

Key Points to include in RESPA Comment Letter To HUD

HUD proposes two approaches to mortgage disclosure, 1) Enhanced Good Faith Estimate, and 2) the Guaranteed Mortgage Package. Of the two approaches, NAR favors the Enhanced GFE over the GMP.

- The Enhanced GFE offers a much-improved process than today and the potential for market disruption is limited. The goals of reform; certainty and simplicity, can be achieved without sacrificing the important consumer protections of Section 8
- The GMP approach represents a far more radical approach to reform. It will provide lenders an exemption from the Section 8 anti-kickback provisions of RESPA for offering to borrowers a guaranteed package of settlement services along with the loan. This approach is untested and may lead to market disruptions.

HUD and Congress should take more time to fully analyze the impacts of this proposal before moving forward

Congress enacted Section 8 to prohibit payments among service providers that will unnecessarily increase the cost of settlement services. The removal of this key consumer provision should be debated in Congress. Hearings should be held to address the potential impact the GMP proposal would have on consumers, the industry and the overall economy. In addition, HUD should conduct its own extensive analysis to quantify the costs and benefits of such a proposal. Until this is done, all efforts to enact sweeping reform should be delayed.

There is no evidence to support benefits of packaging

To date, no one has conducted a serious analysis of the various costs and benefits that might be associated with the packaging of settlement services. While HUD assumes considerable savings will occur, there is no evidence to support this assumption. Before moving forward with an untested approach to reform, this analysis should be conducted.

Why make such sweeping changes to the mortgage finance system when interest rates are at a 30-year low and homeownership rates at an all time high? Housing is too important to the overall health of the nation's economy to make these changes pre-maturely.

Small business is at risk

HUD's packaging proposal may lead to increased concentration within the industry and reduce competition. Any regulation that moves an industry toward a more concentrated market structure should be viewed with considerable caution. An increased concentration of powers into the hands of a smaller number of lenders and service providers could lead to higher closing costs—the exact opposite of HUD's stated goals for reform.

The Guaranteed Mortgage Package Reduces Transparency

The GMP will reduce transparency in the transaction. Borrowers will shop for a loan based on an interest rate and a “black box” of settlement costs. To move from a process today where borrowers are informed of the various services required to close the transaction to one in which the borrower is assumed to only be interested in the lump sum price of the package is taking a step backwards in the area of consumer education. *The 1998 HUD/Fed Report recommended that “consumers want to know what services they are purchasing...” and so they suggest the services in the package be itemized.*

There is no need to Repeal Section 8 for packaging

Packaging is occurring today without a Section 8 exemption. Lenders have the ability to negotiate volume discounts with appraisers, title insurance companies, etc. and pass along the savings to borrowers. Many are already offering these options.

Include the following Docket number and title in your comment letter:

Docket No. FR-4727-P-01

Real Estate Settlement Procedures Act (RESPA): Simplifying and Improving the Process of Obtaining Mortgages to Reduce Settlement Costs to Consumers.

Send your comments to:

Rules Docket Clerk
Office of General Counsel
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