

# Interagency Minority Depository Institutions Conference June 14-16, 2011

## RESPA UPDATE

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# Session Overview

- Discuss the substantive changes to the RESPA regulation.
- Highlight the major changes to the Good Faith Estimate and HUD 1/1A.
- Provide responses to commonly asked questions.
- Answer any questions you may have.

# Key Changes

- Revised definition of “application”
- Standardized Good Faith Estimate (GFE) form
- No charge to issue GFE
- Binding GFE
- Revised settlement statement
- Streamlined Mortgage Servicing Disclosure Statement

# Application Defined

- Borrower's Name
- Social Security Number
- Property Address
- Monthly Income
- House Value or Best Estimate
- Amount of the Loan
- Any other information deemed necessary by the creditor

# GFE Review

- The centerpiece of the RESPA Reform Rule is this new standard three page GFE.
- GFE must be provided within 3 business days after receipt of an application.
- No fee, other than a credit report fee, can be charged prior to issuing the GFE.
- If the application is denied or withdrawn before three days has passed, delivery of the GFE is not required.
- Consumers can better shop for a mortgage by comparing settlement costs and loan terms from different loan originators. The information will be included in the same format across the GFEs.

# GFE Review (cont'd)

- Lenders are required to use the standard form. Virtually no alternations are allowed.
- Once the GFE is issued, the lender is essentially bound to the stated charges, with limited exceptions.
- If the borrower does not express an interest to continue with the application within ten business days, the lender is no longer bound by the GFE.

# GFE Review (cont'd)

## Changed Circumstances

- ❑ Lender is not bound by the GFE if “changed circumstances” necessitate the need for a new GFE.
- ❑ Changed Circumstances Definition
  - ❑ Acts of God, war, disaster or other emergency
  - ❑ Changed or inaccurate information provided by the borrower after issuance of GFE
  - ❑ New information not previously relied upon
  - ❑ Other circumstances particular to the borrower or transaction

# GFE Review (cont'd)

## ■ Changed Circumstances (cont'd)

- Lender must issue a new GFE within three business days of receiving the information to establish a changed circumstance.
- Only the charges and terms affected by the specific circumstance can change.








# HUD-1/1A Review

- Though not as dramatic as the GFE, the Reform Rule also revised the settlement statement.
- There are now classifications that allow consumers to easily identify where charges exist on the GFE and compare them to the HUD-1.
- For example, each line item in Section L of the settlement statement includes the relevant line from the GFE.
- To help consumers easily compare charges between the GFE and the HUD-1, the revised HUD-1 form includes a new third page.


# HUD-1/1A Review (cont'd)

## Tolerances

-  The RESPA Reform Rule places limits on how much certain settlement charges can vary.
-  There are three categories of settlement charges.
-  The zero standard – meaning the amounts established on the GFE can not vary at closing.
-  The 10 percent tolerance standard – meaning the total of these charges can not exceed a 10 percent increase at settlement from the total stated on the GFE.
-  No restriction – meaning the total can vary by any amount at closing.

# HUD-1/1A Review (cont'd)


## Tolerances (cont'd)


-  If the lender exceeds the tolerance at closing, the lender may cure the tolerance violation by reimbursing the borrower within 30 days of settlement.

# Mortgage Servicing Disclosure Statement

- Must be provided within three business days after receipt of an application.
- Streamlined
- Must disclose whether the servicing of the loan may be assigned, sold, or transferred.
- Not required if the application is denied or withdrawn within the three business days.

# FAQs

 Q: Can a lender issue the GFE without having all six pieces of information that constitute an application?

 A: Yes, the lender can determine what information it deems necessary to complete the GFE. This must be consistently applied.



# FAQs (cont'd)

- Q: Can the lender list items as paid outside of closing, or “P.O.C.” on the new GFE?
- A: No, the GFE does not allow for any P.O.C. items. The totals in the column on page 2 must be the sums of the prices or fees, by category, for all settlement services that are required to be shown on the GFE.

# FAQs (cont'd)

- Q: Can a lender add a signature line to the GFE to document that it was provided to the consumer?
- A: No, the GFE must be completed without modification to the prescribed format. Adding signature lines is prohibited.



# FAQs (cont'd)

- Q: If the lender reimburses the consumer for a tolerance violation within 30 days, will a violation still be cited in the Report?
- A: It depends. Curing the tolerance violation generally means that the bank “made the customer whole.” However, failure to complete the GFE or HUD-1 accurately, in itself, is a violation and could still be noted in the Report depending on the circumstances.



# Questions?

## Available resources:

-  FIL 2009-57 entitled Real Estate Settlement Procedures Act (RESPA): Updated Examination Procedures
-  [www.hud.gov/respa](http://www.hud.gov/respa)