Consumer Financial Protection Bureau
1801 L Street NW, Washington, DC 20036

SMALL BUSINESS REVIEW PANEL AND COST OF CREDIT CONSULTATION FOR TILA-RESPA INTEGRATION RULEMAKING

DISCUSSION ISSUES FOR SMALL ENTITY REPRESENTATIVES

To help frame the small entities' discussions on issues before the SBREFA panel and on cost of credit matters, we list below questions on which the CFPB seeks your advice, input, and recommendations. For a summary of the proposals under consideration, please see the "Outline of Proposals Under Consideration and Alternatives Considered" (the Outline of Proposals) enclosed along with this document. You may find it helpful to refer to the Outline of Proposals as you think about these questions.

Please note that the questions below were designed to assist you in identifying the type of information you may need to effectively participate in the discussion with the panel and other small entity representatives. We recognize that some of these questions may not apply to your line of business. When a topic is relevant to you, please discuss it based on either your own experience or your knowledge of the experience of other small entities in your same line of business. It may also be useful to the discussion to provide specific examples of issues that have arisen in your mortgage origination or settlement activities.

We are not asking the participating small entities to provide detailed data during the discussion with the SBREFA panel, but we welcome any submissions. The panel wants to understand the potential economic impacts of the particular proposals under consideration by the CFPB. The panel's understanding may be enhanced if you can provide a general sense of what might be your costs to comply with the proposals. Some of the questions suggest ways in which you might want to consider those costs as you prepare for the general discussion, but those questions should not be treated as data requests. If you find that company-specific information may be helpful to the discussion, we encourage you to frame your response in a manner that protects your company's proprietary information.

As you prepare for the discussion, then, please think about the following general issues as they relate to the proposals under consideration and to the questions below:[1]

- The potential effects of the proposed requirements and alternatives on your company's operations and compliance costs.
- The number or percentage of transactions conducted by your company that may be impacted.

[1] Please note that the terms "business" and "company" include "organization," as appropriate.

- The potential costs and savings for your company.
- Based on any direct knowledge or experience you may have, how your or other small companies' anticipated compliance costs may differ from those of larger entities, and the characteristics of small companies compared to larger companies that may contribute to these differences.

A. Integrated Initial and Closing Disclosures

The Dodd-Frank Act requires the CFPB to integrate the TILA mortgage loan disclosures with RESPA's Good Faith Estimate (GFE) and HUD-1 Settlement Statement. Attached to the Outline of Proposals are the most recent prototype designs of the integrated disclosures: (1) the **Loan Estimate**, which would be provided not later than three business days after application; and (2) the **Settlement Disclosure**, which would be provided at least three business days before closing.

1. How do you currently generate the TILA and RESPA disclosure forms provided to borrowers after application and at closing? What are the type and amount of costs currently associated with generating such forms?

2. If you had to revise your template GFEs and HUD-1 Settlement Statements as a result of the RESPA rule changes that took effect in 2010, what actions were required to revise or update your processes and systems to comply with the new rule? How much did these changes cost, and how long did they take to implement?
   a. Which of the required services or products (software and compliance systems, legal, training, other) that you have identified were provided by your staff and which did you purchase from external sources?
   b. Do you expect that the number of staff hours you would use or the cost of external services and products you would seek as a result of the proposals under consideration would be comparable, higher, or lower than the costs attributable to the changes in the RESPA rule?

3. What would be your normal schedule for the next update of the processes and systems through which you generate TILA and RESPA disclosures?

4. Once your business has made any initial updates and changes necessary to implement the new integrated disclosure forms, do you expect the type and amount of your ongoing compliance costs or other costs associated with providing the disclosure forms to be the same, greater, or less than they were prior to the adoption of those forms?

5. Is there any difference in cost between implementing a CFPB-prescribed form (as is currently required for the GFE and HUD-1) or creating your own form using a model provided by the CFPB (as is currently permitted under TILA)?

6. The Dodd-Frank Act amends TILA to make creditors responsible for disclosing aggregate settlement charges. Please describe both the changes, if any, that this amendment will require in your systems and processes for providing disclosures, and the cost, if any, associated with those changes.

7. To achieve more complete integration of the disclosure forms, the CFPB is considering including in the calculation of the Annual Percentage Rate (APR) some common loan charges that are currently excluded from the calculation. Would you implement this change yourself through in-house systems and procedures? Or do you use a vendor that would make the changes for you? What do you expect the costs of this change would be (including software and compliance systems, legal, training, and other costs)?

B. Recordkeeping and Data Collection

The CFPB is considering requiring that copies of all Loan Estimates and Settlement Disclosures provided to borrowers be maintained in a standard, machine readable, electronic format.

1. If you currently retain copies of TILA or RESPA disclosures provided to loan applicants, in what format do you maintain those records (*i.e.*, paper or electronic)?
    a. If electronic, please describe the format or system used to retain the records.
    b. Did you move to retaining the disclosures electronically as a result of the RESPA rule changes that took effect in 2010?

2. If the electronic recordkeeping requirement were adopted in a final rule, what are the types and costs of the specific actions that you would need to take initially to comply with the requirement? In the long term, what do you believe would be the effect on your recordkeeping compliance costs of keeping such records electronically, rather than in paper copies?

3. Which entity involved in the transaction (*i.e.*, lender, mortgage broker, settlement agent) do you believe is best positioned to electronically maintain records of the disclosures provided? Why?

C. Changes in Settlement Costs and Redisclosures

The CFPB is considering a proposal that would prevent, unless a valid exception applies, fees for settlement services from exceeding the estimate in the GFE if: (1) the settlement service is provided by a company owned by or affiliated with the lender; or (2) the lender does not permit the consumer to shop for the service. The proposals under consideration would also seek to reduce unnecessary compliance burden by resolving ambiguities and inconsistencies in the current requirements.

1. Currently, in what percentage of loan transactions do you revise and reissue GFEs to reflect changed circumstances or increases in the fee amounts provided in the initial GFE?
    a. On average, for each mortgage transaction in 2011, how many times did you reissue a GFE as a result of changed circumstances or for other reasons?
    b. What are the most common reasons for issuing a revised GFE?
    c. On average, how much does it cost to issue a revised GFE, including the cost of documenting any changed circumstance?

2. If the limitations on fee increases are expanded as described in the Outline of Proposals, what types of impacts would this have on your business?

3. In your experience, do you regularly incur costs to address inconsistent terminology between TILA and RESPA, ensure compliance with the 2008 RESPA rule, train employees on the TILA and RESPA mortgage loan disclosures, or obtain legal guidance regarding these disclosure requirements? If so, what do you estimate that you spent on these activities in a typical month in 2011?

D. Providing Settlement Disclosures

Timing of Settlement Disclosures

The CFPB is considering requiring that the completed Settlement Disclosure be provided to the borrower no later than three business days before settlement. The proposal would allow limited adjustments to the Settlement Disclosure after it is provided.

1. What changes in your processes and systems, if any, would be required to comply with such a requirement?
    a. Would these changes result in any additional costs?
    b. If so, please describe the type and amount of cost?

2. Are there any charges or fees that generally cannot be determined in time to provide the Settlement Disclosure three business days before closing? If so, please describe these charges and fees, explain how and when the final information concerning the amount of these charges or fees becomes available, and identify any reasons that the amounts may not be known in time to prepare the Settlement Disclosure three days before closing.

3. Would this requirement affect the ability to schedule settlements or close loans as planned? If so, how and why?

Who Provides the Settlement Disclosure

The CFPB is considering two alternative approaches regarding which party would be required to provide the Settlement Disclosure to the borrower.

Alternative #1 would make the lender solely responsible for providing the integrated Settlement Disclosure to the borrower.

1. What changes to your current business processes and systems, if any, would be required in order for the lender to provide the completed Settlement Disclosure?
    a. What do you estimate the costs associated with these changes would be?
    b. Are there changes in addition to those previously discussed that would be needed to meet any requirement that the completed Settlement Disclosure be provided three days before closing?

2. What impacts would such a requirement have on arrangements among lenders, settlement agents, and other third party providers?

Alternative #2 would make the lender responsible for the TILA-required information in the Settlement Disclosure and the settlement agent responsible for the RESPA-required information. However, the lender and settlement agent would have shared responsibility for providing a single, completed Settlement Disclosure to the borrower.

1. How would this "division of labor" approach affect your costs?

2. What impacts would such a requirement have on arrangements among lenders, settlement agents, and other third party providers?

E. Definition of Loan "Application"

Under TILA and RESPA, a lender is not required to provide the early TILA disclosure and GFE until it has received an "application." The CFPB is considering a proposal that would amend the current definition of loan "application" to include the submission of:

(1) the borrower's name; (2) monthly income; (3) social security number; (4) property address; (5) property value estimate; and (6) loan amount. The proposal, however, would eliminate the current seventh "catch-all" element of "any other information deemed necessary by the [lender or mortgage broker]."

1. Currently, before providing an early TIL or a GFE, do you request or collect any information about the borrower or property that falls under the catch-all element of "any other information deemed necessary by the [lender or mortgage broker]"? If so, what type of information do you typically collect and for what purpose is it used?

2. Would you be able to issue an accurate Loan Estimate based only on the first six elements of the definition of loan "application" set forth above?

F. Increase in the Cost of Credit to Small Entities

The proposals under consideration would apply only to closed-end mortgage loans that are *primarily for personal, family, or household purposes*.

1. Do you as a lender extend closed-end mortgage loans that are used primarily for personal, family, or household purposes but that are used, secondarily, to finance a small business?
    a. If so, what percentage of all of your closed-end consumer mortgage loans are such loans, *i.e.*, loans used secondarily for business purposes by a small business. What is the average amount of the credit extended on such loans?
    b. For your customers who use mortgage credit secondarily to finance a small business, what percentage of the credit extended do these customers use for a business purpose?
    c. Would the proposals under consideration cause you to increase the rates or fees you charge for such credit? If yes, please describe the increase that you anticipate, your basis for anticipating that increase, and any feasible alternatives to the proposals under consideration you would recommend to minimize that increase.
    d. Do you believe these customers could instead obtain home-secured business loans (*i.e.*, a home-secured loan used *primarily* for business purposes) from you or another lender?

2. In the past year, have you, as a small entity, taken out a closed-end, home-secured loan that was primarily for personal, family, or household purposes that you also used secondarily to finance your small business?

a. If so, in the past year, what percentage of your business costs did you fund through such credit?
b. Do you believe that the proposals under consideration would cause you to pay higher rates or fees for such loans?
c. If yes, please describe the increase that you anticipate, your basis for anticipating that increase, and any feasible alternatives to the proposals under consideration you would recommend to minimize that increase.
d. As an alternative to this type of credit, could you obtain a home-secured business loan (*i.e.*, a home-secured loan used *primarily* for business purposes)?

G. Additional Feedback

1. Are there any feasible alternatives to the proposals under consideration that would minimize any significant economic impact on your business while accomplishing the CFPB's statutory mandate and objectives?

2. Are there any other federal rules that you believe may duplicate, overlap or conflict with the proposals under consideration?