RESTORING TRUST IN THE MORTGAGE MARKET

One of the Consumer Financial Protection Bureau's primary goals is to help restore the trust in the mortgage market that was damaged after the burst of the housing bubble. Over the next six months, the Bureau will be proposing and finalizing rules to address the problems consumers often face in each of the three major steps in buying a home – shopping for a mortgage, closing on a mortgage, and paying off a mortgage. In many cases, the CFPB is implementing requirements under the Dodd-Frank Wall Street Reform and Consumer Protection Act. On all of the below proposals, the CFPB will be soliciting comments from consumers, industry, and other members of the public through the notice and comment process.

SHOPPING FOR A MORTGAGE

NO MORE COSTS AND RISKS BURIED IN THE FINE PRINT. The estimates consumers receive when shopping for a mortgage do not present information in a way that emphasizes what matters. The forms often use jargon and are missing key information that consumers can only find later in the fine print, if at all. There is often no clear explanation of how things might change or what the risks are. All of this makes it difficult to compare one loan offer to another and find the best deal. The CFPB is proposing rules that would give consumers a clear and simple "Loan Estimate" that spells out the costs and risks of a mortgage upfront so consumers can easily comparison shop.

- **Simpler than the old forms.** Lenders can explain the terms more easily and will have fewer forms to fill out. Consumers, meanwhile, can understand and compare different mortgages more effectively, and they can compare their estimated and final terms and costs more easily, helping them make the right decisions for themselves and their families.

- **Highlighted information consumers need.** Interest rates, monthly payments, the loan amount, and closing costs are all right there on the first page. The first page of a Loan Estimate explains how the interest rates, payments, and loan amount might change over the life of the loan. The Loan Estimate also offers more information about taxes, insurance, and other property costs so consumers can better understand the total price tag.

- **Easier to look out for risks.** The Loan Estimate provides clear warnings about features some consumers may want to avoid, such as prepayment penalties. The proposed rule also contains provisions that require estimates to be more reliable. And because the proposed rule requires lenders to keep electronic copies of the forms they give to consumers, industry and regulators will be able to address compliance questions more easily.

Timing: The CFPB released this proposal on July 9, 2012. The public will have 120 days, until Nov. 6, 2012, to review and provide comments on most of the proposal.

NO MORE CONFUSING POINTS AND FEES. It is often difficult for consumers to compare loan offers that have different combinations of points, fees, and interest rates. Consumers are sometimes told that these points and fees are a good deal because they will lower their interest rate and their monthly mortgage payments. Sometimes this is true: Points and fees can be a good deal for consumers when they produce real value. But sometimes they are a rotten deal. The CFPB is looking at commonsense proposals like ensuring that consumers receive a discount when they pay for "discount points" and requiring that lenders provide options that are easier for consumers to understand and use for comparison shopping.

Timing: The CFPB expects to propose rules addressing points and fees this summer and finalize them in January 2013.

CLOSING ON A MORTGAGE

NO MORE LAST-MINUTE CLOSING SHOCKS. When consumers get to the closing table, there is a stack of paperwork to read. Often, this is paperwork that they are seeing for the first time. The consumer can feel trapped − it is not easy to object, ask questions, or walk away from the deal. The CFPB is proposing rules that would put an end to last minute shocks at the closing table by giving consumers a single, revamped Closing Disclosure three business days before closing. This disclosure would generally show consumers their final loan terms and costs, how these terms may change over the course of the loan, and how much money to bring to the closing table.

- **Better forms.** For consumers, the Closing Disclosure can be easily compared to the Loan Estimate so that any changes to the costs and terms are readily apparent. This will allow consumers to see if the deal is more expensive or less expensive than what they expected. For industry, the Closing Disclosure reduces the number of forms to fill out and is easier to explain.

- **More time to review.** The Closing Disclosure would be provided three business days before closing, so that consumers can review their loan terms and costs, ask questions, and even negotiate over changes that may have occurred.

- **Limits on closing cost increases.** The proposed rule would restrict the circumstances in which consumers can be required to pay more for settlement services than the amount stated on their Loan Estimate.

Timing: Along with the proposed Loan Estimate, the public will have until Nov. 6, 2012, to review and provide comments on the proposed Closing Disclosure.

NO MORE MORTGAGES DESTINED TO FAIL. When consumers apply for a mortgage, they often struggle to understand how much of a monthly payment they can afford to take on. They may assume that lenders and mortgage brokers will not offer them loans that they cannot afford. But in the years leading up to the financial crisis, lenders too often offered mortgages to consumers who could not afford them. The CFPB will be finalizing the "ability to repay" rule, implementing Dodd-Frank Act provisions that require lenders to obtain and verify information to determine whether a consumer can afford to repay the loan.

- **Ability to repay standard.** Lenders will have to determine the consumer's ability to repay both the principal and the interest over the long term – not just during an introductory period when the rate is lower.

- **Qualified mortgages**. The CFPB will also define "qualified mortgages," which will allow lenders to meet the ability-to-repay requirement by providing affordable loans that limit risky features.

Timing: The CFPB's comment period on data informing the proposal closes on July 9, 2012. The CFPB plans to issue a final rule before January 2013.

NO MORE FEATURES THAT CAN TRAP CONSUMERS IN HIGH-COST MORTGAGES. Consumers who take out mortgages that are considered "high cost" receive special protections from fees and risky loan terms. The CFPB is proposing rules that would expand what is considered a "high-cost mortgage" and provide more protections to consumers who take out those loans.

- **Banning potentially risky features.** For mortgages that qualify as high-cost based on their interest rates, points and fees, or prepayment penalties, the proposed rule would generally ban balloon payments (a large, lump sum payment usually due at the end of the loan), and would completely ban prepayment penalties.

- **Ban and limit certain fees.** The CFPB's proposed rule would ban fees for modifying loans, cap late fees, and restrict the charging of fees when consumers ask for a payoff statement (a document that tells borrowers how much they need to pay off the loan).

- **Housing counseling.** The proposed rule would require consumers to receive housing counseling before taking out a high-cost mortgage. In addition, the CFPB's proposal would implement TILA counseling requirements for first-time borrowers taking out certain mortgage loans that permit an increase in the loan balance (negative amortization). The proposal would also implement an amendment to RESPA to generally require that a list of housing counselors be provided to all mortgage applicants.

Timing: The CFPB released this proposal on July 9, 2012, and the public will have at least 60 days, until Sept. 7, 2012, to comment on the proposal.

<u>PAYING BACK A MORTGAGE</u>

NO MORE COSTLY SURPRISES. When consumers are paying off their mortgages, they may find themselves blindsided by interest-rate changes or unexpected insurance charges. And when they get into trouble, they are often unable to get the information they need to avoid foreclosure. The CFPB is considering rules that would provide consumers with clear and timely information about changes to their mortgages so they can avoid costly surprises. The proposed rules would generally require the following:

- **Clear monthly mortgage statements**. Servicers would be required to provide clear monthly statements. These statements would include: a summary of the mortgage terms (interest rate, principal obligation, etc.); a breakdown of payments by principal, interest, fees, and escrow; and the amount of and due date of the next payment.

- **Warning before interest rate adjusts.** Servicers would be required to provide earlier disclosures before the initial interest rate change on most adjustable-rate mortgages. This disclosure would include: an explanation of how the new rate would be determined and when the change would take effect; a good faith estimate of the amount of the new monthly payment; the date of future interest rate adjustments; and the amount of any prepayment penalty.

- **Options for avoiding costly "force-placed" insurance.** Servicers would be required to provide notices to borrowers before imposing a charge for a force-placed insurance policy. In cases where the servicer has a reasonable basis to believe the borrower has allowed the property insurance to lapse in violation of the mortgage loan contract, the servicer would have to ask the borrower to provide proof of insurance and accept from the borrower any reasonable form of confirmation that the property is insured.

- **Early information and options for avoiding foreclosure.** Servicers would be required to make good faith efforts to contact delinquent borrowers and inform them of their options to help avoid foreclosure. Specifically, servicers would be required to provide the borrower with information about: loss mitigation options, when foreclosure may begin, and the availability of housing counselors to assist borrowers.

Timing: The CFPB plans to formally propose rules this summer and finalize them in January 2013.

NO MORE RUNAROUNDS. When mortgage servicers make mistakes, too often the result is harm to the consumer. When documents get lost or the servicer has sloppy record-keeping and sloppy information-management practices, the consumer can wind up in trouble. To hold servicers accountable for treating consumers fairly, the CFPB is considering rules that would require common-sense policies and procedures for handling consumer accounts and preventing runarounds. The proposed rules would generally require the following:

- **Payments credited when received.** Servicers generally would have to credit a consumer's account the day that a payment is received.

- **Records kept up-to-date and accessible.** Servicers would be required to establish reasonable information-management policies and procedures designed to minimize errors and help with quick corrections. These policies and procedures would help ensure that servicers provide accurate and timely disclosures and other information to borrowers. They would also facilitate prompt error correction and ensure that servicers promptly evaluate borrowers for loss mitigation options.

- **Errors corrected quickly.** Servicers would have to address consumer concerns about possible errors. They would have to acknowledge the notification of the error within five business days and conclude an investigation generally within 30 business days. Shorter timeframes would be imposed with respect to errors relating to foreclosures or payoffs.

- **Direct and ongoing access to servicer foreclosure prevention team.** Servicers would be required to provide delinquent borrowers (or borrowers who are asking for help to avoid delinquency) with direct, ongoing access to staff who are dedicated to servicing such borrowers.

Timing: The CFPB plans to formally propose rules this summer and finalize them in January 2013.