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The Office of Housing's latest efforts have a common thread: the continued need to strengthen protections for consumers in the home buying process. We are working to make the housing market stronger, sustainable, and safer. Two examples of our efforts to accomplish this goal are the recent reform of HUD's Real Estate Settlement Procedures Act (RESPA) regulations which make mortgages more transparent and understandable, and the development of Safe Mortgage Licensing Act (SAFE) regulations which better protects consumers.

Transparency is important for consumer protection. Fair dealings require open, clear information. The SAFE Act helps increase the integrity of the mortgage process and prevent fraud. In combination with RESPA reform, consumers have greater protection from possible bad actors in the marketplace. These two measures highlight our commitment to regulatory reform and consumer protection in order to bring trust and stability back to the housing market.

RESPA IMPLEMENTATION

In a previous edition, I briefly discussed some aspects of the Real Estate Settlement Procedures Act (RESPA) Rule. I now want to update you on the great efforts the Department has made providing clarity to the industry during the implementation phase, primarily involving the use of the standardized Good Faith Estimate (GFE) and the revised and expanded Settlement Statement (HUD-1).

The Office of Housing has delivered a live webcast and hosted an Industry Roundtable, and has also met with and trained many lenders and others in an effort to resolve industry implementation inconsistencies. The RESPA staff has participated in more than 150 formal speaking engagements to educate industry professionals and state and federal regulators on the new RESPA rule and plan more in the future. The response has been overwhelming. Since the start of the year, we've received and answered more than 7,000 emails. Finally, the Office is currently developing multi-media guidance and education for consumers.

Most recently we have posted additional Frequently Asked Questions (FAQs) on our website aimed to give detailed guidance on topics about which we have had the most inquiries. Two of the hottest topics are pre-approvals and the use of worksheets. For full information and guidance, please refer to the FAQ's.

Pre-approvals

A pre-approval is a document issued by a lender stating that a consumer qualifies for a specific loan amount prior to the consumer choosing a specific property.

> If the loan originator is missing one of the elements it requires for a loan application (e.g., the property address) and is not required to provide a GFE, the originator is not prevented from verifying information for which the customer voluntarily provides documentation.
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> Also, a loan originator IS PERMITTED to determine that a property address is not one of the required pieces of information that the loan originator needs in order to issue a GFE. It is important to note that a loan originator must consistently apply its policy on the information it deems necessary to issue a GFE, and the RESPA rule requires a loan originator to issue a GFE whenever it receives information sufficient to complete an application for a GFE.

Worksheets

A worksheet is a document issued by a loan originator that may include generic information regarding interest rates and loan fees, or a document that may provide additional information to the consumer regarding the cost of the overall transaction outside of loan fees that are disclosed on the GFE.

> A worksheet may be provided to a customer for a rate quote if the consumer does not want to provide the information necessary to generate a GFE. However, loan originators should ensure the following: (1) to eliminate consumer confusion, a worksheet should

not look like a GFE and should not lead the customer to believe that it is a GFE and (2) a loan originator should NEVER use a worksheet in lieu of a GFE.

A loan originator may also use a worksheet to provide the consumer with additional information about his or her loan transaction, such as the amount of cash needed to close, seller credits, and other non-loan transaction fees that would be helpful to the consumer.

HOMEOWNER WARRANTIES AND RELATED COMPENSATION

Another recent development in RESPA is that HUD's Office of General Counsel has issued additional guidance on "Home Warranty Companies' Payments to Real Estate Brokers and Agents." This new rule interprets section 8 of RESPA and HUD's regulations as they apply to the compensation provided by home warranty companies (HWCs) to real estate brokers and agents.

Specifically, the rule provides: "(1) A payment by an HWC for marketing services performed by real estate brokers or agents on behalf of the HWC that are directed to particular homebuyers or sellers is an illegal kickback for a referral under section 8; (2) Depending upon the facts of a particular case, an HWC may compensate a real estate broker or agent for services when those services are actual, necessary and distinct from the primary services provided by the real estate broker or agent, and when those additional services are not nominal and are not services for which there is a duplicative charge; and (3) The amount of compensation from the HWC that is permitted under section 8 for such additional services must be reasonably related to the value of those services and not include compensation for referrals of business."

This rule was published on June 25. You may view this interpretive rule here.

SAFE ACT

Passed by Congress as part of the Housing and Economic Recovery Act of 2008 (HERA), the SAFE Act mandates that all individual Mortgage Loan Originators (MLOs) either be licensed by the state where they do business or, if they are employed by a federally-regulated depository institution, be registered. Both licensing and registration must be done through the Nationwide Mortgage Licensing System and Registry (NMLSR), which also provides MLO's with unique identifiers. The SAFE Act sets forth minimum standards for state licensing.

HUD is responsible for ensuring that state regulators implement and maintain SAFE Act-compliant licensing systems, as well as ensuring the overall effectiveness of the NMLSR.

HUD's SAFE Act Office has worked closely with the Conference of State Bank Supervisors (CSBS), the American Association of Residential Mortgage Regulators (AARMR) and the states to ensure that all U.S. jurisdictions enact SAFE Act-compliant licensing systems through legislation or regulations.

Final Rule Status

HUD published a proposed rule in the Federal Register on December 15, 2009, setting forth the minimum requirements that a state would have to meet in order to be compliant with the SAFE Act. As of this date, the proposed rule has not been finalized. In the absence of a final rule, HUD cannot provide definitive guidance regarding certain compliance issues.

HUD received over 5,300 comments from the public during the comment period on the proposed rule. Most of the comments were from organizations and individuals concerned that they would need to license their employees.

Those who commented included: non-profit agencies, housing counseling organizations, loan modification and servicing specialists, housing finance agencies, those involved in owner/seller financing, mortgage industry groups and other interested persons. In developing its final rule, HUD is working to address concerns raised by comments.

In closing, I hope you find these overviews helpful. I am confident that updating the RESPA Rule and implementing the SAFE Act will lead to clear regulations for the housing industry, stronger protections for consumers, and a more stable housing market.

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