

# DRAFT

**Mortgage Package Offer (MPO)**

Revised

Originating Company \_\_\_\_\_

**Borrower**

Property Address \_\_\_\_\_

**Address** \_\_\_\_\_

**Phone** \_\_\_\_\_

**About Your MPO**

**What is an MPO?** This MPO is an offer for a mortgage loan from us that includes:

- A guaranteed price for a package that includes most of the settlement services needed to get the loan.
- An interest rate and points that are guaranteed, assuming loan approval, if you accept this offer and lock in by \_\_/\_\_/\_\_. Otherwise, they will float until you lock.
- An agreement that binds us to provide you the loan described in this document if you are approved for this loan.

This MPO is based on your statements that your gross monthly income is \$ \_\_\_\_\_ and the value of the property is \$ \_\_\_\_\_, your loan amount and the loan product you requested (see below), and on a preliminary credit analysis that we have conducted. It is subject to our verification of your monthly income, the property value, your credit rating, other information you've provided to us, and to other appropriate underwriting criteria.

**How should you use this MPO to shop for the best loan?** You are the only one who can shop for the best loan for you. You should compare this MPO with other loan offers. By comparing loan offers, you can shop for the best loan. Use the charts and information provided in the Special Information Booklet that has been provided to you to compare the settlement costs and loan terms for different loans. The Special Information Booklet is also available online at \_\_\_\_\_.

The terms and conditions of this MPO are valid for 10 business days from this date \_\_/\_\_/\_\_.

**Keep this MPO to compare with your actual costs at settlement.**

**Summary of Your Loan Terms for This Offer**

<b>Your Loan Details</b>	
<b>Your loan amount will be:</b>	\$ _____
Your loan is	<input type="checkbox"/> A Fixed Rate Loan <span style="margin-left: 100px;"><input type="checkbox"/> An Adjustable Rate Loan</span>
Your initial interest rate is	<div style="display: flex; justify-content: space-between;"> <span>_____ %</span> <span>_____ %</span> </div> See your ARM Disclosures provided under the Truth in Lending Act for how the rate can change
Your loan term is	<div style="display: flex; justify-content: space-between;"> <span>_____ years</span> <span>_____ Years</span> </div>
Your rate lock period	If you lock in your interest rate by __/__/__, you will be guaranteed this initial interest rate if you go to settlement within _____ days. If you do not lock in this initial rate by the above date, your interest rate will float. You may lock in a rate at any time up to [ ] days before your scheduled settlement. The lock-in fee is \$ _____. This fee, included in "Estimated Charges for Settlement Services Outside the Package," _____ will _____ will not be credited to you at closing. [Describe refundability, if applicable]
Does your loan have a prepayment penalty?	<input type="checkbox"/> Yes (See your Truth in Lending Disclosure for the terms of your prepayment penalty.) <input type="checkbox"/> No
Does your loan have a balloon payment?	<input type="checkbox"/> Yes (See your schedule of payments in your Truth in Lending Disclosure for the timing and amount of your balloon payment.) <input type="checkbox"/> No
Your loan purpose is	<input type="checkbox"/> Purchase the Property <input type="checkbox"/> Other (Refinance, Home Equity)

**Your Settlement Costs**

<b>Charge for Your Guaranteed Mortgage Package (item 1 on page 1)</b>	
<b>Charge or Credit for the Specific Interest Rate Chosen (item 2 on page 2)</b>	
<b>Estimated Charges for Settlement Services Outside the Package (items 3-8 on page 2)</b>	
<b>Total Estimated Settlement Charges</b>	<b>\$</b> _____

**Understanding  
Your Settlement  
Charges**

*Charge for Your Guaranteed Mortgage Package*

1. **Your guaranteed mortgage package**  
Your guaranteed mortgage package is one fixed price for most of the services that you will need to get your loan. This price cannot change before settlement unless (i) the loan amount or loan product changes, and/or (ii) you select settlement service providers for packaged services other than those we generally use. This package includes the charges for the following services, if needed:
  - Service Charge**  
This charge is for the services we provide when we process this loan for you.
  - Other required settlement services**  
This charge is for certain services we require to complete your settlement, for example, an appraisal, credit report, or survey. We will choose the providers of these services.
  - Title services and lender's title insurance**  
This charge includes the services of a settlement agent, for example, and title insurance to protect the lender, if required.
  - Taxes and fees**  
This charge includes state and local taxes and fees required to record the mortgage.

*Charge for Your Guaranteed Mortgage Package*

\$





<i>Charge or Credit for the Specific Interest Rate Chosen (Points)</i>	
2. <b>Your credit or charges for the specific interest rate chosen (points)</b>	
<input type="checkbox"/> You receive a credit for \$ _____ for this initial interest rate of ____ %. This Credit reduces your upfront charges.	
<input type="checkbox"/> You pay a charge of \$ _____ for this initial interest rate of ____ %. This payment (discount points) increases your upfront charges.	
(Contact us or see the information and charts in the Special Information Booklet provided to you to see how you can change this charge or credit by choosing a different interest rate.) Unless you lock in your interest rate by __/__/__, this charge or credit for the specific interest rate chosen may change.	

<i>Charge or Credit for the Specific Interest Rate Chosen</i>	\$ _____
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<i>Estimated Charges for Settlement Services Outside the Package</i>	
3. <b>Reserves or escrow</b> This charge is held in an escrow account to pay recurring charges on your property, such as property taxes or insurance	
4. <b>Daily interest charges</b> This charge is for the daily interest on your loan from the day of your settlement until the first day of the next month or the first day of your normal mortgage payment cycle. For this loan, this amount is \$ _____ per day for _____ days (if your closing date is __/__/__.)	
5. <b>Homeowner's insurance</b> This charge is for the insurance you must buy for the property to protect from a loss such as fire.	
6. <b>Optional owner's title insurance</b> This charge is for insurance you can choose to buy to protect yourself from title defects.	
7. <b>Mortgage Insurance</b> This charge is for insurance that protects the lender against losses from default. It is determined following the appraisal of the property.	_____
8. <b>Flood Insurance</b> This charge is for insurance that protects the lender from flood damage to the property. It is determined following a determination whether the property is in a flood zone.	_____

<i>Estimated Charges for Settlement Services Outside the Package</i>	\$ _____
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<i>Total Estimated Settlement Charges</i>	\$ _____
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**Charges That Can Change**

All of the charges listed above can change at settlement except for the Charges for Your Mortgage Package, which may only change if (i) the loan amount or loan product changes, and/or (ii) you select settlement service providers for packaged services other than those we generally use. Amounts required to satisfy underwriting conditions, such as to remedy an environmental hazard or to bring the property into compliance with law, or amounts due to unforeseeable and extraordinary circumstances, are not included in the Guaranteed Mortgage Package.

**Services in The Package**

The services that we may obtain to underwrite and originate your loan vary. Upon request, we will notify you whether we have obtained certain reports, such as a pest inspection, a valuation of the property, an inspection of title and/or a credit verification.

**Accepting This Mortgage Package Offer**

**What should you do if you want to accept this offer?**

- You will need to pay a fee of \$ \_\_\_\_\_ which will be applied towards your settlement and is included in the Mortgage Package Offer. *[Insert terms of refundability] [Describe any pre-closing fees (i.e. commitment fees) that may apply and their terms of refundability]*
- You will need to decide whether to lock in an interest rate no later than \_\_/\_\_/\_\_ or let the interest rate float. You may lock in a floating interest rate later. Check the option you would like.
  - I want to accept the offer by signing below and locking in the interest rate now (by the time set above to get the initial interest rate. I understand settlement must occur within the rate lock period (the days set forth on page 1) to guarantee the initial rate. If we permit an extension of this period, extension fees may apply. Extension fees are not included in the Guaranteed Mortgage Package.
  - I want to accept the offer by signing below and will let the interest rate float.  
I realize I may lock in the interest rate any time up to \_\_\_\_\_ days before settlement.

**What happens once you accept this offer?** We will verify your monthly income, the property value, your credit rating, and other information that you've provided to us. We may ask you for more information. Then we will complete the evaluation and underwriting of your mortgage application. If you are approved for the loan amount and the loan product requested, we will provide the mortgage loan and settlement services exactly as we've outlined in this offer.

**What if you are not sure you want to accept this offer?** To lock in the initial interest rate listed above, you must accept this by \_\_/\_\_/\_\_ (date).

From now \_\_\_\_\_ until \_\_/\_\_/\_\_, the package price is still guaranteed, but the interest rate and points offered will float. The interest rate and points will float until you lock them or until \_\_ days before settlement. You can find current interest rates and points options by going to :

If you do not accept by \_\_/\_\_/\_\_, this offer will expire.

We certify that if we do not fund loans, we have arrangements with one or more funding companies to which our mortgage package offers are acceptable, subject to such companies' underwriting and final approval of the loan.

\_\_\_\_\_  
Our Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Your Signature

\_\_\_\_\_  
Date

## Good Faith Estimate of Settlement Costs (GFE)

Lender Name and Address	Mortgage Broker Name and Address
Buyer/Borrower Name and Address	Property Address
Date	File Number

### About this GFE

This GFE contains your proposed Interest Rate and Discount Points, other important information, and a Good Faith Estimate of Settlement Charges, for a loan from of the term and type identified below. The Interest Rate and Discounts Points for this loan may change until you lock in a rate. Except as noted, all settlement costs are good faith estimates of the amounts you are likely to pay at settlement. The estimated amounts below may change if, among other things, you request a change in the loan amount, term, type of loan, or other characteristics. You should use this GFE and the charts and information provided in the Special Information Booklet, which is to be provided to you by the Originator, to compare the settlement costs and loan terms for different loans. The Special Information Booklet is also available online at \_\_\_\_\_.

### Loan Description

Proposed Mortgage Loan Amount \$ \_\_\_\_\_ Proposed Initial Interest Rate: \_\_\_\_\_% Term: \_\_\_\_\_ Years

Proposed Loan Discount Points \_\_\_\_\_% or \$ \_\_\_\_\_ (included in settlement costs below)

Fixed Rate  Adjustable Rate (If adjustable, see disclosure for adjustment terms)

Conventional  FHA  VA  FSA/RHA  Other/Product Type: \_\_\_\_\_

Prepayment Penalty:  Yes  No Balloon Payment:  Yes  No

For your proposed Annual Percentage Rate (APR) and monthly payment schedule of principal and interest, see your Truth in Lending Act Disclosure statement (to be issued no more than three days after you applied for this loan).

### M-3 Mortgage Loan Settlement Charges to Be Paid by You

(Charges marked with † are used to calculate finance charge and APR under the Truth in Lending Act)

**800. Lender Origination Charges** includes charges in A-1 – A-3 below† \$ \_\_\_\_\_

This total amount cannot increase on the final settlement sheet (HUD-1) as long as unforeseen circumstances are not discovered in final underwriting.

A-1 Lender Charges for loan origination and other Lender services† \$ \_\_\_\_\_

A-2 Discount Points paid to reduce your interest rate† \$ \_\_\_\_\_

A-3 Rate Lock paid to lock in your interest rate† \$ \_\_\_\_\_

(If you lock in rate later, lender may charge additional fee)

**850. Mortgage Broker Origination Charges** paid directly by you for loan origination and other \$ \_\_\_\_\_

Mortgage Broker services† (N/A if no broker involved)

The broker has represented that this total amount will not increase on the final settlement sheet (HUD-1) as long as unforeseen circumstances are not discovered in final underwriting. Note: Lenders and mortgage brokers (originators) may receive compensation [separate from amounts in 800 or 850 above] based upon the rate and points you agree to, or another basis.  The Mortgage Broker may receive compensation from the Lender on this loan for services rendered ranging from \_\_\_ to \_\_\_% of the loan amount.

**900. Credit and Pre-Closing Valuation and Inspection Charges** \$ \_\_\_\_\_

For credit reports, property valuation, inspections, tax or flood determinations

**1000. Title Charges** for title insurance, title related services and closing services \$ \_\_\_\_\_

Charges for Owner's Title Insurance of \$ \_\_\_\_\_ are included in this amount

Charges for closing agent to attend closing of \$ \_\_\_\_\_ are included in this amount†

**1100. Government Recording & Transfer Charges** on this transaction \$ \_\_\_\_\_

**1200. Interest and Mortgage Insurance Charges<sup>†</sup>** to be paid in advance \$ \_\_\_\_\_  
Note: This estimate may change depending on when you actually close.

**1300. Taxes , Flood and Hazard Insurance Charges** to be paid in advance \$ \_\_\_\_\_

**1300. Escrow Costs/Reserves** for escrow account to pay taxes, insurance, and other charges \$ \_\_\_\_\_  
 Mortgage insurance premium reserves of \$ \_\_\_\_\_ are included in this amount<sup>†</sup>

**1350. Other Mortgage Loan Settlement Charges** such as life-of-loan flood and tax services, \$ \_\_\_\_\_  
wire transfer and other miscellaneous services not covered above<sup>†</sup>

**Total Estimated Mortgage Loan Settlement Charges** \$ \_\_\_\_\_

Minus Mortgage Loan Settlement Charges Paid by Borrower Before Closing - \$ \_\_\_\_\_

Minus Any Credit from Lender - \$ \_\_\_\_\_

**1400. Mortgage Loan Settlement Charges to Borrower** \$ \_\_\_\_\_

You may be able to finance all or part of these charges. In a purchase transaction, review your sales contract to determine how much your down payment is, how much you have already paid as a deposit and any settlement charges listed above that the seller will pay and any other adjustments to determine how much you will be responsible for at settlement.

\_\_\_\_\_  
**Lender/Broker (Originator) Signature**                      **Date**  
1183500 1

\_\_\_\_\_  
**Borrower(s) Signature**    **Date**

# A. Settlement Statement (HUD-1)

	File Number	MI Number	Loan Number
<b>B. Lender Name and Address</b>	<b>C. Mortgage Broker Name and Address</b>		<b>D. Settlement Date</b>
<b>E. Buyer/Borrower Name and Address</b>	<b>F. Seller Name and Address</b>		<b>G. Property Address</b>
			<b>H. Settlement Agent</b>

**I Loan Description**

Mortgage Loan Amount \$ \_\_\_\_\_ Term \_\_\_\_\_ years

Conventional  FHA  VA  FSA/RHS  Other/Product Type \_\_\_\_\_

Fixed Rate  Adjustable Rate (See disclosure for adjustable terms)

Prepay Penalty  Yes  No      Balloon Payment  Yes  No      Initial Interest Only Payment  Yes  No  
(For all of part of loan)

**J. Initial Interest Rate, Discount Points and Monthly Payment**

Interest Rate \_\_\_\_\_ %      Annual Percentage Rate (APR) \_\_\_\_\_ %  
(See Truth in Lending Act disclosure)

Discount Points \_\_\_\_\_ %      Actual Monthly Payment \$ \_\_\_\_\_  
(Included in settlement costs below)

The Actual Monthly Payment above includes \$ \_\_\_\_\_ in principal, if any, and interest, plus monthly escrow payments as referenced in Series 1300 below. If your loan is an Adjustable Rate Mortgage (ARM), see your loan program disclosure for terms regarding future payments. In the case of a product whose rate or payment is subject to change, the Actual Monthly Payment above is an initial payment only and does not reflect any subsequent interest rate or payment adjustments on your loan.

K. Summary of Borrower's Transaction		L. Summary of Seller's Transaction	
<b>100. Gross Amount Due from Borrower</b>		<b>400. Gross Amount Due to Seller</b>	
101. Contract Sales Price		401. Contract Sales Price	
102. Personal Property		402. Personal Property	
103. Settlement Charges to Borrower (line 1400)		403.	
104.		404.	
105.		405.	
<b>Adjustments for items paid by seller in advance</b>		<b>Adjustments for items paid by seller in advance</b>	
106. City/town Taxes to		406. City/town to	
107. County Taxes to		407. County Taxes to	
108. Assessments to		408. Assessments to	
109.		409.	
110.		410.	
111.		411.	
112.		412.	
<b>120. Gross Amount Due from Borrower</b>		<b>420. Gross Amount Due to Seller</b>	
<b>200. Amounts Paid by or on behalf of Borrower</b>		<b>500. Reductions in Amount Due to Seller</b>	
201. Deposit or earnest money		501. Excess deposit (see instructions)	
202. Principal amount of new loan(s)		502. Settlement charges to seller (line 1400)	
203. Existing loan(s) taken subject to		503. Existing loan(s) taken subject to	
204.		504. Payoff of first mortgage loan	
205.		505. Payoff of second mortgage loan	
206.		506.	
207.		507.	
208.		508.	
209.		509.	
<b>Adjustments for items unpaid by seller</b>		<b>Adjustments for items unpaid by seller</b>	
210. City/town taxes to		510. City/town taxes to	
211. County Taxes to		511. County Taxes to	
212. Assessments to		512. Assessments to	
213.		513.	
214.		514.	
215.		515.	
216.		516.	
217.		517.	
218.		518.	
219.		519.	
<b>220. Total Paid By/For Borrower</b>		<b>520. Total Reduction Amount Due Seller</b>	
<b>300. Cash at Settlement From/To Borrower</b>		<b>600. Cash at Settlement To/From Seller</b>	
301. Gross Amount due from Borrower (line 120)		601. Gross Amount due to Seller (line 420)	
302. Less Amounts paid By/For Borrower (line 220)	( )	602. Less reductions in amt. Due seller (line 520)	( )
303. Cash <input type="checkbox"/> From <input type="checkbox"/> To Borrower		603. Cash <input type="checkbox"/> To <input type="checkbox"/> From Seller	

**M. Settlement Charges**

**M-1. Real Estate Sale Settlement Charges**

<b>700. Total Real Estate Commission based on sales price \$ _____ @ _____ % or \$ _____</b>			
Division of Commission in 700 is as follows:			
701. \$ _____	to	Paid From Borrower's Funds at Settlement	Paid From Seller's Funds at Settlement
702. \$ _____	to		
703. Real Estate Commission on line 700 paid at Settlement		\$ _____	\$ _____
704.		\$ _____	\$ _____

**M-2. Other Charges for Transaction Not Required by Broker or Lender**

750. For _____	\$ _____	\$ _____
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**M-3. Mortgage Loan Settlement Charges to Be Paid by You**  
**COMPARE 1<sup>ST</sup> COLUMN—CHARGES TO BE PAID BY BORROWER—TO GFE**

Note: Charges marked with a † are used to calculate the finance charge and APR under the Truth in Lending Act (TILA).

The numbered cost categories below are included in your Net Settlement Charges if filled in. All of the particular fees and services may or may not be included for your loan.

**800. Lender Origination Charges** may include the charges in A-1 and A-2 below:†

	Borrower	Seller
<b>A-1. Lender Charges</b> for loan origination and other Lender services† \$ _____		
<b>A-2. Discount Points</b> paid to reduce your interest rate† _____ % / \$ _____		
<b>A-3. Rate Lock</b> paid to lock in your interest rate† _____ % / \$ _____		

**850. Mortgage Broker Origination Charges** to be paid directly by You to the Mortgage Broker for loan origination and other mortgage broker services. \$ \_\_\_\_\_ \$ \_\_\_\_\_

Note: The Mortgage Broker's compensation from the lender for this Loan is \$ \_\_\_\_\_ or \_\_\_\_\_ % of the total amount. This amount is not included in the Mortgage Broker Origination Charges in 850 because it is paid by the Lender directly to the Mortgage Broker.

**900. Credit, and Pre-Closing Valuation and Inspection Charges** for your loan that may include: \$ \_\_\_\_\_ \$ \_\_\_\_\_

- Appraisal or valuation fee
- Credit Report
- Tax or Flood Determination
- Pre-closing Inspection
- Pest Inspection

**1000. Title Charges** for your loan that may include \$ \_\_\_\_\_ \$ \_\_\_\_\_

- Settlement or closing-escrow services
- Title insurance binder
- Attorney Services
- Survey
- Title examination
- Notary services
- Abstract or title search
- Documentation preparation
- Title insurance
- All other title and closing services
- Lender's coverage

Charges for optional Owner's Title Insurance Coverage of \$ \_\_\_\_\_ are included in this amount if this box is checked.

Charges for closing agent to attend closing of \$ \_\_\_\_\_ are included in this amount if this box is checked.†

**1100. Government Recording and Transfer Charges** for this transaction include: \$ \_\_\_\_\_ \$ \_\_\_\_\_

- Recording fees; Deed \$ \_\_\_\_\_; Mortgages \$ \_\_\_\_\_; Releases \$ \_\_\_\_\_
- City/county tax stamps: \$ \_\_\_\_\_
- State tax stamps: \$ \_\_\_\_\_
- Other government recording and transfer costs: \$ \_\_\_\_\_

**1200. Interest and Mortgage Insurance Charges** to be paid in advance include:† \$ \_\_\_\_\_ \$ \_\_\_\_\_

- Interest from \_\_\_\_\_ to \_\_\_\_\_ at \$ \_\_\_\_\_ a day
- Mortgage insurance premium for \_\_\_\_\_ months at \$ \_\_\_\_\_ a day
- VA funding fee/FHA mortgage insurance premium \$ \_\_\_\_\_
- [Other] \_\_\_\_\_ for \$ \_\_\_\_\_

**1250. Taxes, Flood and Hazard Insurance Charges** to be paid in advance include: \$ \_\_\_\_\_ \$ \_\_\_\_\_

- Taxes: \_\_\_\_\_
- Hazard insurance premium for \_\_\_\_\_ months at \$ \_\_\_\_\_
- Flood insurance premium for \_\_\_\_\_ months at \$ \_\_\_\_\_
- [Other] \_\_\_\_\_

**1300. Escrow Charges/Reserves** to establish an escrow account to pay taxes, insurance premiums and other charges. \$ \_\_\_\_\_ \$ \_\_\_\_\_

Note: Borrower's initial escrow account analysis, describing how the amount of the escrow deposit was calculated, will be provided to Borrower at settlement or within 45 days thereafter.

Mortgage insurance premium reserves of \$ \_\_\_\_\_ are included in this amount if this box is checked.

**1350. Other Mortgage Loan Settlement Charges** for services for your loan that may include.† \$ \_\_\_\_\_ \$ \_\_\_\_\_

- Life-of-Loan flood insurance
- Life-of-Loan tax service
- Wire transfers
- All other miscellaneous services not covered above

**Summary of Settlement Charges**

Gross Amount of Settlement Charges (M-1, M-2 & M-3)	\$ _____	\$ _____
Minus Settlement Charges Paid before Closing	\$ ( _____ )	\$ ( _____ )
Minus Any Credit from Lender	\$ ( _____ )	\$ ( _____ )
<b>1400. Net settlement Charges (enter on lines 103 &amp; 502)</b>	\$ _____	\$ _____



## CMC Points for OMB/OIRA Meeting on RESPA

January 16, 2008

### 1. **CMC Comments on HUD's proposed RESPA rule amending GFE and HUD-1 forms.**

- Implementing new forms in the industry is a major systems overhaul that is very expensive and time-consuming. Thus it is critical that the new forms reflect all related changes likely coming from regulators.
- In light of changes likely resulting from new proposed HOEPA rule and FRB's extensive review of TILA closed-end disclosures this summer, we urge HUD/OMB to wait on publication of a rule to coordinate with upcoming TILA changes, so there is no overlap and confusion and all agree on the most useful disclosures for consumers.
- Specific aspects of HUD's draft form that pertain to traditional TILA disclosures that need to be coordinated with upcoming TILA disclosures include statements about interest rate changes, payment amount and payment amount changes, and any inclusion of mortgage insurance amounts, which cannot be determined for certain until an appraisal is prepared and reviewed.
- Other components of HUD's draft form that raise concerns are: (i) its failure to distinguish between broker fees and lender fees, (ii) its limits on third party fees, which is inconsistent with a "good faith estimate," (iii) the time period for the interest rate shown on the GFE to be in effect. The length of the form also makes it less likely that it will be read.

### 2. **CMC Comments on HUD's Proposed Legislative Changes**

- **Increased Enforcement Authority.** The proposal to increase HUD's enforcement powers raises a specific concern regarding overall compliance with RESPA. RESPA is a complex statute for which HUD issues very little to no guidance. The Department has generally stopped issuing informal guidance letters and there is no commentary. Because the statute is so broad, practices that in other industries are viewed as legitimate market-based business activities might be called into question. We are of the position that before HUD is granted any more enforcement powers, they should clarify the rules by setting up a process by which industry participants can obtain guidance on specific structures and practices. HUD needs to provide more readily available and unambiguous guidance for the industry to comply with RESPA.
- **Disclosures 3 days before closing.** This proposal also raises concerns because of the difficulty of compliance. Many borrower-initiated changes occur in the last days before closing. This requirement will likely delay closings.

- **Uniform Statute of Limitations.** We see no need to change the current rules for statute of limitations.

### 3. **CMC Forms**

- The CMC forms of GFE and HUD-1, which were drafted in late 2005 and early 2006, attempt to provide better and more clear information on the loan than the current GFE provides, but without overlapping with TILA disclosures, and reform the HUD-1 to make it easily comparable with the GFE.
- These forms disclosed on one page settlement charge estimates (by category) a consumer needed to understand to shop for a loan
- The forms included lender's loan origination charges that would be firm, provided no unforeseen circumstances were not discovered in underwriting. The forms also would have the broker represent that its disclosed charges directly to the borrower would not increase, so long as unforeseen circumstances are not discovered in final underwriting.
- The forms also provided basic information about the loan, including proposed interest rate, loan amount, and proposed discount points, as well as the type of loan, whether there was a prepayment penalty or a balloon payment.
- We were willing to expend the significant resources necessary to adopt and implement the new forms, so long as any changes to the GFE and HUD-1 were accompanied by appropriate regulatory changes that would:
  - o Remove the required disclosure of P.O.C. items
  - o Remove the "Required Provider" disclosure
  - o Mandate that the lender or broker origination charge was firm, subject to unforeseen circumstances in underwriting (this could be provided in connection with a Section 8 exemption as to such charges)
  - o Recognize that the more "firm" the cost disclosures are the more regulatory relief the industry needs to control those costs. (So if there was interest in the "Guaranteed Mortgage Package" proposal, extensive Section 8 relief would be granted)
  - o Provide relief from aggressive overbroad Section 8(b) interpretations and enforcement actions that challenged the amount of charges for certain settlement cost items.
  - o Provide preemption for state laws that are inconsistent with HUD's format of disclosure and other relief. (E.g., state laws that require itemization of all fees must be preempted.)

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# **CONSUMER MORTGAGE COALITION**

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January 15, 2008

## **An Outline for Potential RESPA Reform**

### **The Goals of Reform**

The Consumer Mortgage Coalition (CMC) has worked extensively over the past decade, together with other trade groups and advocates, to reform the disclosures and restrictions of the Real Estate Settlement Procedures Act (RESPA). The goals of these reform efforts have always been, and remain today, threefold: (1) Simplify the disclosures to allow consumers easily to shop and compare settlement costs among competing loan offerings, (2) Remove regulatory barriers that prevent leverage and market competition from lowering costs, and (3) Alleviate the litigation, enforcement, and compliance risk that increasingly accompanies actions that in other industries are viewed as legitimate market-based business activities.

The achievement of these goals, we continue to believe, will significantly enhance homeownership in this country by lowering settlement costs, a major barrier to first-time homeowners. It will also help prevent predatory and abusive practices as consumers better understand the loans they obtain, and will help lenders focus their resources on developing better services and products to meet consumers' needs.

**Simplifying Disclosures.** Simplifying the presentation of settlement costs is a key goal and essential component of any RESPA reform. Under HUD's initial proposed mortgage packaging proposal, such costs would have been disclosed as a single, guaranteed amount (with certain exceptions). While that approach is highly controversial, a lesser approach can still be extremely beneficial. Consolidating the disclosure of costs into a fixed number of distinct cost categories to be paid by the borrower, rather than using today's long laundry list of itemized charges that includes not only charges that are paid by the borrower, but also lender-paid items, will yield significant consumer benefits.

First, disclosing broader cost categories that are readily understandable to a consumer will tend to reduce the amount of costs as consumers are more likely to compare these amounts when shopping for a loan. Consumers today shop on interest rate and points, but generally not settlement costs. These costs, which are delineated in a seldom understood extensive list of fees, and which generally include both originator charges and third party closing costs over which the lender currently may have little or no control, are viewed as an unpleasant, but unavoidable, fact of life. Last minute increases to these charges or the addition of new charges are especially frustrating for consumers, but they

often are not in a position at the closing table to do anything but pay the charge and continue to close the transaction, particularly in a purchase money transaction where delay may upset moving schedules. Presented with uniform disclosures that include only broad categories of costs, consumers are much better positioned to compare such costs with competing offerings at the initial stages of loan application. As significant, they will more easily be able to compare the final costs charged at closing with the initial charges estimated at application by their originator, and determine whether the changes were reasonable.

Second, the experience consumers and the industry have had with home equity lines of credit (HELOCs) proves that moving away from itemization reduces costs. RESPA currently permits loan originators to substitute the HELOC disclosures required by the Truth in Lending Act (TILA) for the GFE, and exempts HELOCs from the requirement to provide a HUD-1. The "Program Disclosures" that are provided to HELOC borrowers at application must specify the fees they require to open, use, or maintain the account, but do not need to itemize third party fees. Rather, the loan originator may provide a good faith estimate as a single dollar amount or range, and inform the borrower that an itemization may be requested. (Few borrowers, however, request an itemization.) These disclosures also do not have to list any closing costs or charges that are paid by the loan originator rather than by the borrower. This has provided a significant incentive for loan originators to eliminate junk fees and absorb these costs, since the disclosure burdens are reduced significantly. As loan originators chose to absorb the closing costs on HELOCs rather than pass them on to borrowers, they have had an extra incentive to lower these costs. Consumer preference for "no closing costs" loans coupled with the easier-to-understand disclosure of fees in the Program Disclosures and the incentives for loan originators to absorb closing costs have driven the HELOC market towards loans with zero or minimal closing costs. A comparison of the average fees and charges imposed on HELOCs to those charged on closed-end junior mortgages shows that HELOCs are lower priced products. We believe the elimination of the itemization of fees in closed-end mortgage transactions will have the same result.

**Removing Regulatory Barriers.** The CMC has consistently recommended a broad packaging approach to RESPA reform, one that will allow market competition to reduce settlement service charges. That approach involved guaranteeing the price of settlement costs early in the transaction in exchange for an exemption from RESPA's Section 8 prohibitions on referral fees and fee-splits. This exemption would allow, for example, wide use of volume-based discounts, average cost pricing, and other common business pricing structures between and among the users of settlement services and the providers of those services. Because Section 8's broad prohibitions may call these arrangements into question, it acts as a regulatory barrier to the effect use of leverage and competition that keeps settlement costs artificially high. As was demonstrated by the diverse views of industry and consumer groups at the Roundtables held by HUD in the summer of 2005, reform of RESPA's Section 8 requirements, particularly a broad-based packaging approach with a total elimination of Section 8's prohibitions, is highly controversial. Lesser steps that would bring some measure of competition, but are short of full packaging, may include clarity on the permissibility of average cost pricing, or a more narrowly tailored exemption for volume discounts, which could include a more narrowly drawn definition of what a "discount" means under RESPA.

**Alleviate Litigation/Compliance Risk.** RESPA continues to be a significant source of litigation, enforcement and compliance risk for lenders and others in the mortgage industry, largely because of the statute's ambiguous and uncertain terms and requirements. Dealing with this risk is extremely costly as companies expend resources to defend more and more challenges, and hire and maintain additional staff to ensure their operations don't run afoul of the latest court decision or conditions that were made part of the latest HUD enforcement settlement. There are also lost efficiencies and costs in a company's decision to forego innovations that might raise RESPA scrutiny. All of these costs drive loan prices higher.

The most difficult part of this risk is the uncertainty in the interpretation of the rules themselves. As a prime example, there is a split in the federal circuit courts of appeal in this country on the application of Section 8(b)'s fee-splitting prohibitions to a lenders' charges for services performed by a third party.<sup>1</sup> Moreover, HUD's view of the scope of Section 8(b), as enunciated in its 2001-1 Policy Statement,<sup>2</sup> is broader than any current interpretations of the federal courts of appeal that have ruled on the issue.

There are many other examples of this risk of uncertainty. One that pertains to borrower fees is the question whether RESPA allows lenders to perform and be compensated for legitimate, additional in-house review services of third party appraisals or credit reports. Until 2001, the value of this service generally was not in doubt, as it enables banks to improve the quality of the appraisal product being delivered to the borrower. Moreover, many banking agencies require their regulated banks and operating subsidiaries to conduct such a review as a "safety and soundness" measure, and the Official Staff Commentary to Regulation Z implementing TILA explicitly recognizes the value of this type of service.<sup>3</sup> However, considerable RESPA uncertainty (and conflict with the above guidance under TILA) was created with respect to this issue by HUD's statement in its 2001-1 policy statement that an additional fee for "reviewing" another settlement service provider's services is not legitimate because such review does not constitute an actual, necessary, or distinct additional service permissible under HUD's regulations.<sup>4</sup> Besides being contrary to the federal requirements and guidance noted above, this position fails to recognize that lenders are capable of partnering in the development of new and more efficient settlement service management and delivery systems that will keep borrowers more informed and able to move more quickly towards closing. These systems and

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<sup>1</sup> Compare *Santiago v. GMAC Mortg. Group, Inc.*, 417 F.3d 384 (3rd Cir. 2005); *Kruse et al v. Wells Fargo Home Mortgage, Inc., et al.*, 383 F.3d 49 (2nd Cir.2004); *Sosa v. Chase Manhattan Mortgage Corp.*, 348 F.3d 979, 983 (11th Cir.2003) with *Haug v. Bank of America*, 317 F.3d 832 (8th Cir.2003); *Boulware v. Crossland Mortgage Corporation*, 291 F.3d 261, 266 (4th Cir.2002); *Krzalic v. Republic Title Co.*, 314 F.3d 875, 879 (7th Cir. 2002).

<sup>2</sup> U.S. Department of Housing and Urban Development Statement of Policy 2001-1 (October 18, 2001).

<sup>3</sup> Regulation Z Comment 226.4(c)(7)-1 makes clear that the rule excluding the initial cost of the actual appraisal or credit report paid to a third party from the finance charge applies equally to the additional cost of verifying or confirming information in an appraisal or credit report.

<sup>4</sup> Footnote 7 in the 2001-1 Policy Statement states, "HUD notes that some lenders have charged an additional fee merely for "reviewing" another settlement service provider's services. HUD does not regard such "review" as constituting an actual, necessary, or distinct additional service permissible under HUD's regulations."

processes can lower costs and improve service quality for borrowers, and should be recognized by HUD as value-added services under RESPA.

Other examples of uncertainty involve payments among companies, that may or may not involve borrower fees. For instance, there is considerable question surrounding the payments that are permissible in the development of new, efficient mortgage delivery systems that make extensive use of computers and the Internet. Some discussion at the Roundtables centered on the need for HUD to accommodate these innovative new systems. Numerous lenders have developed and are continuing to develop these delivery systems that make it easier and more likely that consumers will have ready access to mortgage credit. Internet-based systems, particularly, are proliferating, where consumers may view a variety of products online and either apply online or be directed to a live person. Those systems sometimes fit the definition of a "Computer Loan Origination System" ("CLO") as that term is used in HUD's 1996 CLO Policy Statement as "a computer system that is used by or on behalf of a consumer to facilitate a consumer's choice among alternative products or settlement service providers in connection with a particular RESPA-covered real estate transaction." But many other systems differ significantly from the typical CLOs available at the time of 1996 CLO Policy Statement was developed. As a result, new models for compensating CLOs have arisen that raise different RESPA questions from the approach used to pay for CLO services at the time of the 1996 CLO Policy Statement.

In addition, many mortgage-related Internet goods, services, or facilities, such as lead-generation services, banner advertising, affinity arrangements, and "paid search" arrangements, may not fit the definition of a CLO because they involve the provision of different types of goods, services, or facilities from those described in the 1996 CLO Policy Statement. There is little existing guidance on the RESPA treatment of these goods, services, or facilities, or the extent to which they are subject to Section 8 of RESPA at all.

Alleviating this litigation, enforcement and compliance risk created by uncertain and overbroad application of RESPA's prohibitions, and especially by establishing a more certain and limited application of Section 8(b) to transactions, will ensure a fairer, more level playing field, and reduce costs for the industry, in the interests of industry participants and consumers alike.

**Need for Additional Regulatory Guidance.** In this regard, CMC has strongly supported the establishment of a RESPA Advisory Committee representing a broad spectrum of settlement service providers, consumers and state regulators to inform HUD of emerging products and practices where guidance is needed. For many settlement services providers, the everyday problems associated with RESPA compliance revolve not around a major restructuring of the RESPA framework, but rather focus on getting clear answers regarding the acceptability of specific business practices in a constantly changing marketplace. As new business products and practices emerge it is important that HUD provide prompt and clear guidance as to whether, and under what conditions, these products or practices may be offered in compliance with RESPA. We were also

encouraged by recent indications from HUD that it may re-institute a process of issuing advisory or “no-action” letters in response to questions on individual practices or issues.<sup>5</sup>

### **Measuring Costs/Benefits of Reform - Two Options**

Any reform of RESPA’s requirements is costly. Significant changes in disclosures alone will necessitate millions of dollars of expense by lenders and others in training and systems’ retooling costs. Thus, while we remain committed to achieving our goals for reform as outlined above, the cost of any level of reform needs to be balanced against the benefits of such reform for both consumers and industry.

The CMC’s has identified two options for reform. Option 1 is the “Mortgage Package Offer.” While we acknowledge that this approach remains controversial it provides clear benefits to consumers. Option 2, described below, is a package of revised forms and changes to the regulations that will also provide significant benefits to consumers.

#### **Option 1 – Broad Exemption for Packaging under Revised Mortgage Package Offer (MPO) Form**

Under this option, lenders and others would provide a revised Mortgage Package Offer (MPO) form that outlines the Mortgage Package Offer in a manner similar to HUD’s 2004 MPO form, but without the chart for comparing different rate/point combinations from the lender and the “mortgage shopping chart” for comparing different products from different lenders. These charts would be put in the Special Information Booklet, which would be handed out as well as available online. The form is streamlined to fit on two pages. The Mortgage Package Offer would offer a guaranteed mortgage package (“GMP”) that included a guaranteed interest rate and a lump-sum amount of settlement costs, most of which are guaranteed, which is to say fixed in an amount certain. This offer would be set forth in an agreement which the borrower may accept, subject to final underwriting. A copy of the revised MPO form is attached.

Under this option, packagers would have a Section 8 exemption for all arrangements between and among the packager and the settlement service providers whose services are included in the package. This is equivalent to the broad Section 8 exemption outlined by HUD in its 2002 Proposal.

#### **Option 2 – Improving the Forms, Making Related Changes in the Rules, and Providing Section 8(b) Relief**

Under Option 2, the Good Faith Estimate (GFE) would be substantially revised and become a standard one-page form that would be provided nationally in all RESPA-covered mortgage transactions. The HUD-1 settlement statement would be revised to

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<sup>5</sup> HUD has made efforts to provide settlement service providers with advance guidance by publishing certain statements of policy and answers to Frequently Asked Questions on its website. However, since HUD’s 1992 decision to not provide additional informal letter guidance, it has been difficult for market participants to obtain clear guidance as to whether their new proposed business plans are compliant with RESPA.

mirror these changes. Copies of the revised GFE and the revised HUD-1 forms are attached. The GFE would:

- Describe that the GFE is an estimate, that it is arrived at based on information provided by the borrower and that it is conditioned on the borrower and property qualifying for the loan;
- Describe the characteristics of the particular loan – amount, term, whether it is FHA or conventional, whether it has prepay or balloon provisions;
- Describe the proposed interest rate, proposed discount points and refer to the Truth in Lending Statement (which under the recently proposed TILA rules must be given within three days of application for all loans) for the APR and payment schedule. Note that the current draft form does not include the estimated monthly payment, which would be very useful to consumers. We would not object to including such information, but this is an example of the need to coordinate the HUD forms with changes that may be forthcoming in the TILA forms, including the payment schedule. Thus, these forms are a work-in-progress.
- Disclose all settlement charges paid by the borrower for the mortgage loan in nine major categories including (i) lender origination charges, (ii) mortgage broker origination charges, (iii) credit, valuation and inspection charges, (iv) title charges, (v) government recording and transfer charges, (vi) interest and mortgage insurance charges, (vii) flood and hazard insurance charges, (viii) escrow charges, and (ix) other miscellaneous mortgage loan settlement charges (such as life-of-loan flood or tax services);
- Indicate for the above categories of charges which are included in the finance charge for purposes of TILA;
- Disclose the range of any lender payments to mortgage brokers (ordinarily Yield Spread Premium or YSP).
- The new HUD-1 would:
  - Mirror the GFE in disclosing final loan terms, including monthly payment.
  - Mirror the GFE in disclosing final charges for the same cost categories.

### **Benefits of these Changes**

- These changes in the GFE and HUD-1 settlement statement would make the settlement cost disclosure process much more comprehensible and useful to consumers. By including loan terms, such as initial interest rate, balloon and prepayment features, and eventually an estimated monthly payment as well, the GFE would go beyond a mere settlement cost disclosure to being a full loan-shopping disclosure, which is extremely beneficial for consumers. Once HUD



can coordinate with the Federal Reserve and other agencies, hopefully for the first time, a single federally mandated uniform disclosure will put in the hands of a consumer, at the shopping stage, the key terms and costs of a potential loan, in a clear, understandable manner. The new GFE would tell borrowers what they need to know to shop and compare various loan offers. We note that under the recently issued TILA proposal, TILA disclosures giving the borrower necessary information on the price and terms of the loan would be required to be given early with the GFE on all transactions, not just purchase money transactions. This is another reason why HUD and OMB should wait to issue any changed forms until the TILA revisions are completed and coordination among the agencies has taken place.

- Because the GFE would be easily comparable to the HUD-1, both forms would empower borrowers to determine whether the final charges at settlement are reasonably the same as the estimated costs in the GFE.
- By disclosing costs by major cost categories, rather than itemizing each and every sub-charge on both the GFE and HUD-1, the new forms will stem the proliferation of “junk” fees and market competitors would have to present their best price for each cost category, facilitating competition to lower costs.
- By separating charges that are included in and excluded from the finance charge, both forms would make it easier for industry, consumers and others to calculate the finance charge and the APR.
- Eliminating the current requirement to disclose charges that are paid outside of closing (POC) by the lender will lessen the compliance burden and eliminate POC disclosures that are confusing and misleading to consumers. Because lenders are paying these fees and presumably recovering these overhead costs as part of the interest rate and/or lender fees which are already disclosed to the consumer, the disclosures of these POC charges complicates, rather than helps, consumers to compare the costs of the loan.

### **Costs of these Changes**

- As noted, the costs of making the new changes to the GFE and HUD-1 will be extremely high. Every lender and mortgage broker in the country must not only create new forms and new systems, but also make the necessary changes in their upfront application process to assure that the loan officers will be able to complete the new information required on the forms, properly and completely. This includes establishing and implementing policies for determining the charges that will go into each cost category, training staff on the new requirements, and implementing quality control measures. There will also be considerable changes to accounting and financial systems because many origination systems and accounting and financial procedures have been built around the current HUD-1 structure. These costs will easily be in the millions of dollars.

## **Required Regulatory Changes**

To implement these new disclosures, HUD's rules would require revisions so that the new GFE and new HUD-1 would:

- Be used in all transactions covered by RESPA with the new GFE required at time of application and the new HUD-1 at settlement.
- Disclose totals for each of the nine categories of costs on both the GFE and HUD-1 rather than by separately listing each and every charge on either the GFE or the HUD-1.
- Not list each charge that is POC by the borrower on the GFE form but instead, require that total of the charges to be paid by the borrower before closing be disclosed to the borrower and subtracted from the amount required from the borrower on the GFE and the HUD-1.
- Not list any charges that are POC by the lender or broker on the GFE or HUD-1 (other than mortgage broker compensation, as noted).

### **For the new GFE, the rules also would:**

- Provide that a loan originator could require the information it deemed necessary to issue a GFE to a borrower and the rules also might offer an optional one-page shopping form for use by loan originators at their discretion; the rule changes do not, however, anticipate any change in the timing requirements for delivering the GFE to the consumer.
- Not require the inclusion of any information about required service providers on the GFE. To the extent any information on required providers is necessary, which we would argue is unlikely, it could be provided in a separate, simpler disclosure.
- Require that the lender's disclosure of its lender origination charges and the mortgage broker's disclosure of its mortgage broker charges be firm amounts, not estimates (except for unforeseen changes in final underwriting), and create an exemption from Section 8 for such charges. This requirement of firm charges would be a condition of the Section 8 exemption, pursuant to HUD's authority under RESPA to "grant such reasonable exemptions for classes of transactions, as may be necessary to achieve the purposes" of RESPA. Without using this power to grant exemptions, HUD has no authority under the current statute to require more than good faith estimates of any fees or charges.

### **Also, to effectively implement the new rules:**

- A reasonable implementation period of at least one year is essential to make needed system changes and provide training for the new GFE and HUD-1 forms.

- The HUD Special Information Booklet must be revised to explain the new forms and their use, as well as the categories of settlement charges.
- As noted, it is critical that consultation and coordination with the Federal Reserve Board (and other agencies) should be completed prior to implementation to assure that the Board's guidance concerning the TILA is consistent with HUD's changes, including any requirements for TILA disclosures or calculation of the finance charge and APR.
- HUD must act to preempt state laws, including any inconsistent disclosure laws, to assure consumers enjoy the greater protections offered by these changes. Without strong preemption of inconsistent state laws, the benefits of the new disclosures will be illusory. For example, many states require individual itemization of settlement charges. Such a requirement is wholly inconsistent with the approach of disclosing costs in broader categories.

### **Required Regulatory Section 8 Changes**

- **Section 8(b) Relief.** To achieve the goals of increased efficiency and cost savings, removing regulatory barriers and alleviating compliance risk, under this option, loan originators and others would be insulated from any claims under Section 8(b) of RESPA alleging the mark-up of specific third party costs, or alleging that specific costs or fees are unearned. This safe harbor would apply where the charges that the borrower is required to pay in the cost category containing those specific costs do not exceed the amount estimated on the GFE for that category, provided the borrower and property qualify for the loan and the borrower does not request a material change in the loan prior to settlement. Actual charges for closed loans following a restructuring or material change of an original application imposed in good faith would also qualify for this exemption. This would be a safe-harbor exemption from Section 8(b); no presumption of a Section 8(b) violation would be created in any situation.<sup>6</sup>
- **Other Clarifications.** To eliminate uncertainty in the application of RESPA, HUD is also urged to make other clarifications in the regulations concerning payments that are permissible in connection with efficient Internet delivery systems, as well as to establish a method of issuing guidance to the industry, such as a RESPA advisory committee discussed above, to address new developments and innovations in the market.

The CMC is committed to working toward appropriate reforms that will increase homeownership by giving consumers meaningful and usable information with which to shop for loans, help prevent predatory and abusive practices as consumers better understand the loans they obtain, and allow lenders to focus their resources on developing more and better services and products for borrowers. We will continue to support

<sup>6</sup> We also urge HUD to rescind those portions of its 2001-1 Policy Statement dealing with Section 8(b).

current efforts that achieve these goals and, with our industry partners, look forward to working with HUD, other agencies and other interested parties in this important endeavor.

#### Key Provisions of the Rule

- The rule would standardize the Good Faith Estimate (GFE) and substantially enhance the disclosure of loan terms, including the initial interest rate and monthly payment, whether the interest rate and principal balance can rise and the maximum to which they can rise, and whether the loan has a prepayment penalty and/or a balloon payment, as well as total estimated settlement charges.
- The approach is to provide more loan information in an understandable manner so consumers can shop for the best loan for them, and thereby lower costs for consumers and promote home ownership.
- Lender payments to mortgage brokers tied to the interest rate of the loan (yield spread premiums or YSPs) would be disclosed on the GFE because of the borrower's need to understand the trade off between upfront settlement costs and the interest rate. HUD's prior testing indicated that participants using HUD's GFE were successful in the 90-plus percent range in identifying the cheapest loan whether the GFE offer was from a lender, mortgage broker, or the two offers cost the same.
- The rule would also identify charges that can and cannot change at settlement, limit the amount of permissible changes, and modify the HUD-1 to facilitate comparison of the estimated charges on the GFE and the final charges on the HUD-1.
- Finally, the rule would propose an Addendum to the HUD-1, the "Closing Script," that would not only compare the actual charges at closing with the estimated charges on the GFE, but also describe in detail the loan terms for the specific mortgage loan the borrower takes out at closing to help the borrower understand the terms before he or she finally agrees to them. The Closing Script would be read to the borrower by the settlement agent at closing, and a copy provided to the borrower.

#### Legislative Proposals Related to RESPA Reform

To further bolster consumer protection, as well as to ensure uniform and consistent enforcement of RESPA, HUD intends to seek legislative changes to RESPA that will complement the regulatory improvements made by the rule. These would include the following provisions:

(1) provide authority for the Secretary to impose civil money penalties for violations of specific RESPA sections, including sections 4 (provision of uniform settlement statement), 5 (GFE and special information (settlement costs) booklet), 6 (servicing), 8 (prohibition against kickbacks, referral fees, and unearned fees), 9 (title insurance), and portions of 10 (escrow accounts), as well as authority for the Secretary and State regulators to seek injunctive and equitable relief for violations of RESPA;

(2) require delivery of the HUD-1 to the borrower three days prior to closing; and

(3) establish a uniform statute of limitations applicable to governmental and private actions under RESPA.

RESPA does not currently provide HUD with enforcement mechanisms for some of the most important consumer disclosures and consumer protection provisions of RESPA as described in (1) above. A lack of enforcement authority and clear remedies for violations of critical sections of RESPA negatively impact consumers and diminish the effectiveness of the statute.

In addition to civil money penalty authority, HUD would seek authority for injunctive and equitable remedies for violations of RESPA.

#### Comprehensive Approach to RESPA Reform

- Required Standardized GFE Form;
- Revised HUD-1/1A;
- Closing Script;
- Revised Special Information Booklet;
- References to relevant TILA information;
- Internet links for info: [www.HUD.gov](http://www.HUD.gov);
- Crosslinks to related sites: Fed/TILA;  
FTC;  
Other information;



## Good Faith Estimate of Settlement Costs (GFE)

Name of Originator \_\_\_\_\_ Borrower \_\_\_\_\_  
 Originator Address \_\_\_\_\_ Property Address \_\_\_\_\_  
 Originator Phone Number \_\_\_\_\_ File or Loan Number \_\_\_\_\_

### About Your GFE

What is a GFE? This GFE gives you an estimate of your settlement costs and loan terms if you are approved for this loan.

How should you use this GFE to shop for the best loan? You are the only one who can shop for the best loan for you. You should compare this GFE with other loan offers. By comparing loan offers, you can shop for the best loan. Use the table on page 4 to compare all the offers you receive.

The interest rate for this GFE is available until \_\_\_\_/\_\_\_\_/\_\_\_\_. After that date, the interest rate, some of your Loan Originator Charges, and the monthly payment shown below can change until you lock your interest rate. This estimate of your charges for all other settlement services is available until \_\_\_\_/\_\_\_\_/\_\_\_\_.

Keep this GFE to compare with your actual costs at settlement.

### Summary of Your Loan Terms for This Estimate

#### Your Loan Details

Your initial loan amount is	\$
Your loan term is	_____ years
Your initial interest rate is	_____ %
Your initial monthly amount owed for principal, interest, and any mortgage insurance is	\$ _____ per month
Your rate lock period is <small>After you lock in your interest rate, you must go to settlement within this number of days to guarantee this interest rate.</small>	_____ days

Can your interest rate rise?	<input type="checkbox"/> No	<input type="checkbox"/> Yes, it can rise to a maximum of _____ %
Can your loan balance rise?	<input type="checkbox"/> No	<input type="checkbox"/> Yes, it can rise to a maximum of \$ _____
Can your monthly amount owed for principal, interest, and any mortgage insurance rise?	<input type="checkbox"/> No	<input type="checkbox"/> Yes, it can rise to a maximum of \$ _____
Does your loan have a prepayment penalty?	<input type="checkbox"/> No	<input type="checkbox"/> Yes, your maximum prepayment penalty is \$ _____
Does your loan have a balloon payment?	<input type="checkbox"/> No	<input type="checkbox"/> Yes, you have a balloon payment of \$ _____ due on _____

The interest rate and monthly payment shown above can change until you lock your interest rate.

#### Your Settlement Costs

Your Adjusted Origination Charges (see items 1 and 2 on page 2)	
Your Charges for All Other Settlement Services (see items 3 through 10 on page 2)	
<b>My Total Estimated Settlement Charges</b>	\$ _____

**Understanding Your Estimated Settlement Charges**

**Your Charges for Loan Origination**

1. Our service charge These charges are for the services we provide when we get and process this loan for you.	
2. Your credit or charge for the specific interest rate chosen (points) <input type="checkbox"/> The credit or charge for the interest rate you have chosen is included in "Our service charge." (See item 1 above) <input type="checkbox"/> You receive a credit of \$ _____ for this interest rate of ____%. This credit reduces your upfront charges. <input type="checkbox"/> You pay a charge of \$ _____ for this interest rate of ____%. This payment (discount points) increases your upfront charges. (See the table on page 3 to see how you can change this charge or credit by choosing a different interest rate.)	
<b>A</b> <b>Your Adjusted Origination Charges</b> \$ _____	

**Your Charges for All Other Settlement Services**

3. Required services that we select These charges are for services we require to complete your settlement. We will choose the providers of these services.									
<table border="1"> <thead> <tr> <th>Service</th> <th>Cost</th> </tr> </thead> <tbody> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </tbody> </table>	Service	Cost							
Service	Cost								
4. Title services and lender's title insurance This charge includes the services of a title agent, for example, and title insurance to protect the lender, if required.									
5. Required services that you can shop for These charges are for other services that are required to complete your settlement. We can refer you to providers of these services or you can shop for them yourself. Our estimates for providing these services are below.									
<table border="1"> <thead> <tr> <th>Service</th> <th>Cost</th> </tr> </thead> <tbody> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </tbody> </table>	Service	Cost							
Service	Cost								
6. Government recording and transfer charges This charge includes state and local transfer taxes and fees.									
7. Reserves or escrow This charge is held in an escrow account to pay recurring charges on your property, such as property taxes or insurance.									
8. Daily interest charges This charge is for the daily interest on your loan from the day of your settlement until the first day of the next month or the first day of your normal mortgage payment cycle. For this loan, this amount is \$ _____ per day for _____ days (if your closing date is _____).									
9. Homeowner's insurance This charge is for the insurance you must buy to protect the property from risks, such as fire.									
10. Optional owner's title insurance This charge is for additional insurance you can choose to buy to protect yourself from title defects.									
<b>B</b> <b>Your Charges for All Other Settlement Services</b> \$ _____									
<b>Total Estimated Settlement Charges</b> \$ _____									



**Understanding Which Charges Can Change at Settlement**

The charges listed on page 2 are all part of the total estimated amount that you will have to pay at settlement. Below we list which charges can change at settlement. Some of the charges can appear in more than one section, depending on who chooses the provider of the service.

**These charges cannot increase at settlement:**

- Our service charge
- Your charge or credit for the specific interest rate chosen (after you lock in your interest rate)
- Government recording and transfer charges

**The sum of these charges cannot increase more than 10% at settlement:**

- Required services that we select
- Title services and lender's title insurance (if we select them or you use providers identified by us)
- Required services that you can shop for (if you use providers identified by us)
- Optional owner's title insurance (if you use a provider identified by us)

**These charges can change at settlement:**

- Title services and lender's title insurance (if you do not use a provider identified by us)
- Required services that you can shop for (if you do not use a provider identified by us)
- Points or escrow
- Daily interest rate changes
- Non-owner's insurance
- Optional owner's title insurance (if you do not use a provider identified by us)

**Understanding the Trade-off Between the Charges for Your Loan and Your Interest Rate**

	The loan in this GFE	A loan with a lower interest rate	A loan with lower settlement costs
Your loan amount	\$	\$	\$
Your interest rate	%	%	%
How much your monthly payments will be	\$	\$	\$
How much more or less in monthly payments from this GFE	No Change	You will pay \$ less every month	You will pay \$ more every month
How much more or less you will pay at settlement with this interest rate	No Change	Your lower interest rate will raise your settlement costs by \$	Your higher interest rate will lower your settlement costs by \$
How much our total estimated settlement charges will be	\$	\$	\$

We have offered you a particular interest rate and estimated settlement costs in this GFE. But, it is important that you see how this loan compares to others that you could choose.

- If you want to choose a loan with a lower interest rate, then you will have higher settlement costs.
- If you want to choose a loan with lower settlement costs, then you will have a higher interest rate.

The table above shows how the loan that we've offered you in this GFE compares to these different options. The loan in this GFE is in the first column, in the middle column is a loan with a lower interest rate, in the last column is a loan with lower settlement costs.

If you would like one of these options, you can ask for a new GFE.

If this loan offers for an adjustable rate mortgage, the comparisons in the table are for the initial interest rate and monthly payment before any adjustments are made.

**Proceeding with This Application**

If you would like to proceed with this mortgage application, you must pay a fee of \$ \_\_\_\_\_ which will be applied toward your settlement costs.

The interest rate and points on this GFE are available until \_\_\_\_\_ After that, the loan will be a lock. You must lock in the interest rate at least \_\_\_\_\_ days before settlement.

**Mortgage Shopping Chart**

Use this chart to compare Good Faith Estimates (GFEs). Fill out the information by using a different column for each GFE.

By comparing offers for similar loan products, you can shop for the best loan.

	Loan 1	Loan 2	Loan 3	Loan 4	Loan 5	Loan 6
Loan Originator Name						
Loan Details	Loan #1	Loan #2	Loan #3	Loan #4	Loan #5	Loan #6
Net Loan Amount	\$	\$	\$	\$	\$	\$
Loan Term	Years	Years	Years	Years	Years	Years
Annual Interest Rate	%	%	%	%	%	%
Initial Monthly Amount Owed	\$	\$	\$	\$	\$	\$
Rate Lock Period	days	days	days	days	days	days
Can Interest Rate Rise?	No Yes	No Yes	No Yes	No Yes	No Yes	No Yes
Can Loan Balance Rise?	No Yes	No Yes	No Yes	No Yes	No Yes	No Yes
Can Monthly Amount Owed Rise?	No Yes	No Yes	No Yes	No Yes	No Yes	No Yes
Prepayment Penalty?	No Yes	No Yes	No Yes	No Yes	No Yes	No Yes
Ballpark Payment?	No Yes	No Yes	No Yes	No Yes	No Yes	No Yes
Total Estimated Settlement Charges						

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# **CONSUMER MORTGAGE COALITION**

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September, 2006

## **Outline of Revised RESPA Special Information Booklet**

Any significant revisions to the Good Faith Estimate and HUD-1 (or 1A) Settlement Statement must be accompanied by a revised Special Information Booklet. An outline of a new, revised booklet follows, based on the table of contents of the current booklet published by HUD. This booklet is currently required, under Section 5 of RESPA and Section 3500.6 of Regulation X, to be provided only to consumers in purchase money transactions. If the revisions go forward, we recommend HUD require that the Special Information Booklet be provided for all federally related mortgage loans.

New Title:    **“BUYING and BORROWING ON YOUR HOME”**  
                  **Understanding the Process and the Costs**

- I.    **Introduction** - [This section would be expanded to apply to home financing scenarios beyond home purchases, such as refinancings and home equity loans, and reference the Federal Reserve Board brochure “When Your Home Is On the Line” for home equity lines of credit.]
  
- II.   **Finding and Buying A Home**
  - A.   Role of the Real Estate Broker – [Expand to include real estate broker commissions, splits, and disclosures where real estate broker recommends an affiliated settlement service provider]
  
  - B.   Pre-qualifying for a Loan [new section] [This section would address the benefits of determining, on a preliminary basis, how much a consumer may be able to borrow, before shopping for a home]
  
  - C.   Selecting an Attorney
  
  - D.   Terms of the Agreement of Sale
  
- III.   **Selecting a Settlement Agent**
  
- IV.   **Securing Title Services**

**V. Finding and Obtaining a Mortgage Loan** [Expand to apply to home purchase loans, refinancings, and home equity loans]

A. Role of the Mortgage Broker [Expand to include the role brokers play, how mortgage brokers may be compensated, including examples, and referencing the mortgage broker disclosure]

B. Role of the Lender [New section] [This section would identify types of lenders and how they price loans, including risk-based pricing. It would also describe what lenders may do with the loans they make – hold in portfolio, sell in the secondary market, etc.]

C. Government Programs

D. CLOs and Internet-Based Originators [Expand to cover shopping for loans on the Internet]

E. Types of Loans [Expand to cover interest-only and Option ARMS, reverse mortgages, balloon loans, HELOCS (referencing the “When Your Home Is On The Line” booklet)]

F. Interest Rate, “Points” & Other Fees [Expand to include prepayment penalties]

G. Lender-Required Settlement Costs [Modify, among other things, to conform to new aggregate disclosure of “lender origination charges”]

H. Comparing Loan Costs [Expand to address enhanced APR and monthly payment disclosures in revised Good Faith Estimate, reference to TILA disclosures, and to give examples of trade-off between upfront costs and rate over life of the loan. Also expand to encourage comparison of other loan terms, e.g., prepayment penalties, using new “List of Questions to Ask About a Loan” and “Shopping Form” in Appendix 1. Also refer to availability of counseling agencies (see new Appendix 3)]

I. Locking In Your Rate

J. Tax and Insurance Payments

K. Transfer of Your Loan

L. Mortgage Insurance

M. Hazard and Flood Insurance [Expand to emphasize availability of flood insurance, even when not required]

**VI. Processing and Approving Your Loan Application**

A. No Discrimination

- B. Prompt Action / Notification of Action Taken
- C. Statement of Reasons of Denial
- D. Obtaining Your Credit Report and Credit Score [Expand to include FACTA disclosure of credit score information]
- E. Risk-Based Pricing Notice [New section] [This new section will contain a generic risk-based pricing notice under FACTA. Under FACTA, if a lender approves an application for credit but offers terms to the applicant that are “materially less favorable than the most favorable terms available to a substantial proportion of consumers” obtaining credit from or through that lender, the lender must provide a notice explaining that it is basing its terms on information in a credit report, identifying the consumer reporting agency that provided the credit report, including contact information, and stating the consumer can request a free copy of the report. This generic notice will be intended to comply with that requirement.]
- F. Obtaining Your Appraisal [Expand to cover types of appraisals, appraisal process, and difference between appraisal and home inspection]

**VII. RESPA Disclosures**

- A. Good Faith Estimate [Expand and modify to conform to new, revised GFE]
- B. Servicing Disclosure Statement
- C. Affiliated Business Arrangements
- D. HUD-1 or 1A Settlement Statement [Expand and modify to conform to new, revised HUD-1]
- E. Escrow Account Operation and Disclosures
- F. Servicing Transfer Notice [New section]

**VIII. Truth in Lending Act Disclosures [New Section]**

[This new section would describe TILA’s disclosures, including the rescission notice, and a description of the right of rescission, ARM disclosures (referencing the Federal Reserve Board’s “Consumer Handbook for Adjustable Rate Mortgages”), HELOC disclosures (referencing the “When Your Home Is On The Line” booklet), and HOEPA disclosures]

**IX. Protecting Yourself from Unfair, Deceptive or Illegal Practices [New Section]**

[This section would expand and modify the current section titled “RESPA Protection Against Illegal Referral Fees” to alert the consumer to be wary of both practices prohibited by law (illegal referral fees under RESPA, discrimination, etc.) and other practices that have been deemed unfair, deceptive or abusive (insurance packing, equity stripping, flipping, misleading advertising, excessive fees, etc.) or that can disadvantage a borrower in certain circumstances (e.g., high prepayment penalties). This section would refer to consumer notices more fully described in other sections, e.g., the adverse action notice under ECOA and FCRA, that help protect and inform the consumer.]

**IX. Your Right to File Complaints or Request Information**

- A. Private Lawsuits
- B. Government Agencies
- C. Requests to Your Servicer

**XI. Your Real Estate Settlement Charges [Expand and modify to conform to new, revised HUD-1 settlement statement]**

- A. Specific Settlement Charges
  - 700. Sales/Broker’s Commission
  - 750. Other Charges under Purchase Transaction (Not Required by Lender)
  - 800. Lender Origination Charges
  - 850. Mortgage Broker Origination Charges
  - 900. Credit, Valuation, and Inspection Charges
  - 1000. Title Charges
  - 1100. Government Recording and Transfer Charges
  - 1200. Interest and Mortgage Insurance Charges Paid in Advance
  - 1250. Taxes, Flood and Hazard Insurance Charges Paid in Advance
  - 1300. Escrow Charges/Reserves
  - 1350. Other Mortgage Loan Settlement Charges
  - 1400. Total Real Estate Settlement Charges

B. Calculating the Amount You Need At Settlement [Modify to conform to new HUD-1 statement]

C. Adjustments to Costs Shared by Buyer and Seller in Purchaser Transaction

D. HUD-1 Settlement Statement [This would be the new, revised form]

Appendix 1. **List of Questions To Ask About A Loan** [New section] [This list would address important loan terms, such as “Will my loan have a prepayment penalty and, if so, what are its terms? Will it have a balloon payment? If an adjustable rate mortgage, what is the highest rate I could be required to pay?” This section would also include questions consumers should ask themselves including, for example, “How much loan can I afford? “Would I be better off with a fixed rate or an adjustable rate?” This Appendix will also include a “Shopping Form” where the consumer could list, side by side for competing offers, the answers to the stated questions and other important terms.]

Appendix 2. **Consumer Information on Home Purchasing and Financing and Related Topics** [Expand to include websites on home equity financing]

Appendix 3. **List of Available Counseling Agencies** [New section]