



April 12, 2012

Mr. Benjamin Olson
Managing Counsel, Regulations
Research, Markets & Regulations
Consumer Financial Protection Bureau
1700 G Street, N.W.
Washington, DC 20552

Dear Ben:

During the American Land Title Association's (ALTA)¹ meeting with the Consumer Financial Protection Bureau (Bureau) staff on December 6, 2011, our members discussed the challenge of measuring the accuracy of closing cost estimates provided to consumers by the Good Faith Estimate (GFE), which is required under Section 5 of the Real Estate Settlement Procedures Act (RESPA). Due to their unique vantage point conducting real estate closings, ALTA members are in a good position to provide anecdotal evidence to measure the accuracy of these estimates. Following that meeting, ALTA surveyed our 3,000 agent members regarding the accuracy of these closing cost estimates to the actual charges at closing. 205 respondents replied to the survey from January 26, 2012, to February 2, 2012.

The survey responses indicate that the accuracy of GFE's is higher and the number of issued GFE's is lower than our initial feedback to the Bureau indicated. A majority of respondents (72%) felt the estimates in the initial GFE were either accurate or highly accurate. However, the survey supports our assumption that the current regulatory approach is not serving consumers' best interests in that 75.3% of the transactions in this sample group had 2 or more GFE's issued in the transaction. In only 24.7% of the transactions did the consumer receive only 1 GFE.

This data begs two questions. First, are there particular cost estimates in the initial GFE that are less accurate than others? Second, if so, why are these cost estimates not sufficiently certain at the time that the GFE is issued? The answers to these questions will be critical for the Bureau to achieve its desired goal of, "improving the reliability of estimates lenders give

¹ Founded in 1907, ALTA is the national trade association and voice of the real estate settlement services, abstract and title insurance industry. With more than 8,000 office locations throughout the country, ALTA members operate in every county in the United States to search, review and insure land titles and conduct closings to protect the rights of home buyers and mortgage lenders who invest in real estate. ALTA members include title insurance companies, title agents, independent abstracters, title searchers and attorneys, ranging from small, one-county operations, to large national title insurers.

consumers shortly after application.” Unfortunately, this survey did not address these issues in detail.

Perhaps the best way to answer these questions would be to conduct a statistical analysis of actual closed loan GFE’s and actual closed loan Uniform Settlement Statements (or HUD-1’s). This analysis would provide statistic about where, specifically, reliability can be improved for particular settlement cost estimates. In addition, this data would allow the Bureau to design mortgage disclosure regulations to improve reliability for consumers where it is needed without severely disrupting the real estate transaction process or harming consumers or industry. ALTA members are concerned that if regulations are not drafted with a full understanding of current data, minor changes to regulations that are intended to improve the transaction may produce tradeoffs that severely disrupt the small business providers of real estate settlement services.

While the results of this survey show that the GFE is generally accurate, it also demonstrates that consumers are not using the GFE as the Department of Housing and Urban Development (HUD) intended or expected; namely to shop for settlement services and compare the initial cost estimates to their actual closing costs at closing. On shopping for settlement services, 75% of respondents to our survey reported that consumers did not shop for title and settlement services. Likewise, respondents indicated that consumers rarely bring their GFE to closing – over half indicated that consumers never brought their GFE to closing – while another 45% of respondents said consumers brought their GFE less than half of the time.

Another troubling statistic from the survey is that 52% of respondents experienced pressure to reduce their fees to help lenders avoid a tolerance violation at closing. Tolerance is a regulatory construct under RESPA’s implementing regulation (known as Reg. X) to incentivize lenders and real estate settlement service providers to provide consumers estimates on the GFE that are within designated tolerance parameters.

During the Small Business Regulatory Enforcement Fairness Act (SBREFA) panel conducted by the Bureau, the Small Entity Representatives (SER’s) were asked how an expanded tolerance regime would affect their businesses. Not only do the survey results suggest that tolerance is not working as intended, but the results also indicate that the requirements of Reg. X are not being followed and that tolerance actually subverts the statutory purpose of RESPA. Under the tolerance provisions of Reg. X, if the actual cost for a settlement service or lender fee exceeds the estimate on the GFE by a certain amount, and no valid changed circumstance exists, the lender is required to absorb the overage. However, this data suggests that rather than cost being absorbed by lenders, title agents are pressured to reduce their charges to ensure compliance. This was not the outcome intended by HUD when making changes to Reg. X in 2008. In addition, it would appear to improperly turn RESPA into a price fixing regime rather than the disclosure statute that Congress clearly intended.

In short, tolerance is not working as a policy to provide consumers with accurate estimates of their settlement. Tolerance should not be expanded under the Bureau’s Know

Before You Owe project, but should instead be replaced with a policy that produces the intended outcomes. Fortunately, there are alternatives available to the Bureau under the Dodd-Frank Act that were not available to HUD in 2008. One alternative is for the Bureau to: (1) abandon the seriously flawed concept of tolerance and instead (2) collect data from each initial mortgage disclosure issued and each final settlement statement issued, (3) compare the estimates with the final charges and (4) enforce against those bad actors who consistently quote consumers one price, but charge them inflated fees at closing. We encourage the Bureau to consider this and other alternatives.

ALTA supports CFPB's effort to improve the accuracy of estimates provided to consumers as part of their mortgage and real estate transaction. As this survey shows, that accuracy has come at an unnecessarily high price for the providers of real estate settlement services that are overwhelmingly small businesses. ALTA urges the Bureau to take all due care when deciding how to improve the reliability of these costs estimates.




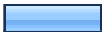

We look forward to continuing to work with you to find new ways to improve the real estate closing process for consumers and industry. If you have any questions about the results of this survey please do not hesitate to contact ALTA Vice President of Government Affairs Justin Ailes at 202.261.2937.

Sincerely,



A handwritten signature in black ink, appearing to read "Michelle L. Korsmo". The signature is fluid and cursive, with a large, sweeping initial "M".

Michelle L. Korsmo
Chief Executive Officer






1. How often do you receive GFE figures early in the transaction that differ from those contained in the lender’s final instructions or final GFE? Or, put another way, how often do you receive a GFE that resolves any tolerance violations?

| | | Response Percent | Response Count |
|-----------------------------------|---|------------------|----------------|
| Never |  | 17.2% | 34 |
| Less than half of the time |  | 55.1% | 109 |
| About half of the time |  | 12.1% | 24 |
| More than half of the time |  | 14.1% | 28 |
| Always |  | 1.5% | 3 |
| answered question | | | 198 |
| skipped question | | | 7 |





2. Do you think consumers shop for title and escrow services?

| | | Response Percent | Response Count |
|--------------------------|--|------------------|----------------|
| Yes |  | 25.4% | 51 |
| No |  | 74.6% | 150 |
| answered question | | | 201 |
| skipped question | | | 4 |






3. How many GFE's do borrowers report receiving per transaction?

| | | Response Percent | Response Count |
|--------------------------|---|------------------|----------------|
| 1 GFE |  | 24.7% | 44 |
| 2 - 3 GFE's |  | 61.2% | 109 |
| 4 - 5 GFE's |  | 11.8% | 21 |
| 6 - 7 GFE's |  | 1.1% | 2 |
| 8 - 9 GFE's | | 0.0% | 0 |
| 10 or more GFE's | | 0.0% | 0 |
| So many they lost count |  | 1.1% | 2 |
| answered question | | | 178 |
| skipped question | | | 27 |




4. How often do borrowers come to the closing with a GFE?

| | | Response Percent | Response Count |
|----------------------------|---|------------------|----------------|
| Never |  | 52.7% | 106 |
| Less than half of the time |  | 45.3% | 91 |
| About half of the time |  | 1.0% | 2 |
| More than half of the time |  | 1.0% | 2 |
| Always | | 0.0% | 0 |
| answered question | | | 201 |
| skipped question | | | 4 |

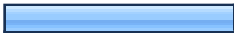

5. When a borrower brings a GFE to closing, how often do they bring multiple versions?

| | | Response Percent | Response Count |
|----------------------------|---|------------------|----------------|
| Never |  | 58.8% | 107 |
| Less than half of the time |  | 29.7% | 54 |
| About half of the time |  | 5.5% | 10 |
| More than half of the time |  | 4.4% | 8 |
| Always |  | 1.6% | 3 |
| answered question | | | 182 |
| skipped question | | | 23 |





6. If a borrower receives a cure or credit for a violation, do they understand what it is for?

| | | Response Percent | Response Count |
|--------------------------|--|------------------|----------------|
| Yes |  | 2.0% | 4 |
| Yes after clarification |  | 70.6% | 139 |
| No |  | 27.4% | 54 |
| answered question | | | 197 |
| skipped question | | | 8 |






7. Changes to the 2008 RESPA Rule required lenders to attach a Provider List to their GFE for shoppable services. Have you seen a Provider List attached to a borrower's GFE?

| | | Response Percent | Response Count |
|--------------------------|---|------------------|----------------|
| Yes |  | 34.3% | 69 |
| No |  | 65.7% | 132 |
| answered question | | | 201 |
| skipped question | | | 4 |


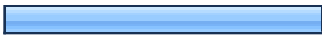



8. How have provider lists impacted your business?

| | | Response Percent | Response Count |
|------------------------------|--|------------------|----------------|
| Significant gain in business | | 0.0% | 0 |
| Gain in business |  | 3.1% | 6 |
| No Change |  | 80.8% | 156 |
| Loss of business |  | 11.4% | 22 |
| Significant loss of business |  | 4.7% | 9 |
| answered question | | | 193 |
| skipped question | | | 12 |






9. How often do you receive pressure to reduce your fees to cure or keep within tolerances for fees quoted on a GFE?

| | | Response Percent | Response Count |
|----------------------------|---|------------------|----------------|
| Never |  | 48.5% | 98 |
| Less than half of the time |  | 36.6% | 74 |
| About half of the time |  | 9.4% | 19 |
| More than half of the time |  | 4.0% | 8 |
| Always |  | 1.5% | 3 |
| answered question | | | 202 |
| skipped question | | | 3 |



10. How often do you show items on page 3 of the HUD-1 that were not charged at closing because they were quoted on the GFE?

| | | Response Percent | Response Count |
|-----------------------------------|---|------------------|----------------|
| Never |  | 25.9% | 51 |
| Less than half of the time |  | 47.7% | 94 |
| About half of the time |  | 12.2% | 24 |
| More than half of the time |  | 8.1% | 16 |
| Always |  | 6.1% | 12 |
| answered question | | | 197 |
| skipped question | | | 8 |







11. [If applicable in your area] How often do you experience a situation in which lender’s and owner’s title insurance are quoted on the GFE using a simultaneous issue rate but the borrower declines owner’s title insurance at closing which raises the lender’s premium beyond tolerances.

| | | Response Percent | Response Count |
|----------------------------|--|------------------|----------------|
| Never |  | 70.9% | 141 |
| Less than half of the time |  | 14.1% | 28 |
| About half of the time |  | 1.5% | 3 |
| More than half of the time |  | 1.5% | 3 |
| Always | | 0.0% | 0 |
| Not applicable in my area |  | 12.1% | 24 |
| answered question | | | 199 |
| skipped question | | | 6 |

12. Is your company a small business (defined by the SBA as having annual revenues less than \$7 million)?

| | | Response Percent | Response Count |
|--------------------------|--|------------------|----------------|
| Yes |  | 86.6% | 168 |
| No |  | 13.4% | 26 |
| answered question | | | 194 |
| skipped question | | | 11 |

13. Please provide your contact information.

| | | Response Percent | Response Count |
|----------------|--|--------------------------|-------------------|
| Name: |  | 96.7% | 176 |
| Company: |  | 97.3% | 177 |
| City/Town: |  | 97.8% | 178 |
| State: |  | 100.0% | 182 |
| Email Address: |  | 94.5% | 172 |
| Phone Number: |  | 90.1% | 164 |
| | | answered question | 182 |
| | | skipped question | 23 |