

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington DC 20552

January 27, 2012

Dear Director Cordray:

We, the undersigned organizations, are writing to urge you to adopt an expanded rulemaking process in the Consumer Financial Protection Bureau's (Bureau) very important work to synchronize and simplify disclosures and forms required by the Real Estate Settlement Procedures Act (RESPA) and the Truth in Lending Act (TILA).

We appreciate the efforts the Bureau has made to make the combining and streamlining of the forms an open process. The regular give-and-take between the Bureau, industry, and the public has been positive and holds the promise of better, more thoughtful, forms.

At this point in the process, however, it is becoming clear that the accompanying rules that will govern the use and application of these forms are every bit as important as the content of the forms themselves. Among other things, the rules will govern the timing and reliability of the forms and provide remedies for misdisclosure. Notwithstanding, no input on these rules has been invited. For this reason and to ensure a more workable proposal, we encourage you to use a similarly open and interactive process to arrive at the accompanying rules.

Specifically, we believe that the Bureau should adopt an iterative rulemaking process in advance of the July 21, 2012 statutory deadline for a proposed rule, under which it publishes an outline of potential underlying rules to accompany the disclosures and seeks written comment from the public on the content of the outline. It should then provide opportunities for similar input as the outline is revised leading up to a proposed rule.

Through this iterative process, the Bureau can develop its proposed regulation ahead of time and prevent unforeseen vagaries that will require extensive guidance after the rule is proposed. While we are cognizant of the July 21, 2012 statutory deadline for the proposed rule, we believe it is more important to get this right rather than simply getting it done. We do not believe the rule should be bifurcated in any manner resulting in unnecessary costs. Housing and mortgage markets remain under stress and considerable costs have been borne by consumers as a result of past reform efforts. The effort to harmonize RESPA and TILA must not add confusion or contribute unnecessary friction or costs. An iterative rulemaking process will help avoid both outcomes while giving the Bureau appropriate feedback from industry and the public as it moves toward a proposed rule.

Before the rule is proposed, the CFPB also should test its prototypes or draft disclosure forms on actual closed loans for a full range of loan products and for range of local real estate practices. The exercise of populating the forms with complete loan information for a variety of states and

loan types, would demonstrate whether the forms are well designed and where they may add avoidable confusion for consumers. Early testing of this nature would prevent the possibility that after the rule is final, certain loan products will become unavailable because the forms and rules do not accommodate them or other potentially serious problems that could arise as a result of the diverse settlement practices found around the country. We would be happy to provide you with data and the names of lenders and settlement service providers for testing purposes.

Finally, we urge you to publically announce that you will convene a Small Business Advocacy Review panel as outlined by the Snowe-Pryor amendment (Section 1100G) to the Dodd-Frank Act (P.L. 111-203). To make this process as beneficial as possible to the Bureau and small businesses, we encourage the Bureau to make public its procedures for implementing and conducting these panels. Providing this level of transparency will help us and our members to offer useful information to the Bureau to ensure that the final product does not burden small business and will maximize consumer choice in settlement service providers.

Thank you for your time and consideration. We look forward to continuing our work with you to finally improve disclosures for consumers across the United States.

Sincerely,

American Escrow Association
American Land Title Association
Community Mortgage Banking Project
Consumer Mortgage Coalition
Community Mortgage Lenders of America
Mortgage Bankers Association
National Association of Home Builders
National Association of REALTORS®
Real Estate Service Providers Council, Inc. (RESPRO)
Real Estate Valuation Advocacy Association
The Realty Alliance