

Testimony of Kelly Thompson Cochran
Deputy Assistant Director, Office of Regulations
Consumer Financial Protection Bureau
Before the Subcommittee on Insurance, Housing and Community Opportunity
Committee on Financial Services
United States House of Representatives
Wednesday, July 13, 2011

Introduction

Thank you, Chairman Biggert, Ranking Member Gutierrez, and members of the Subcommittee for inviting me to testify about the work of the Consumer Financial Protection Bureau (“CFPB” or “Bureau”). On behalf of the CFPB, I appreciate the opportunity to testify about the CFPB’s work in simplifying mortgage loan disclosures.

Last year, the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”) not only created the CFPB, but also amended Federal statutes governing mortgage loans, including the Truth in Lending Act (“TILA”) and the Real Estate Settlement Procedures Act (“RESPA”). The amendments require the CFPB to publish a single, integrated model disclosure for mortgage loan transactions that includes disclosure requirements of both TILA and RESPA.¹ The purpose of the integrated disclosure is to “facilitate compliance” with TILA and RESPA, and to aid borrower understanding of the transaction “by utilizing readily understandable language to simplify the technical nature of the disclosures.”² The Dodd-Frank Act requires the CFPB to publish proposed new forms and regulations by July 21, 2012. It is worth noting that the integration of these disclosures is not a new idea. It has been the subject of legislative and regulatory actions since 1996.³

To satisfy this important statutory mandate, the CFPB has made the integrated TILA/RESPA disclosure project one of its very highest priorities. To inform our efforts at the outset, the CFPB has conducted extensive public outreach, including to consumer and industry groups, to obtain comments and feedback on issues concerning the current disclosures. In May, I was pleased to participate in a CFPB bipartisan briefing for Committee staff and to get their comments and suggestions, and very much appreciate the opportunity today to testify before the Subcommittee on our progress on this important undertaking. We are pleased to report that consumers and industry alike have reacted positively to the draft forms and the development process being used by the CFPB.

Integration and Simplification

The Act states that one of the purposes of the integrated disclosure is to aid consumer understanding by using readily understandable language. At the CFPB, we believe that a simple

¹ Dodd-Frank Act, §§ 1032(f), 1098, 1100A. This requirement is codified in RESPA and TILA at 12 U.S.C. § 2603(a) and 15 U.S.C. § 1604(b), respectively.

² *Id.*

³ See Economic Growth and Regulatory Paperwork Reduction Act of 1996, P.L. 104-208, Tit. II, § 2101.

and straightforward presentation of key credit terms is the best way to achieve this purpose. Our goal is shorter, clearer forms—the kind that consumers can read in a few minutes with high levels of understanding. We have focused on making it easier for consumers both to understand the key terms of the loan they have been offered and to compare offers to find the loan that best meets their needs.

The Act sets forth a second purpose of the integrated disclosure, which is to facilitate compliance with TILA and RESPA. We understand the deep frustration from lenders, brokers, and other market participants across the country that the current forms are complicated, duplicative, and expensive to fill out. We are striving to make the disclosure easier for industry to complete and use. We are also working to address implementation burdens as we move through the design process by gathering broad feedback from lenders, document service providers, other real estate settlement service providers, and other technology companies that serve the mortgage lending industry.

In short, the CFPB is working to give consumers the transparency they need to choose the mortgages that work best for themselves and their families, while at the same time eliminating unnecessary regulatory burdens for lenders.

Our Work

The disclosure integration project has been a high priority since the beginning of our efforts to stand up the Bureau. We began our work on the disclosure last fall when we sponsored a roundtable at the Treasury Department that brought together lenders and consumer advocates to discuss how to simplify federal mortgage loan disclosures. Consumer groups explained that many consumers did not use disclosures to assess costs or to compare alternatives because the current forms are complicated and hard to use. The current disclosures came under even more intense criticism from those who have to explain them to consumers and those who have liability for errors. Mortgage originators described the forms as costly to complete and typically confusing and unhelpful to their customers. Many originators have developed additional documentation to try to clear up confusion, which of course results in even more paperwork.

Over the next eight months, we reviewed research, conducted additional outreach, and began the process of analysis and design. This process included meetings with all sectors of the industry, from large financial institutions to small settlement service providers, to obtain information about the issues the industry faces in connection with these disclosures. In addition, we met with consumer advocacy groups and spoke with housing counselors to discuss the consumer experience with the disclosures. We met with other regulatory agencies to learn about their experiences and gain their perspectives. We also held an academic symposium to gather the latest information about research on consumer understanding of complex financial information.

On May 18, 2011, we released two prototypes of integrated disclosures for provision to consumers within three days of application. Both prototypes were two pages long, with different first pages and virtually identical second pages. We tested these two drafts through one-on-one interviews with consumers, lenders, and brokers in Baltimore, Maryland. Based on the results of this testing, and additional public feedback described below, we revised the draft disclosures.

On June 27, 2011, we released a second round of prototypes, both of which had the same first page, but featured two different methods of presenting estimated settlement costs and related information on the second page. Two weeks ago, we tested this second round of draft disclosures in Los Angeles, California, and gathered additional public feedback. We expect to conduct several additional rounds of revision and testing into the fall, with testing sites in Springfield, Massachusetts; Albuquerque, New Mexico; Chicago; and Birmingham, Alabama.

Know Before You Owe

At the same time that we started the testing described above, we also launched an Internet-based effort to solicit broad-based input in the development of the new TILA/RESPA forms.⁴ This initiative, which we are calling “Know Before You Owe,” is designed to obtain feedback throughout the development process from a range of consumers, advocates, housing counselors, industry stakeholders, and anyone else with an interest in these issues from across the country. We are taking in this broad feedback well in advance of the formal process of notice-and-comment for official rulemaking.

The Know Before You Owe project features an interactive tool on the CFPB’s website to gather public feedback about the designs. There are slightly different versions to seek consumer and industry input, with additional questions on the industry input tool to focus on implementation issues. Each round of formal testing of the draft disclosures coincides with a round of public feedback through the Know Before You Owe initiative. We are sharing the input we receive from Know Before You Owe with our testing team and designers, and factoring it into our design process as we refine our prototypes.

We have been extremely pleased with the significant public response to this initiative. In response to our posting of the two initial prototypes, more than 13,000 users provided written feedback. More than 7,000 came through the consumer version of the Internet tool and more than 5,000 through the industry version. Input came from all over the country, including cities such as Plano, Texas; Columbia, South Carolina; Billings, Montana; Overland Park, Kansas; and Minneapolis. The second round of the project was launched in late June and drew written feedback from almost 4,000 users.

To our knowledge, we are the first federal financial services agency to seek such broad-based public input this early in the design process—in advance of proposing a rule—for a consumer disclosure. This is a learning process for us and for the participants. The public feedback has generally been consistent with the testing results, and has provided valuable comments and suggestions. We believe this process can be particularly useful in identifying potential implementation issues that may arise for different kinds of financial services providers, and in helping us to address those issues before final design decisions are made.

Regulatory Perspective

⁴ See <http://www.consumerfinance.gov/knowbeforeyouowe/>.

In the coming months, we will accelerate work on the regulations underlying the disclosure forms and on developing the integrated closing-stage disclosure. As contemplated by the Dodd-Frank Act, we also will review proposed mortgage-related rules under TILA that were issued but not finalized by the Board of Governors of the Federal Reserve System to the extent that the proposals address issues relating to the mortgage disclosure project. We also expect to convene a panel to consult with small businesses regarding potential impacts prior to proposing a rule, and to consult with the prudential regulators and other relevant agencies.

On July 21, 2011, the Bureau will assume responsibility for various rulemakings mandated by the Dodd-Frank Act under statutes that will transfer to the CFPB, including other rulemakings that relate to mortgage origination activities. We are currently studying the Act's amendments to these statutes, as well as existing regulatory provisions and proposals, to prepare for that transfer of authority. Under Title XIV of the Dodd-Frank Act, a number of these rulemakings must be completed by January 2013.

Conclusion

Chairman Biggert, Ranking Member Gutierrez, and members of the Subcommittee, thank you again for inviting me to testify today about the CFPB's integration and simplification of mortgage loan disclosures. We know that no one project can solve all issues regarding mortgage originations, but we remain convinced that simple, streamlined mortgage disclosures are a critical reform that can provide both more value for borrowers and reduced burdens for lenders. We welcome the opportunity to discuss our efforts and to update you on our progress.