

**Written Testimony of Raj Date  
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**Before the House Financial Services Subcommittee on Insurance, Housing, and  
Community Opportunity  
Washington, D.C.  
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Chairman Biggert, Ranking Member Gutierrez, and Members of the Subcommittee, thank you for this opportunity to testify. My name is Raj Date, and I am the Deputy Director of the Consumer Financial Protection Bureau (“Bureau”). I am honored to represent the Bureau here this afternoon.

Today’s hearing is focused on the Bureau’s efforts to combine the various federal disclosures that consumers receive when taking out a mortgage loan. For more than 30 years, federal law has required lenders to provide two different disclosure forms to consumers shortly after they apply for a mortgage loan.<sup>1</sup> The law also has generally required two different forms at or shortly before closing.<sup>2</sup> Two different federal agencies developed these forms separately under two different statutes: the Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act (RESPA). The information on these forms is overlapping and the language is inconsistent. Not surprisingly, consumers often find the forms to be confusing. It is also not surprising that lenders and settlement agents find the forms burdensome to provide and explain.

The recent mortgage crisis highlighted problems with consumers’ understanding of their mortgages. These problems may be in part due to shortcomings in the current disclosures. For example, many consumers select a loan based on their ability to afford the monthly payments. But some consumers experienced “payment shock” because they did not understand that their payments could increase to unaffordable amounts a few years or even months after closing. The Board of Governors of the Federal Reserve System, which was responsible for the TILA disclosures, and the U.S. Department of Housing and Urban Development, which was responsible for the RESPA disclosures, each tried to address these problems. However, they were unable to arrive at a coordinated solution.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) transferred authority for the TILA and RESPA mortgage disclosures to the Consumer Financial Protection Bureau in July 2011. The Dodd-Frank Act also directed the Bureau to propose rules and forms combining the disclosures by July 2012.<sup>3</sup>

The Dodd-Frank Act established two goals for the combined mortgage forms: (1) to improve consumer understanding of mortgage loan transactions; and (2) to facilitate industry compliance

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<sup>1</sup> These disclosures are available at <http://www.hud.gov/offices/hsg/rmra/res/gfestimate.pdf> and <http://ecfr.gpoaccess.gov/graphics/pdfs/ec27se91.024.pdf>.

<sup>2</sup> These disclosures are available at <http://www.hud.gov/offices/adm/hudclips/forms/files/1.pdf> and <http://ecfr.gpoaccess.gov/graphics/pdfs/ec27se91.024.pdf>.

<sup>3</sup> Dodd-Frank Act § 1032(f).

with TILA and RESPA.<sup>4</sup> To achieve these goals, the Bureau gathered information in a variety of ways and from a variety of sources. Some are time-tested, others novel. The Bureau tested draft forms, used interactive online tools and blog posts, hosted roundtable discussions, and held teleconferences and meetings. These activities included the public, consumer advocacy groups, industry stakeholders, and other government agencies. In particular:

- In September 2010, the Bureau began meeting with consumer advocates, other banking agencies, community banks, credit unions, settlement agents, and other industry representatives. This outreach helped the Bureau better understand the issues that consumers and industry face when they use the current TILA and RESPA disclosures.
- In December 2010, the Bureau organized a symposium titled “Communicating with Consumers: How to Improve Mortgage Loan Disclosures,” which featured panel discussions with experts from academia, government, industry, and non-profits on development of disclosure forms and existing research on communicating complicated financial information to consumers.
- In May 2011, the Bureau launched its Know Before You Owe or “KBYO” project. The Bureau used its website to share prototypes of the combined disclosure forms with the public.<sup>5</sup> This project also used blog posts and e-mails to inform interested consumers, industry members, and other stakeholders of the Bureau’s progress and to seek feedback on the prototypes. Individual consumers, loan officers, mortgage brokers, settlement agents, and others provided feedback based on their own experiences with the mortgage loan process.<sup>6</sup> Almost every month from May 2011 through February 2012, the Bureau posted prototype forms on the KBYO website and sought additional feedback. This allowed stakeholders to track the development of the forms. In total, the Bureau posted more than a dozen prototype forms and received more than 27,000 responses.
- In addition, from May 2011 through March 2012, the Bureau conducted extensive testing of the prototype forms. The Bureau conducted one-on-one structured interviews with more than 100 consumers, lenders, mortgage brokers, and settlement agents. These interviews were conducted in nine cities across the country.<sup>7</sup> In these interviews, consumers were asked a series of questions designed to assess whether the forms presented information in a format that enabled them to understand and compare different mortgage loans and to identify changes during the loan process. In contrast, industry participants were asked to use the prototype forms to explain loans as they would to a consumer and to identify areas for improvement. After each round of testing, Bureau

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<sup>4</sup> *Id.* §§ 1098, 1100A.

<sup>5</sup> See <http://www.consumerfinance.gov/knowbeforeyouowe/>.

<sup>6</sup> Examples of consumer and industry responses to the prototypes of the disclosures can be seen in the Bureau’s blog, including at: [www.consumerfinance.gov/know-before-you-owe-go](http://www.consumerfinance.gov/know-before-you-owe-go); [www.consumerfinance.gov/13000-lessons-learned](http://www.consumerfinance.gov/13000-lessons-learned); and [www.consumerfinance.gov/know-before-you-owe-its-closing-time](http://www.consumerfinance.gov/know-before-you-owe-its-closing-time).

<sup>7</sup> Testing was conducted in Baltimore, Maryland; Los Angeles, California; Chicago, Illinois; Springfield, Massachusetts; Albuquerque, New Mexico; Des Moines, Iowa; Birmingham, Alabama; Philadelphia, Pennsylvania; and Austin, Texas.

staff carefully analyzed the results and the public feedback from the KBYO process. Using this information, the Bureau designed new and improved forms.

- In February 2012, the Bureau convened a Small Business Review Panel with the Chief Counsel for Advocacy of the Small Business Administration and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget. This panel gathered information from representatives of small lenders, mortgage brokers, settlement agents, and not-for-profit organizations about the costs of the proposals under consideration and potentially less burdensome alternatives. At the same time, the Bureau shared the panel materials with stakeholders and the public and invited them to provide more feedback.<sup>8</sup>

We are using all of this information to develop proposed forms that will make the mortgage process easier for consumers and industry. To further reduce paperwork burden, the forms will incorporate a number of additional federal disclosures, including some added by the Dodd-Frank Act. These forms will be issued for public comment by the statutory deadline of July 21, 2012.

At the same time, we will be issuing a proposed rule that provides detailed requirements and guidance for filling out the forms. During the Small Business Review Panel and our other outreach, industry identified several areas in which the current rules create uncertainty about how to comply. We plan to use the proposed rule as an opportunity to reduce unnecessary compliance burden by providing clear guidance that resolves those ambiguities.

We also plan to use the proposed rule to explore ways to strengthen protections for consumers. For example, during the Small Business Review Panel process, we discussed ways to encourage lenders to provide consumers with the initial disclosure earlier in the loan process. We also discussed ways to make the cost estimates in that disclosure more reliable for consumers by limiting subsequent changes. We look forward to gathering more information on these issues during the public comment process.

Finally, the proposed rule must reconcile several inconsistencies that currently exist between TILA and RESPA to create the combined forms. In particular, TILA and RESPA establish different timing requirements for disclosing final loan terms and costs to consumers and require different parties to provide the TILA and RESPA disclosure forms. During the Small Business Review Panel process, we discussed potential solutions to these inconsistencies. We sought feedback on whether the combined final disclosure could be provided three business days before closing so that consumers would have time to review the final terms and costs and resolve any questions or problems. We also sought feedback on whether the lender or the settlement agent was better equipped to provide the combined final disclosure or whether some sort of shared responsibility was appropriate. We will continue to explore these options in the proposed rule.

We are excited about this opportunity to develop a practical solution to what has been a long-standing problem for consumers and industry. Thank you for asking me to testify today. I would be happy to answer your questions.

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<sup>8</sup> The panel materials are available on the Bureau's website at <http://www.consumerfinance.gov/blog/sbrefa-small-providers-and-mortgage-disclosure/>.