplify the many other disclosures, which add to the confusion, so that they too complement the RESPA and TILA disclosures and do not in any way detract from consumer understanding.

Separate Reform Efforts Paved with Good Intentions Have Yielded Suboptimal Results

A key purpose of DFA in establishing the new Bureau was to create a coordinated consumer protection effort by putting all consumer financial protection efforts in one place. Regrettably, the urgent need for coordination has been demonstrated all too well.

During the last few years, the Board and HUD, with the best of intentions, initiated separate efforts to improve disclosures under their respective laws that have resulted in new RESPA disclosures, additional TILA rules and several TILA proposals for reform. The results thus far have yielded complex, confusing and even conflicting requirements and very considerable costs.¹ Congress added to the confusion in 2008 by establishing new timing requirements for TILA disclosures, which differ from the timing of RESPA disclosures. These differences were exacerbated by additional timing requirements for redisclosure of the GFE under the new RESPA rule, and proposals pending in Congress are a concern.

In early 2008, HUD proposed its overhaul of the Good Faith Estimate (GFE) and HUD-1 Settlement Statement. It finalized the rule in November of 2008, and the regulations became effective January 1 of this year, with clarifying issuances that continue to this day. These new regulations establish substantive and procedural requirements that vary from those proposed by the Board. Untold implementation expenses have been and continue to be incurred by the lending industry.

¹ A recent example of overlapping and problematic TILA and RESPA requirements is the new Interim Final Regulation (MDIA) issued by the Board of Governors of the Federal Reserve System (Board). This rule will require disclosure of a new Interest Rate and Payment Summary form to show how an interest rate or payment amount may change. We agree disclosure of that information is important, but the new disclosure form repeats information that is already required to be disclosed on the GFE and HUD-1 under the new RESPA rule, but on a different form.

In the summer of 2009, after issuing rules to protect consumers from unfair, abusive, or deceptive lending and servicing practices, as well as accompanying changes to the Home Mortgage Disclosure Act (Regulation C), the Board separately proposed a complete overhaul of many of its TILA disclosures for closed-end and open-end transactions and required comments by December 24, 2009. Although provisions of the Board's proposal concerning loan officer compensation have been finalized, the disclosure provisions have not been finalized yet, making this an appropriate time to bring this effort into the RESPA-TILA integration process.

On September 24 of this year, the Board issued a second set of proposals of nearly 1,000 pages to further amend its TILA rules. These proposals, among other things, would revise disclosures for reverse mortgages, amend the rules for rescission of open-end and closed-end loans secured by consumers' principal dwellings, and add restrictions regarding unfair acts or practices.

Like the 2008 proposal, the Board's current proposal is requiring extensive review and an enormous investment of time by stakeholders to comment, diverting energy that would be better spent on RESPA-TILA integration. Although these proposals provide useful spadework that can help set the stage for future action, they may also be revised considerably as a result of the integration effort. ***Considering that comments are due December 23, and that to comment effectively the proposed changes must be considered in light of the RESPA-TILA proposals to come, a public announcement of postponement is warranted.*** The disclosure provisions could and should await the RESPA-TILA integration process.

Conclusion

In summary, we believe a comprehensive and orderly approach to mortgage reform is the only way to make certain that the RESPA-TILA integration process is successful. This will necessitate moving certain efforts of the Board and others to later in the process. Without a coordinated approach, we are concerned that piecemeal reform will continue until after the new Bureau takes over next summer.

We appreciate your consideration of this important issue and we look forward to assisting in the development of a coordinated plan to foster the reform effort in any way we can.

Thank you again for your efforts and your leadership.

With best regards,

**American Bankers Association
American Financial Services Association
Community Mortgage Banking Project
Consumer Bankers Association
Consumer Mortgage Coalition
Housing Policy Council
Independent Community Bankers of America
Mortgage Bankers Association**

Attachment A

Rule	Publication Date	Compliance Date
Interest Rate and Payment Summary, Interim Final Rule. This requires a new disclosure form that repeats, in a different format, information already disclosed in a GFE.	75 Fed. Reg. 58470 (Sept. 24, 2010)	January 30, 2011
Loan originator compensation. This rule revises the method for determining loan originator compensation.	75 Fed. Reg. 58509 (Sept. 24, 2010)	April 1, 2001
Final rule requiring notice to consumers when a loan is transferred.	75 Fed. Reg. 58489 (Sept. 24, 2010)	January 1, 2011
Comprehensive rule changes for closed-end loans. This proposal would require a number of new or revised disclosures.	75 Fed. Reg. 58539 (Sept. 24, 2010)	Proposal
This rule would implement a statutory requirement mandating escrows on certain jumbo loans.	75 Fed. Reg. 58505 (Sept. 24, 2010)	Proposal. Board expects a final rule shortly after the public comment period closes.
SAFE Act registration of mortgage loan originators.	75 Fed. Reg. 44656 (July 28, 2010)	October 1, 2010. Registration within 180 days of Registry accepting registrations.
CRA definition of community development.	75 Fed. Reg. 36016 (June 24, 2010)	Proposal
Risk-based pricing notices.	75 Fed. Reg. 2724 (January 15, 2010)	January 1, 2011
Consumer financial privacy notice	74 Fed. Reg. 62890 (December 1, 2009)	Primarily December 31, 2009
Interim final rule requiring notice to consumers when a loan is transferred.	74 Fed. Reg. 60143 (November 20, 2009)	January 19, 2010
TILA – closed end, proposing major changes and several new disclosures.	74 Fed. Reg. 43232 (August 26, 2009)	Proposal
TILA – open end, proposing major changes and several new disclosures.	74 Fed. Reg. 43428 (August 26, 2009)	Proposal
Release of RESPA FAQs began	Released piecemeal	Largely January 1,

	between August 13, 2009 and April 2, 2010	2010
Information furnished to consumer reporting agencies	74 Fed. Reg. 31484 (July 1, 2009)	July 1, 2010
Information furnished to consumer reporting agencies	74 Fed. Reg. 31529 (July 1, 2009)	ANPR
CRA rules	74 Fed. Reg. 31209 (June 30, 2009)	Proposal
SAFE Act registration	74 Fed. Reg. 27386 (June 9, 2010)	Proposal
TILA / MDIA rules on, in part, timing of disclosures and mandatory waiting periods.	May 19, 2009	July 30, 2009
Affiliate marketing and ID theft red flags	May 14, 2009	May 14, 2009 and January 1, 2010
TILA-MDIA	73 Fed. Reg. 74989 (December 10, 2008)	Proposal
Major RESPA rules	73 Fed. Reg. 68204 (November 17, 2008)	Mostly January 1, 2010
HMDA rate spread reporting	73 Fed. Reg. 63329 (October 24, 2008)	October 1, 2009
Major TILA / HOEPA rules	73 Fed. Reg. 44522 (July 30, 2008)	October 1, 2009 (April 1, 2010 for § 226.35(b)(3))
HMDA, conforming to higher-priced loan definition	73 Fed. Reg. 44189 (July 30, 2008)	Proposal
Risk-based pricing	73 Fed. Reg. 28966 (May 19, 2008)	Proposal
Higher-priced mortgage loans	73 Fed. Reg. 1672 (January 9, 2008)	Proposal
Mortgage assistance relief services	75 Fed. Reg. 10707 (March 1, 2010)	Proposal
Mortgage advertising	75 Fed. Reg. 60352 (Sept. 30, 2010)	Proposal

Mortgage assistance relief services	74 Fed. Reg. 26130 (June 1, 2009)	ANPR
Mortgage advertising, origination, appraisals and servicing.	74 Fed. Reg. 26118 (June 1, 2009)	ANPR