

**AMERICAN FINANCIAL SERVICES ASSOCIATION  
CONSUMER MORTGAGE COALITION**

February 7, 2014

Ms. Monica Jackson  
Office of the Executive Secretary  
Consumer Financial Protection Bureau  
1700 G Street N.W.  
Washington, D.C. 20552  
regulations.gov

Re: Docket No. CFPB–2013–0036

Dear Ms. Jackson:

The undersigned trade associations appreciate the opportunity to submit comments on the Consumer Financial Protection Bureau’s (CFPB”) request for information regarding the mortgage closing process.

It is not clear why the CFPB is making this inquiry, with a short comment period, shortly after finalizing its Know Before You Owe (“KBYO”) regulations that revise the mortgage closing disclosures. If the result of this request for information will be amendments to the final KBYO rules, we request that the CFPB make clear as soon as possible what may change so that the industry does not begin implementing a regulation that will change before it becomes effective.

One of the most confusing issues in settlements concerns the distinctions between a mortgage loan transaction and a real property purchase and sale transaction. The newly revised closing disclosures, as with the existing GFE and HUD-1 settlement statement, do not make this distinction clear. For example, the new Closing Disclosure, under Closing Cost Details, distinguishes between Loan Costs and Other Costs. However, the Other Costs include some loan costs, including mortgage insurance premiums and prepaid interest. Owner’s title insurance would be included under Loan Costs, although it is related to the purchase transaction rather than the loan.

We suggest that the CFPB make clear in its [Shopping for your home loan](#) booklet which charges are related to the loan and which are related to the purchase and sale transaction.

We also suggest that the booklet direct consumers to their real estate agent with questions about the purchase and sale transaction, and to the lender with questions about the loan. In many cases, consumers ask a lender questions about the purchase and sale transaction that the real estate agent is better equipped to discuss.

Not separating the transactions presents lenders with the problem of needing to make disclosures to a consumer about a transaction to which the lender is not a party but the consumer is. We suggest that when lenders make disclosures about the purchase and sale transaction, the CFPB expressly permit lenders to rely on statements about that transaction by the real estate agent.

The CFPB asks whether consumers review their forms before closing. The [\*Shopping for your home loan\*](#) booklet states, “You have the right under RESPA to inspect the HUD-1 before settlement occurs. When you receive a copy of the HUD-1, compare it to your GFE.” It might be helpful to state that if a HUD-1 is made available for inspection before closing, it need only contain charges then known to the settlement agent, it may change before settlement, and it may omit items related only to the seller’s transaction. This would help avoid directing consumers to compare the wrong version of the HUD-1 to the GFE. We also suggest that it should direct consumers to compare the most recent GFE, again, to avoid directing consumers to make the wrong comparison. When the new Loan Estimate and Closing Disclosure go into use, the booklet will need to be revised, but will still need to make clear that the Closing Disclosure can change in some respects until closing.

While the CFPB’s booklets are helpful, they use dated technology. We would encourage the CFPB to post interactive, self-paced training courses online. Interactive courses can provide feedback on how well consumers understand the material they are learning. The CFPB could encourage lenders, real estate agents, settlement agents, homeownership counselors, and others to alert consumers to the training courses. Mortgage closings are confusing by nature, and some people learn better by listening and seeing rather than strictly by reading. The CFPB is uniquely situated to provide this type of consumer education.

We also suggest that the CFPB consider preempting state law origination disclosures that overlap with the federally-required disclosures. Most of the disclosures required at the federal and state level are requirements with the same goals in mind, but the formatting, etc. differs. Streamlining these requirements into one format could reduce the amount of paper consumers must wade through at closing.

We hope these recommendations are helpful to you as you move forward.

Sincerely,

American Financial Services Association  
Consumer Mortgage Coalition