



Credit Union National Association

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June 20, 2012

The Honorable Judy Biggert
Chairman
Subcommittee on Insurance, Housing and Community Opportunity
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Biggert:

On behalf of the Credit Union National Association (CUNA), I am writing regarding the upcoming hearing concerning the Consumer Financial Protection Bureau's (CFPB) Know Before You Owe Real Estate Settlement Procedures Act (RESPA)/Truth In Lending Act (TILA) Combination rulemaking, required by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act). CUNA is the largest credit union advocacy organization in the United States, representing nearly 90% of America's 7,200 state and federally chartered credit unions and their 95 million members. We appreciate your continued work on this important issue, and for seeking our input for today's hearing, and also for the opportunity to submit this letter for the record of the hearing.

CUNA supports providing consumer disclosures that are meaningful and clear for borrowers to understand the important terms of a financial transaction, yet not overly burdensome for credit unions to properly complete, generate, deliver and explain to mortgage loan applicants. When the Dodd-Frank Act was being considered by Congress, CUNA strongly supported combining certain RESPA/TILA forms to improve efficiencies in disclosures and minimize disclosure burdens on credit unions as well as on consumers, who are overloaded with financial information that is not practical or useful. However, there are several aspects of the proposals under consideration and alternatives considered by the CFPB with which we would like to voice concern. We have raised these concerns with the CFPB as well.

Model Forms vs. Standard Forms

With respect to the proposals presently under consideration by the CFPB, TILA authorizes the CFPB to publish model forms for the TILA disclosures. In contrast, RESPA authorizes the CFPB to require the use of standard forms. Model forms benefit lenders by providing them with safe harbors for complying with disclosure obligations, while preserving flexibility for lenders to vary from the model so long as they adhere to the regulation. Standard forms allow less flexibility for lenders, but provide consistency for both consumers and lenders. We have urged the CFPB to propose a rule that would require the use of standard forms under RESPA for the Loan Estimate and Settlement Disclosure for mortgage loan transactions that are subject to RESPA, but would allow lenders to use model forms for the TILA disclosures. We believe that such an approach would yield less opportunity for unscrupulous lenders to present "bait and switch" scenarios to consumers, and believe that this approach would contribute overall to better consumer protection.



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Again, recognizing that the RESAP/TILA form combination is a requirement of the Dodd-Frank Act, we continue to urge the CFPB to provide consumers with efficient and complete disclosures. Not only is the prospect of too many disclosures daunting to and unwelcomed by most consumers, the cost to generate, deliver and explain the disclosures to consumers has become extremely burdensome to lenders.

Potential Costs of Compliance

Assigning a dollar figure on the cost of compliance for these regulatory changes is extremely difficult. When a regulation is changed, there are certain upfront costs that must be incurred: staff time and credit union resources must be applied in determining what is necessary in order to comply with the change; forms and disclosures must be changed; data processing systems must be reprogrammed; and staff must be retrained. It also takes time to discuss these changes with credit union members, and at times, members get frustrated because of the change. The ongoing costs of doing business in a manner that complies with the new regulation, compared to how it was conducted previously, is more challenging to measure.

CUNA encourages the subcommittee to closely monitor the rules that the CFPB has under consideration, including the proposals relating to the RESPA/TILA rulemaking.

Consider Repeal of Specific Disclosure Requirements

With respect to disclosures specifically mandated by the Dodd-Frank Act, we recognize that section 1419 of the Dodd-Frank Act amends TILA to require, in the case of residential mortgage loans, “the disclosure of the total amount of interest that the consumer will pay over the life of the loan as a percentage of the principal of the loan,” (“Total Interest Percentage”). The extent to which this disclosure would actually help consumers has not been documented and we encourage the subcommittee to repeal this requirement or make it more meaningful to consumers by further clarifying or explaining this figure with respect to its different meaning than the annual percentage rate the interest rate, etc..

In this same light, section 1419 also amends TILA to require the disclosure of the “approximate amount of the wholesale rate of funds in connection with the loan,” in the case of residential mortgage loans. CUNA strongly encourages the subcommittee to consider repeal of this requirement or make it more meaningful. For those credit unions that intend to sell mortgage originations to the secondary market, this disclosure provides absolutely no benefit or value to the consumer, as we believe it is the investor’s cost of funds rather than the lender’s that should be measured. Secondly, for those credit unions that intend to portfolio their mortgage originations, CUNA believes that a more appropriate measure of the cost of funds in this context would be the credit union’s cost of funds as measured over the life of the loan, rather than solely at the point of origination.

Settlement Disclosure Delivery Timing

CUNA is also concerned with a proposal being considered by the CFPB which would require delivery of an integrated Settlement Disclosure three business days before closing in all circumstances. We have urged the CFPB to not proceed with such a proposal. It is difficult, at

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best, for credit union lenders to coordinate with title companies and others 24 hours in advance of a real estate closing. To increase the period to three days prior to closing would be very problematic for credit unions, and likely very frustrating for consumers who usually want to close on their home loan as soon as possible. CUNA encourages the subcommittee to help ensure additional regulatory burden regarding this requirement is not placed on credit unions in any future rulemaking.

Conclusion

We hope the subcommittee will work to ensure that the Congressional mandates within the Dodd-Frank Act relating to the RESPA/TILA integration are effectively implemented through the CFPB's rulemaking process, while ensuring that additional regulatory burdens and costs to credit unions are minimized where appropriate and permissible. Credit unions did not cause the financial crisis, and continue to serve their members well with financial products and services that are in the best interests of the consumer.

On behalf of America's credit unions and their 95 million members, thank you very much for your consideration of our views.

Best regards,

A handwritten signature in black ink, appearing to read "Bill Cheney", with a long, sweeping horizontal line extending to the right.

Bill Cheney
President & CEO