

May 14, 2009

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

Dear Secretary Donovan:

Last week, a substantial majority of the United States House of Representatives approved H.R. 1728, the Mortgage Reform and Anti-Predatory Lending Act. Among other provisions, the bill would require HUD to suspend implementation of the provisions of its Real Estate Procedures Act (RESPA) rule that reform its GFE and HUD-1 disclosures. The bill then would require HUD to work with the Federal Reserve Board (the Board) to jointly reform disclosures under RESPA and the Truth in Lending Act (TILA) to achieve compatibility between the forms required under both laws.

HUD indicated, however, in a press release that it would move forward with implementation of the RESPA required disclosures to be effective January 1, 2010. The undersigned organizations, representing the financial and settlement services industry, have worked for many years to improve the mortgage process to better protect and empower consumers. It is with this in mind that we respectfully ask you to reconsider this decision. We maintain that the best course of action to increase transparency for consumers is for HUD to join the Board and undertake a joint rulemaking as the legislation directs. We, therefore, reaffirm our earlier request to you, dated February 9, 2009, that you suspend the disclosure provisions of the Department's RESPA rule and join with the Board's current reform effort.

RESPA, which is HUD's responsibility, provides borrowers information on the settlement charges for single-family residential real estate transactions, while TILA, which is the Board's responsibility, provides borrowers information on the costs and terms of credit transactions for such properties. For a consumer to fully understand the costs of a transaction, both RESPA and TILA disclosures are essential.

Better disclosures would greatly improve consumer understanding. However, since both sets of disclosures are provided to the consumer at application and at closing, it is also essential that both sets of disclosures complement each other to avoid confusion and potential harm. Preferably, the RESPA and TILA forms would be merged so that consumers would receive one set of logical disclosures at each stage of the mortgage transaction, from the beginning to the end. HUD's and the Board's reform efforts, however, have operated independently to date and there is evidence that the disclosures will not be harmonious. For example, HUD's requirements for disclosure of the loan's interest rate differ from the Board's requirements that the APR be disclosed.

The Board has announced that it will very soon issue a proposed rule to reform its TILA disclosure requirements for both mortgages and home equity loans. While it is anticipated that

the Board will move forward expeditiously, any new disclosures are unlikely to be effective until several months after the RESPA disclosures are to become effective.

Notwithstanding, considering the effective date of the RESPA rule, lenders and other settlement service providers still must incur enormous costs to make systems changes for the new RESPA disclosures, unless the rule is suspended very soon. If the legislation suspending the rule is later enacted, these costs may prove unnecessary. Even if there is neither a suspension nor enactment of a new law, successive systems changes to comply with one agency's rules, and then another, will unnecessarily increase costs at a time when neither the industry nor borrowers can afford them.

Additionally, the publication of the rule has engendered numerous implementation questions which have not been addressed. These questions would be better addressed at this point as part of a joint rulemaking.

Also, last year, after HUD issued its proposed rule, Congress enacted the Mortgage Disclosure Improvement Act (MDIA), changing the timing requirements for TILA disclosures. Just last week, the Board issued implementing regulations for these new rules which will go into effect on July 30, 2009. These changes require consideration by HUD and the Board to determine whether revisions to both sets of rules are needed so that RESPA and TILA disclosures can continue to be provided together.

Consumers today confront a daunting array of disclosures that are disparate, uncoordinated, confusing and, consequently, too often ignored. Given your stated interest in improving the mortgage process, we respectfully urge yet again that this once-in-a-generation opportunity to truly reform RESPA and TILA disclosures for consumers not be missed. Suspension of the RESPA rule and marshalling of both HUD's and the Board's efforts together are essential steps to achieving this important goal.

We would welcome an opportunity to meet with you at your earliest convenience to discuss this subject further, to detail our concerns and to arrange to provide further assistance.

Thank you for your consideration of this critical matter.

Sincerely,

**American Bankers Association
American Escrow Association
American Financial Services Association
American Land Title Association
Consumer Bankers Association
Consumer Mortgage Coalition
Financial Services Roundtable
Housing Policy Council
Independent Community Bankers of America
Mortgage Bankers Association
National Association of Mortgage Brokers
Real Estate Settlement Providers Council**