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February 7, 2014

Ms. Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

Re: Docket No. CFPB-2013-0036: Request for Information Regarding the Mortgage Closing Process

Dear Ms. Jackson:

The Credit Union National Association ("CUNA") appreciates the opportunity to comment on the Consumer Financial Protection Bureau's ("CFPB" or "Bureau") Request for Information regarding the mortgage closing process. CUNA is the largest credit union advocacy organization in this country, partnering with our state leagues to represent state and federal credit unions nationwide, which serve over 99 million members.

CUNA appreciates the efforts of the CFPB to examine ways under which a more streamlined, efficient, and educational home mortgage loan closing process may be achieved, and we share the common goal of increasing consumer knowledge and understanding of the closing process. The information we share in this letter is derived from surveys of our credit union members, and in coordination with the CUNA Lending Council and CUNA's Consumer Protection Subcommittee.

The letter provides specific responses to the questions raised by the CFPB.

<u>Consumers & Closing</u>

1. What are common problems or issues consumers face at closing? What parts of the closing process do consumers find confusing or overwhelming?

   Credit union members are often overwhelmed with the sheer amount of paperwork and disclosures they receive at closing. These notices and disclosures are so voluminous that the consumer and the closing process are often disadvantaged, rather than helped. A typical closing package is over 100 pages, requiring the borrower to sign nearly 25 times on average.

Most consumers cannot possibly read and understand everything they are signing. Additionally, closing/escrow agents don't always have the time to allow borrowers to read every page of disclosures, and most borrowers do not want to spend their time doing so at the closing table. By the time consumers arrive at the closing table, they often are more focused on running, rather than walking through the final numbers, obtaining the keys to their new property and moving into their new home, rather than being focused on the "fine print." CUNA believes that many of these closing documents should be able to be consolidated.

Consumers are also often confused by the terminology contained within the closing documentation packages. "Homesteading the property, transfer affidavit, tax prorations," are just a few examples of terms which credit union members find confusing. Along these lines, many consumers are not aware of their right to hire an attorney to represent their interest and assist them in the closing process. Even if they are aware, many would not be able to afford one or even know how to obtain the services of their own attorney.

In the current disclosure regime, consumers continue to have difficulties in understanding the Truth in Lending Disclosure as well as the Good Faith Estimate. The most confusing document for many consumers is the HUD-1 closing statement. CUNA recognizes that these concerns may change as a result of the agency's Know Before You Owe initiative and final rule on the Combined Truth in Lending Act (TILA)/Real Estate Settlement Procedures Act (RESPA) mortgage disclosures. Nonetheless, we raise this issue in light of the current request for information from the bureau concerning the mortgage closing process.

Through our research, credit unions have shared with CUNA that many common issues that arise at the last minute involve title issues, changes in a consumer's debt ratio due to additional debt acquisition during the loan process, and consumers being unprepared to pay the amount of closing costs.

2. Are there specific parts of the closing process that borrowers find particularly helpful?

Many credit unions report that the "Fed-box" type disclosures can be helpful. Borrowers generally find these to be simple, clear and to the point. That being said, however, the entire closing process depends on the experience and clarity offered by the loan closer, including the explanation of each document by the escrow agent and/or title company. Having a good and reputable title company, real estate agent and lender are all helpful to consumers. Additionally, many credit unions have reported to CUNA that borrowers having a single point of contact during the loan process is also beneficial.

3. What do consumers remember about closing as related to the overall mortgage/home-buying process? What do consumers remember about closing?

   While the answer to this is somewhat speculative, credit union borrowers seem to remember: the size of their mortgage and their monthly payment; the length of time it takes to get to the closing from the time they apply for the loan; the documentation required to get a loan approval and all the waiting periods required under various regulations; the length of time the closing process consumed; the volume of paperwork to be signed; and the overall closing experience.

4. How long does the closing process usually take? Do borrowers feel that the time at the closing table was an appropriate amount of time? Is it too long? Too short? Just right?

   Credit unions have reported to CUNA that for purchase transactions, the closing time can take from one hour to one and a half hours. For refinance transactions, the time ranges from about one half hour to one hour in length. For many borrowers, the process can be perceived to last far too long, as their focus at the closing table is often to close quickly so they can begin moving. Notably, these time estimates would be far longer if most homebuyers actually took the time to read all of the documents placed before them.

5. How empowered do consumers seem to feel at closing? Did they come to closing with questions? Did they review the forms beforehand? Did they know they can request their documents in advance? Did they negotiate?

   Borrowers often feel helpless at closing. At this point, even if they object or have a concern with something within the closing documents, they do not want to do anything that might prevent the process from moving forward. They either take a “we’ll deal with it later” or a “well that’s just the way it is” attitude. Many times their personal belongings are on a moving van, and in many cases they’ve just sold a house, so they have nowhere else to go except to their new home. “Consumer Empowerment” is not a phrase generally used or experienced at a home closing.

Many consumers come to closing with questions regarding the terms of their mortgage loan. Some members want the documents explained to them, and they want the process to be as streamlined as possible. Yet some consumers do not wish to review the documents beforehand, other than the closing statement. For most borrowers, there typically is no negotiation, as by the time the closing has been arranged, the fees have been disclosed by the lender and the buyers and sellers have finalized their negotiations.

6. What, if anything, have you found helps consumers understand the terms of the loan?

   Credit unions have reported to CUNA that clearly laid out, simplified financial information about the transaction works best. Giving the member the closing documents in advance, without the final closing numbers, but including all non-critical but necessary disclosures to read ahead of time would be a positive change. Also, experienced closing agents that can explain clearly the responsibilities of each party, and the products and fees involved in the closing are also beneficial to the consumer.

   Reviewing the note, the payment, loan amount and interest rate are all things that can benefit a consumer at the closing table. Finally, borrowers should take the time prior to closing to carefully review the documents and ask any questions they may have prior to closing. Many credit unions report that borrowers are more comfortable doing this when they have had a single point of contact during the entire mortgage process. Credit unions traditionally welcome a borrower's early involvement in the mortgage process, and encourage the borrower to ask questions and seek points of clarification throughout the process, so as to minimize any surprises that could otherwise occur at the closing table.

<u>Errors & Changes at Closing</u>

7. What are some common errors you have seen at closing? How are these errors detected, if at all? Tell us about errors that were detected after closing.

   There can be errors involving the prepaid interest calculations (due to closing date changes), payment calculations, property tax proration amounts, loan amounts stated in error, and errors in closing costs (either detailed costs or totals). Additionally, there can also be property legal description errors or missing documents on the seller's side of the transaction. Some credit unions also reported the possibility of errors in personal information for the borrowers. Finally, some credit unions have indicated the possibility of errors may occur on the Good Faith Estimate, which can be exacerbated by title companies entering information manually into the form.

These error possibilities aside, many credit unions experience very few errors at closing when there has been careful preparation of all documents and pre-closing auditing processes.

8. What changes, diverging from what was originally presented at closing, often surprise consumers at closing? How do consumers react to changes at closing?

   For many credit union borrowers, it depends on both the magnitude and the quality of the changes. If it is a matter of changing the time of closing to accommodate others, that can be frustrating. Other sources of frustration can include occupancy problems and day-of-closing walk-through problems. Other changes may involve: interest rate changes, and the value of property coming in lower than anticipated which impacts the loan to value ratios. This can also have an effect on the qualifying interest rate for a borrower.

   Still other credit unions report that changes can occur to the amount due for homeowner's insurance premiums and/or real estate taxes. Small changes in these amounts are generally taken in stride, while large changes can result in additional stress for the borrower.

   Finally, a flood hazard determination certificate coming back as listing the property in a flood zone can be very problematic for borrowers at closing. When this occurs, the borrowers may cancel the transaction as opposed to purchasing expensive flood insurance to move forward with the transaction.

   In general, borrowers do not appreciate or react well to changes that occur at the closing table, and credit unions work very hard to minimize these changes whenever possible.

<u>Other Parties at Closing</u>

9. How, if at all, do consumers typically seek advice during closing? In person? By phone? Online?

Generally, credit union borrowers will contact the credit union lender either in person or by telephone. Depending on the comfort of the borrower with his or her individual loan originator or assigned closing agent, a borrower will also submit questions seeking advice via email.

10. Where and to whom do consumers turn for advice during closing? Whom do they typically trust?

    Credit unions report to CUNA that borrowers typically contact their real estate agent, their lender (both their loan originator as well as their closer), and their attorney. Credit union borrowers may also contact a title company representative handling the transaction closing, as well.

Closing Documents

11. What documents do borrowers usually remember seeing? What documents do they remember signing?

    Credit union borrowers generally remember the volume of paperwork involved during the closing process. Specific documents that often stand out in the minds of the consumer include the HUD-1 closing statement; the final Truth in Lending disclosure; the borrower's loan application; the deed to the property; the note; the mortgage/deed of trust; the borrower's personal financial statements; the borrower's credit report information and the terms of the borrower's mortgage loan.

12. What documents do consumers find particularly confusing?

    As previously mentioned, credit union borrowers are often overwhelmed at the sheer volume of the disclosures and documents involved during the closing process, but the following documents often prove especially confusing to borrowers: The HUD-1 closing statement; the final Truth in Lending disclosure (borrowers find it confusing because the APR is different than the "rate" the member was quoted. It is very difficult for some borrowers to understand why the APR is higher); the Good Faith Estimate; certain tax forms; private mortgage insurance disclosures; flood hazard determination certificates (borrowers are often confused as to why they need to pay for this if their home is not located in a flood zone); the mortgage/deed of trust, the note, and escrow disclosures. Again, as discussed in our response to question #1 above, CUNA recognizes that the concerns regarding the HUD-1 closing statement and the final Truth in Lending disclosure may change as a result of the Bureau's Know Before You Owe and TILA/RESPA combined mortgage disclosure final rule.

13. What resources do borrowers use to define unfamiliar terms of the loan?

    Credit unions report to CUNA that borrowers will utilize third party Web sites, while some states' mortgage forms contain definitions to assist the borrower's understanding of certain terms of the loan. Additionally, some credit unions often provide definitions for the Truth in Lending disclosure, which further assists the borrowers.

    Still other borrowers may contact mortgage lending representatives, their attorney, their lender or their realtor, or the title company involved in the loan closing. HUD's special information booklet may also be beneficial to borrowers.

<u>Improving Closing</u>

14. What, if anything, would you change about the closing process to make it a better experience for consumers?

    Credit unions have shared with CUNA a desire to provide pre-disclosures with consumer acceptance (e-signed) as much as possible. CUNA also suggests that, at the actual closing, closing agents and/or lenders review the financial details and explain the mortgage/deed process to the borrowers, to the extent this is not already in practice. Additional suggestions include: Reduce the level of documentation required as part of the closing process; provide contact personnel within the CFPB for mortgage consumers to consult with in connection with his or her mortgage closing; and consider enhanced usage of electronic closings, where possible.

15. What questions should consumers ask at closing? What are the most important pieces of information/documents for them to review?

    Based upon feedback from credit unions, CUNA suggests the following questions that would be beneficial for borrowers to ask at closing: When is my payment due? Who is filing the Property Transfer Affidavit and Homestead (if applicable)? Are there prepayment penalties? How much interest will I pay over the life of the loan? How is the interest calculated?

    Many credit unions report the following documents as being the most important pieces of information for borrowers to review: the final Truth in

Lending disclosure; the HUD-1 closing statement; the note; the mortgage/deed of trust; the right of rescission notices and the borrower's loan application.

16. What is the single most important question a consumer should ask at closing?

    Based upon CUNA's outreach, several important questions have been raised as possible answers to this question: What can I do to lower my costs of owning/financing this home? Can you verify for me my mortgage payment, loan term, interest rate, and total amount of closing costs I am being required to pay? Am I receiving a title insurance policy insuring my interest in the property? How do these final figures compare to what you quoted me in the beginning of the mortgage loan process?

17. What is the single most important thing a consumer should do before coming to the closing table?

    Again, based on CUNA's outreach and research to respond to the Bureau's request for information, credit unions have suggested the following borrower actions: Write down questions they may have; review and make sure they understand and are comfortable with all material they have been provided through the mortgage process; review their final closing numbers in advance of the loan closing, if possible; don't be afraid to ask questions before and during the process; understand the type of loan they are getting (fixed, ARM, variable), how long it will last, and what their payment will be; and review all of the terms and conditions of the closing process, and specific lender policies and documents.

<u>Conclusion</u>

Thank you for the opportunity to comment on the CFPB's Request for Information regarding the mortgage closing process. If you have any questions concerning our letter, please feel free to contact CUNA's Senior Vice President and Deputy General Counsel Mary Dunn or me at (202) 508-6732.

Sincerely,

Jared Ihrig
Associate General Counsel