



Written Statement

Of

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Long and Foster Companies**

On Behalf of

The Real Estate Services Providers Council, Inc. (RESPRO®)

**Before the
U.S. House of Representatives**

**Subcommittee on Insurance, Housing and Community Opportunity
Of the
Committee on Financial Services**

On

**“Mortgage Disclosures:
How Do We Cut Red Tape for Consumers and Small Businesses?”**

June 20, 2012

Good morning, Chairwoman Biggert, Ranking Member Gutierrez, and Members of the Subcommittee. My name is Tim Wilson and I am President of Affiliated Businesses for Long and Foster Companies and immediate past Chairman of the Real Estate Services Providers Council, Inc. (RESPRO®).

Long and Foster Companies is the third largest independent residential real estate brokerage firm in the nation, with 185 residential real estate brokerage offices and 12,000 real estate sales associates that engage in real estate sales and leasing in Virginia, Washington, D.C., Maryland, West Virginia, Delaware, Pennsylvania, North Carolina, and New Jersey.

Long and Foster offers mortgage services through Prosperity Mortgage, a joint venture co-owned by Long and Foster and Wells Fargo Home Mortgage with 311 employees that originated over 11,000 residential mortgage loans in 2011. Another wholly-owned company, Mid-States Title, runs several joint ventures with 200 employees that issued approximately 26,000 title policies and conducted over 14,000 settlements in 2011. We issued 4,400 homeowners insurance policies in 2011 through Long and Foster Insurance, a wholly-owned insurance agency.

RESPRO® is a national non-profit trade association of almost 200 residential real estate brokerage, mortgage, home building, title, and other settlement service companies (see Attachment 1) that offer diversified services for home buyers through affiliated business arrangements that are regulated at the federal level under the Real Estate Settlement Procedures Act (RESPA).¹

My testimony today will focus on three issues in the Consumer Financial Protection Agency's (CFPB) rulemaking initiative to combine RESPA and Truth in Lending Act (TILA) disclosures (RESPA-TILA Rulemaking) that are particularly relevant for affiliated business arrangements: (1) the potential proposed "zero tolerance" for fees charged by a mortgage lender's affiliated settlement service companies; (2) the need for the CFPB to integrate its RESPA-TILA Rulemaking with its pending rulemakings under the new Dodd-Frank Ability to Repay and Home Owners Equity Protection Act (HOEPA) standards, particularly with their "points and fees" threshold provisions; and (3) the potential proposed requirement to deliver the Settlement Disclosure (the combined HUD-1 Settlement Statement and TILA disclosure) to the consumer three days before closing.

I. An Overview of Affiliated Businesses in the Home Buying and Financing Industry

¹ RESPA and RESPA regulations require any person who refers a home buyer to an affiliated settlement service company to:

- Disclose in writing that it may benefit from the referral.
- Disclose an estimate of the range of charges to of the referred service.
- Advise the consumer that there may be lower prices available and that he/she should shop around
- Obtain a written acknowledgment from the home buyer that he/she has reviewed these disclosures.
- Not require the use of the affiliated service.
- Limit payments received from the affiliated business arrangement to payments representing returns on ownership interest (e.g., dividends), franchise interest (e.g., royalties), or other payments that do not otherwise violate RESPA).

Affiliated businesses are not new in the home buying and financing industry. According to the independent real estate research firm REALTrends, Inc., the nation's 500 largest residential real estate brokerage firms closed 119,174 mortgage loans and conducted 336,148 closings in 2011 through affiliated companies.

In today's challenging housing market, firms like Long and Foster use affiliated mortgage, title, and other settlement service companies to help assure that our real estate customers close on time and move into their new homes as scheduled. Because we own or partially own other companies needed to close the home purchase transaction, we can better ensure that they communicate promptly with each other about any service issues and, as a result, resolve those issues more efficiently than we could with independent companies. While our affiliated businesses are independently-run companies under Real Estate Settlement Procedures Act (RESPA) guidelines, they help us reduce the cost of the entire mortgage transaction through cost efficiencies achieved from the sharing of facilities, technology, equipment, and marketing expenditures.

Since real estate brokerage firms began to offer mortgage, title, and other settlement services almost 30 years ago, there have been several consumer surveys and economic studies to assess their impact on the home buyer. The economic studies have shown that affiliated businesses are competitive in cost,² and consumer surveys consistently have shown that consumers who use their real estate brokerage firms' affiliated businesses have a more satisfactory home buying experience.³

II. Zero Tolerances for Affiliated Fees

In a February 21, 2012 Outline of Alternatives (CFPB Outline) that was presented to representatives in the Small Business Regulatory Enforcement Fairness Act (SBREFA) Panel Session on March 6, 2012, the CFPB announced that it is considering proposing a "zero tolerance" for fees charged by settlement service affiliates of mortgage originators.⁴

² A 2006 economic study on the costs of affiliated services vs. unaffiliated services involved an independent analysis of over 2200 HUD-1 Settlement Statements from transactions conducted in nine states (Alabama, Illinois, Maryland, Michigan, Minnesota, North Carolina, Ohio, South Carolina and Virginia) in 2003 and 2005. The study concluded that title premiums and title-related settlement closing charges are not higher when affiliated business arrangements are involved compared to when they are not. "Affiliated Business Arrangements and Their Effects on Residential Real Estate Settlement Costs" (2006), The CapAnalysis Group LLC. The CapAnalysis study conclusions were consistent with a 1994 study performed by the national economic research firm of Lexecon, Inc., which found that title and title-related services for transactions performed by affiliated title companies in seven states – Florida, Minnesota, Tennessee, Wisconsin, Mississippi, Pennsylvania, and California – were competitive with those provided by unaffiliated title companies. "Economic Analysis of Restrictions on Diversified Real Estate Services Providers", by Lexecon, Inc., January 3, 1995.

³ In a December 2010 Harris Interactive survey, home buyers said that using affiliates saves them money (78%), makes the home buying process more manageable and efficient (75%), prevent things from "falling through the cracks" (73%), and is more convenient (73%) than using separate services. "One-Stop Shopping Preferences 2010", Harris Interactive and the National Association of Realtors (NAR).

⁴ "Outline of Proposals Under Consideration and Alternatives Considered", the Consumer Financial Protection Agency, February 21, 2012, page 9.

Current RESPA regulations provide for a zero tolerance only for lenders' charges, meaning that lenders' charges at closing cannot exceed those disclosed in the Good Faith Estimate. They provide for a 10% tolerance for affiliated and unaffiliated third party charges (appraisal, title, escrow, hazard and flood insurance, etc.) unless the borrower requests a change, the GFE expires, or a valid change in circumstance occurs.

The CFPB Outline stated that the CFPB is considering imposing a new zero tolerance for settlement services provided by a company owned or affiliated with a lender. It justified its consideration of this zero tolerance on affiliated services as follows:

“Lenders should be better able to estimate the cost of services provided by an affiliated company because of their knowledge of the company’s business. In addition, the lender couldn’t profit directly or indirectly from an unjustified 10% cost increase.”⁵

RESPRO[®] believes that this justification does not take into account the independent manner in which affiliated businesses are operated under RESPA, the fact that lenders can no more precisely determine the final cost of many affiliated third party services at the time the Loan Estimate is provided than they can for unaffiliated services, or the competitiveness of affiliated businesses in the mortgage marketplace that would prevent them from arbitrarily increasing the price of their services.

A. The independent structure of affiliated businesses

Most affiliated settlement service businesses obtain their business and customers not only from their affiliates but also from independent sources. In addition, they are independently managed and have their own employees and work force performing the tasks of whatever settlement service business they have chosen to engage. Indeed, it is HUD’s 1996-2 Policy Statement on Sham Controlled Business Arrangements that encouraged affiliated business to operate very much like independently-owned businesses.⁶ Thus, the existence of an affiliated relationship does not mean that the lender will necessarily know what its affiliate’s prices will be at the time the Loan Estimate is provided.⁷

B. Lenders can no more determine the cost of many affiliated services at the time the Loan Estimate is provided than they can for unaffiliated services

In addition, the cost of most third party services are unknown by both affiliated and unaffiliated lenders at the time the Loan Estimate is provided because of the very nature of the service.

⁵ *Id* at 11.

⁶ HUD Statement of Policy 1996-2, Regarding Sham Controlled Business Arrangements; 61 Fed. Reg. 29,258 (June 7, 1996).

⁷ Congress recognized this when it authorized the RESPA-required Affiliated Business Disclosure in 1983, which allowed the referrer of business to a settlement service provider to provide a range of charges that may be assessed by the affiliated provider, not a precise charge.

For example, the costs of most title services often are influenced by factors that are unknown to an unaffiliated or affiliated lender at the time the Loan Estimate would be provided. There often is a need for additional title searches, name searches, and/or endorsements.⁸ In addition, at the time of the Loan Estimate, it is unclear whether the lender would want standard coverage or enhanced coverage and whether the owner will want any coverage, not to mention which type.

The cost of homeowners insurance also is extremely difficult to estimate regardless of whether the insurance company is affiliated or unaffiliated because the variables that go into a quote are numerous and complex. Simplifying the quote process to a considerable degree, a homeowner's quote -- at a minimum -- will depend upon the home's location, its value, its age, the type of home (brick vs. siding), replacement coverage versus traditional, the type of deductible desired, and a myriad of other variables that are not generally known when providing a loan estimate or even an affiliated business disclosure.⁹ In addition, the consumer may elect to revise the deductible on the homeowner's insurance policy or change the nature of the coverage and thereby change the premium.

Other apparently simple settlement services are often equally as complicated. For example, credit report vendors typically impose multiple charges in connection with sale of consumer credit reports to residential mortgage lenders, brokers, and other consumer credit grantors. According to one credit reporting company that is attempting to develop a guaranteed price for all services that could be demanded, the current and most common industry practice is for a basic credit report fee to be charged by a credit-reporting agency to the credit grantor with additional fees and credit report surcharges to be imposed during the course of the lending process, usually over a three or four week period. It is also common for additional fees to be added to the basic credit report price for "backend processing," which usually includes data updating or data correction of erroneous or disputed information in the consumer's report. In addition to the fee for the actual credit report, vendors may assess charges for (1) reissuing reports later in the loan applicant's applications process; (2) confirming the loan applicant has not been identified by the U.S. Office of Foreign Assets Control as a possible terrorist or other person of concern to the federal government; (3) providing other applicant identification confirmation, (4) providing certain information required by secondary market investors such as Fannie Mae and Freddie Mac; (5) one or more credit scoring or valuations, (6) sending credit reports to multiple lenders, Fannie Mae or Freddie Mac that may be viewing a loan application; (7) sending the credit report to multiple parties entitled to "joint user" treatment under the Fair Credit Reporting Act, 12 U.S.C. 1681; FRRS 6.924; (8) compliance and technology related fees; (9) fraud research fees; (10) update fees related to issuing reports following the initial "pull" of a report; (11) fees for responding to inquiries from potential loan purchasers or investors; and/or (12) other services and

⁸ While title policies generally provide two different forms of coverage (e.g. standard or enhanced), most companies offer a series of endorsements over and above the coverage offered by the policy that carry an additional cost.

⁹ For this reason, companies who make referrals to affiliated hazard insurers where the only requirement is to estimate the range of charges typically utilize a fairly large range and note that their estimate is based on a particular set of assumptions (e.g. a \$500,000 brick house, less than 30 years old, in standard location, seeking replacement coverage could cost more if different variables are utilized).

processing associated with consumer credit report sales. It would be impossible for a lender to estimate these charges at the time of the Loan Estimate whether or not the service is provided by an affiliate.

In addition, the CFPB Outline also states that the CFPB is considering proposing that the lender no longer be able to collect “any other information deemed necessary by the lender” to provide an accurate estimate of charges in the Loan Estimate.¹⁰ If this proposal is adopted in addition to a zero tolerance for affiliated third party services, lenders would potentially be subject to substantial penalties¹¹ for even unintentional or minor deviations from costs in the Loan Estimate that must be estimated after only being allowed to obtain (1) the borrower’s name; (2) the borrower’s monthly income; (3) the borrower’s social security number; (4) the property address; (5) an estimate of the value of the property; and (6) the loan amount sought.

C. Affiliated businesses cannot be competitive if they charge unjustified fees

The CFPB’s justification that “the lender couldn’t profit directly or indirectly from an unjustified 10% cost increase” if there is a zero tolerance for a lender’s affiliated services incorrectly assumes that the owner of a mortgage lender and affiliated settlement service provider could increase the costs of an affiliated settlement services solely based on a desire to profit, and still remain competitive in the marketplace. This is not the case. Under RESPA, a mortgage lender cannot require that a consumer use its affiliated settlement service companies; therefore, its affiliated companies must compete against unaffiliated providers of those services.¹² In reality, an affiliated service provider that is not competitive in price and service would not be able to compete as effectively. This is particularly true in the case of real estate companies like Long and Foster where real estate agents, which are independent contractors, are the primary referral source of settlement services. Studies have shown that real estate agents are disinclined to

¹⁰ “Outline of Proposals Under Consideration and Alternatives Considered”, the Consumer Financial Protection Agency, February 21, 2012, page 7.

¹¹ The penalties that the CFPB can impose under the authority given to it under Title X of Dodd-Frank are broad, including rescission, refunds, restitution, damages, unjust enrichment, public notification, and civil money penalties. Under TILA, where the true finance charge or APR exceeds the disclosed value by more than the applicable tolerance, TILA authorizes the regulator to award restitution to the consumer--even for unintentional errors and isolated violations. (In some circumstances, such as where there is evidence of a pattern or practice of disclosure violations or willful noncompliance, TILA *requires* the regulator to order financial institutions to reimburse consumers). TILA also provides that for certain transactions secured by the consumer’s principal dwelling (namely, certain refinances), a consumer has 3 business days after becoming obligated on the debt to rescind the transaction (this period is longer for higher-cost loans). If a transaction is rescindable, the customer’s rescission period does not expire until the third business day after the latest of three events: consummation of the transaction, delivery of material TILA disclosures, or receipt of the required notice of the right to rescind.

¹² As an example of the competitiveness of the marketplace, the latest economic study of affiliated businesses found that over 73.7% of home buyers purchase their title services from unaffiliated title companies and that 26.3% of home buyers purchase their title services from affiliated title companies. . “Affiliated Business Arrangements and Their Effects on Residential Real Estate Settlement Costs” (2006), The CapAnalysis Group LLC.

recommend their clients to affiliated settlement services of the real estate brokerage company that are not competitive in price and service, since their buyer or seller clients would hold them responsible if the ultimate cost of the transaction is too high or the services provided are poor.¹³

Given the cost-competitiveness and consumer benefits of affiliated businesses in the residential mortgage marketplace, RESPRO® believes that the CFPB should reconsider placing them at a competitive disadvantage by imposing standards that will be difficult and often impossible to achieve and that are not justified by any public policy reason.

III. The Need to Integrate the RESPA-TILA Rulemaking With the Dodd-Frank/HOEPA “Points and Fees” Thresholds

RESPRO® also believes that the CFPB needs to integrate its RESPA-TILA Rulemaking with its pending rulemakings to implement Dodd-Frank’s new Ability to Repay standards and new standards for Home Owners Equity Protection Act (HOEPA) loans.

It is particularly important for the CFPB to integrate the development of its RESPA-TILA Rulemaking with its development of rules implementing the “points and fees” thresholds that determine whether a loan is a Qualified Mortgage (QM) under the Ability to Repay standards or a HOEPA “high cost” loan.

A mortgage loan cannot be a Qualified Mortgage (QM) if the total “points and fees” paid by the consumer exceed 3% of the loan amount. Recently the CFPB announced its intention to publish a final Ability to Repay/QM rule – which will provide specific guidelines on which fees are included in this “points and fees” threshold -- by the end of 2012.

Under HOEPA, a loan in which the total “points and fees” paid by the consumer exceed 5% becomes a “high cost” loan and is subject to substantial restrictions and potential penalties. Before enactment of Dodd-Frank, the HOEPA “points and fees” threshold was 8%. The CFPB plans to publish a proposed rule to implement this new standard by July 21, 2012.

Most mortgage lenders will not be willing to make non-QM loans or HOEPA “high cost” loans due to the high potential liabilities associated with such loans. Yet, the CFPB Outline states that the CFPB is considering including a myriad of fees towards the “points and fees” thresholds beyond to those specifically authorized by Dodd-Frank, which would have a significant impact on mortgage availability and affordability. In addition, if the term “points and fees” is not defined in these other CFPB regulations before its RESPA-TILA Rulemaking is finalized, mortgage lenders will not be able to identify the “points and fees” associated with any individual loan at the time the Loan Estimate is provided and perform the calculations necessary to determine whether or not a loan meets the QM standards or is a HOEPA “high cost” loan.

A. The Impact of the “Points and Fees” Definition on Mortgage Availability and Costs

¹³ “Significant Changes Found and Expected in the Way Houses are Bought and Sold”, by Weston Edwards & Associates (March 2004).

Under Dodd-Frank, the following charges are counted towards the 3% “points and fees” threshold that determines whether a loan is a QM and the 5% “points and fees” threshold that determines whether a loan is a HOEPA “high cost” loan:

- All items included in the “finance charge” except interest or the time price differential
- All compensation paid to a mortgage originator from any source
- Charges for credit life, credit disability, credit unemployment, or credit property insurance
- Charges for any accident, loss-of-income, life or health insurance
- Payments for debt cancellation or suspension agreements unless paid in full on a monthly basis
- Maximum prepayment fees and penalties

1. The Unjustified Discrimination Against Affiliated Mortgage Lenders

Affiliated mortgage lenders are subject to an additional burden over unaffiliated lenders under the current QM and HOEPA “points and fees” thresholds in that the following fees must be counted towards the thresholds if the service provider is affiliated with the lender, even if the affiliated title charges are equal to or less than the unaffiliated title charges.

- Fees for title examination, title insurance, or similar purposes
- Document preparation fees
- Notary fees
- Appraisal/Inspection fees
- Credit report fees

If this discrimination against affiliated businesses in the “points and fees” thresholds remains, companies with affiliated mortgage and title businesses like Long and Foster would need to (1) discontinue offering title services in conjunction with loans that potentially would exceed the threshold, or (2) discontinue offering mortgage services but continue to offer title services in conjunction with loans that potentially would exceed the threshold.

While I cannot predict the decision of each company faced with this choice, I believe that there would be legitimate reasons for a company with an affiliated mortgage and title company to discontinue offering mortgages but to continue to offer title services if it believes that the cost of both services could exceed 3% of the loan amount. Because of the negative consequences of originating a non-QM or a HOEPA “high cost” loan, it would be important to have certainty as to which loans would exceed the applicable thresholds. The cost of mortgage origination services is highly dependent on the customer’s individual decisions and is more difficult to predict on an aggregate basis, while title fees and premiums are either regulated or filed in the majority of states.

Regardless of the decision each affiliated business would make, the overall result would be less competition and consumer choice, particularly in low-income and middle-income marketplaces and among first time-homebuyers. There is no

justifiable reason for this. The economic studies I discussed earlier have shown that affiliated title providers, which currently comprise more than 26% of the market, offer services that are competitive in cost with those of unaffiliated providers. Where affiliates have been excluded from the market, title charges have risen appreciably. Moreover, national surveys I discussed earlier have shown that consumers who take advantage of the one-stop shopping that affiliated businesses provide are satisfied with their home buying experience.

For this reason, RESPRO® urges Congress to pass the Consumer Mortgage Choice Act (H.R. 4323), which excludes from the definition of “points and fees” charges for title services regardless of affiliation, in recognition of the fact that title insurance is highly regulated. Forty-four states and the District of Columbia require that title premiums be set by the state, approved by the state, or filed with the state (23 states also include title examinations and searches). Of the remaining six states, one state (Iowa) does not recognize title insurance. Even in the few states where title rates are not filed, states exercise jurisdiction over title insurance practices. Virginia, for example, requires all forms and endorsements to be filed with the Department of Insurance and requires title insurance rates to be reasonable and limited to provide a reasonable margin of profit.

By amending the definition of points and fees to exclude all title charges provided they are bona fide and reasonable, Congress will (1) maintain a competitive marketplace, (2) prevent higher prices resulting from the withdrawal of affiliated title service providers in low- and moderate-income marketplaces; and (3) preserve the ability of consumers to choose the benefits of one-stop shopping when they purchase or refinance their home.

2. The CFPB’s Intent to Include More Fees in the “Points and Fees” Thresholds

The CFPB’s Outline of Alternatives in its RESPA-TILA Rulemaking that was presented to the SBREFA Panel also states that the CFPB is considering proposing that additional fees be included in the “finance charge”.¹⁴ Since fees included in the “finance charge” are counted towards the 3% QM and 5% HOEPA “points and fees” thresholds, the inclusion of additional fees in the “finance charge” could have a dramatic impact on the number of loans that qualify as QM or HOEPA “high cost” loans.

The CFPB Outline stated that the CFPB is considering including the following fees in the “finance charge” and consequently towards the “points and fees” thresholds whether affiliated or unaffiliated (those fees in *italics* are fees that are now counted towards the “points and fees” thresholds only if they are affiliated):

- Security interest related charges

¹⁴ The standard disclosure of the cost of credit under TILA is the APR, which is the finance charge expressed as a yearly rate. The CFPB Outline states that it is considering including additional fees in the “finance charge” because “concerns have been raised that [current] exclusions undermine the potential usefulness of the APR as a simple tool to compare the total cost of one loan to another, a basic purpose of TILA.”

- *Fees for title search or title exam*
- *Document preparation fees*
- *Escrows for taxes and insurance*¹⁵
- *Notary fees*
- *Appraisal/inspection fees*
- *Credit report fees*
- *Closing agent charges*
- *Voluntary credit insurance premiums*
- *Charges for paying items that overdraw an account*
- *Application fees*
- *Late fees*
- *Forfeited interest*

If the CFPB includes these additional fees in the “finance charge”, a greater percentage of affiliated loans would exceed the 3%-5% “points and fees” thresholds and not qualify as a QM or qualify as a HOEPA loan. In addition, a greater amount of unaffiliated loans would exceed the thresholds. Given lenders’ unwillingness to make non-QM or HOEPA “high cost” loans, the inclusion of these fees in the “points and fees” thresholds would have a substantial negative impact on mortgage availability and affordability for all but the wealthiest consumers buying high-priced homes.

The CFPB Outline failed to mention the potential impact of these potential changes on the number of affiliated and unaffiliated loans that would not qualify as QMs or qualify as HOEPA loans due to the new Dodd-Frank “points and fees” thresholds and the resulting impact on mortgage affordability and availability. RESPRO® believes that it is essential that the CFPB research this potential impact and disclose it to the public for comment before proceeding with such a change.

B. The Need for the Lender to Identify “Points and Fees” at the Time of the Loan Estimate

Regardless of what affiliated and unaffiliated fees are included in the “finance charge” and the “points and fees” thresholds, mortgage lenders that are reluctant to face the significant liability triggered by non-QM and HOEPA loans will need to use the Loan Estimate to determine whether a loan is a QM or HOEPA loan. Lenders also will need to know while the consumer is shopping whether a preexisting loan is a QM loan because they are prohibited from steering a consumer who is qualified for a QM loan to a non-QM loan.

The CFPB Outline does not discuss the definition of “points and fees”, and its prototype Loan Estimate does not identify which charges are included within the “points and fees” thresholds. RESPRO® believes that the Loan Estimate should be modified to identify these fees one they are promulgated by regulation.

¹⁵ Due to what may be a drafting error in Dodd-Frank, escrows for taxes and insurance could currently be interpreted as being included in the “points and fees” thresholds in the QM and HOEPA standards. The Consumer Mortgage Choice Act (H.R. 4323) would clarify that escrows are not included.

IV. The 3-Day Settlement Disclosure Requirement

The CFPB Outline also states that the CFPB is considering proposing a requirement that the Settlement Disclosure be provided to the consumer three days before closing. Limited changes would be permitted to reflect common adjustments such as changes to recording fees, and reissuance of the Settlement Disclosure and an additional three-day waiting period would be required if:

- The APR increases by more than 1/8% (the current TILA threshold for disclosure);
- An adjustable rate feature, prepayment penalty, negative amortization feature, interest-only feature, balloon payment, or demand feature is added to the loan; or
- The cash needed to close increases beyond a certain tolerance that would be determined.

Long and Foster's affiliated mortgage company, Prosperity Mortgage, has some experience with the issues involved in providing the current HUD-1 Settlement Statement (HUD-1) in advance of the closing. Under its "Target Date" Program, Prosperity Mortgage pays an incentive bonus to its operation team members when the HUD-1 is delivered to the consumer two (2) days in advance of their closing date. So far in 2012, we have achieved that goal in 56% of our transactions. Consumers who received their HUD-1 two days in advance of their closing date have had a higher documented customer satisfaction score based on independent third party evaluations.

RESPRO[®] supports the concept of a three-day requirement in principle, since it can make consumers more aware of the final costs and terms of their loans more in advance of the closing. As affiliated businesses, RESPRO[®] member companies could be more capable of complying with this requirement because of the efficiencies associated with many of the services needed to close the loan transaction under one corporate entity.

The ultimate viability of such a concept and the ultimate value to the consumer, however, lies in the specifics of the proposal. RESPRO[®] member representatives representing the real estate brokerage, homebuilding, mortgage and title industry have met over the last few months to assess the feasibility of this 3-day requirement in an effort to be able to work in good faith with the CFPB as it develops these specifics and have identified the following issues that will need to be identified in the proposed RESPA-TILA rule and resolved before any final rule:

- As the CFPB Outline recognizes, many loan transactions have last-minute adjustments to the Current HUD-1 Settlement Statement that are requested by or agreed to by the buyer and/or seller. Therefore, it is essential that there be a reasonable, well-defined tolerance for additional costs that may occur within the three days between the delivery of the Settlement Disclosure and closing. Because of the difference in loan and closing costs throughout the country, the tolerance should be the higher of a percentage amount or specific dollar amount.
- The CFPB needs to carefully consider the impact of its requirements on both the buyer and the seller in real estate transactions as it further develops this proposal. As an example, the current HUD-1 Settlement Statement is used as a disbursement summary

of what the seller pays and what the buyer pays in the transaction, but the current prototype Settlement Disclosure lacks this information. In addition, the Settlement Disclosure has information about the loan (e.g., the buyer's interest rate) that wouldn't normally be delivered to the seller.

- The responsibilities of the mortgage lender, settlement agent, and/or escrow company need to be well-defined and consistent with their capability of complying with the defined responsibilities. In addition, the CFPB needs to clearly identify in its proposed rule what the penalties are for non-compliance for all parties.
- State laws need to be thoroughly researched to identify potential conflicts and inconsistencies.
- The contract or community custom currently determines whether a closing is a round table closing, where the parties meet face to face to exchange documents and transfer money, and escrow closings or an escrow closing,, in which the parties may never meet and documents may be executed at different times and at different places. The CFPB needs to assess the potential impact of the 3-day requirement on both round table and escrow closings.
- The borrower and seller should have the option to waive the 3-day waiting period after the Settlement Disclosure is provided; however, the circumstances identifying when a waiver can occur should be clearly identified in any final regulation.

As a representative of affiliated providers that perform multiple roles in the home buying and financing process, RESPRO® looks forward to providing additional input to the CFPB as they develop this proposal.

Thank you for the opportunity to testify before you today, and I will be glad to answer any questions.

ATTACHMENT 1

RESPRO Membership List 2012

BOARD MEMBERS

Alliant National Title Insurance Company

Longmont, CO

American Home Shield

Memphis, TN

Baird & Warner, Inc.

Chicago, IL

Citibank

O'Fallon, MO

Cornerstone Mortgage Company

Houston, TX

F.C. Tucker Company, Inc.

Indianapolis, IN

HMS National

Fort Lauderdale, FL

HomeServices of America, Inc.

Edina, MN

Howard Hanna Financial Services

Pittsburgh, PA

Howard Perry & Walston Realty, Inc.

Raleigh, NC

Hunt Real Estate Corporation

Williamsville, NY

Investors Title Insurance Company

Chapel Hill, NC

Latter & Blum/CJ Brown

New Orleans, LA

Long & Foster Companies

Chantilly, VA

National Real Estate Information Services

Pittsburgh, PA

North American Title Group

Miami, FL

Old Republic Home Protection Co., Inc.

San Ramon, CA

Old Republic National Title Insurance

Minneapolis, MN

Orange Coast Title Company

Santa Ana, CA

Prospect Mortgage, LLC

Sherman, CA

Prudential HomeSale Services Group

Lancaster, PA

Prudential Real Estate & Relocation Services

Valhalla, NY

Pulte Financial Services

Bloomfield Hills, MI

Quicken Loans

Detroit, MI

Radian Guaranty

Philadelphia, PA

RE/MAX Advantage Realty

Columbia, MD

Realogy Corporation

Washington, DC

Residential Mortgage, LLC

Mount Pleasant, SC

Ryland Mortgage Company

Westlake Village, CA

Shelter Mortgage Company, LLC

Brown Deer, WI

Shorewest Realtors

Brookfield, WI

Sibcy-Cline Realtors

Cincinnati, OH

Stewart Title Guaranty Company

Houston, TX

Tenura Holdings, Inc.

Austin, TX

The Trident Group/Prudential Fox & Roach

Devon, PA

Title Alliance, Ltd.

Media, PA

Watson Realty Corporation

Jacksonville, FL

Weichert Companies

Morris Plains, NJ

Wells Fargo Home Mortgage

Des Moines, IA

WFG National Title Insurance Co

Cincinnati, OH

William E. Wood and Associates

Virginia Beach, VA

William Raveis Real Estate

Southport, CT

GENERAL MEMBERS

1st Priority Mortgage, Inc.

Buffalo, NY

2-10 Home Buyers Resale

Warranty

Denver, CO

Agents National Title Insurance

Columbia, MO

American Mortgage Service

Company

Cincinnati, OH

Americlose Group

Media, PA

Bean Group

Portsmouth, NH

Bell Mortgage

Minneapolis, MN

California Title Company

Burbank, CA

Channel Match Consulting

Plano, TX

Colorado American Title

Glendale, CO

Comey & Shepherd, Inc.

Cincinnati, OH

Consolidated Lender's Resource

Dallas, TX

Danberry Realtors/Integrity Title

Toledo, OH

Edward Surovell Realtors

Ann Arbor, MI

Elite Lender Services, Inc.

Jacksonville, FL

Equity National Title & Closing

Services, Inc.

Riverside, RI

Ernst Publishing Company, LLC

Half Moon Bay, CA

Fidelity Affiliates, LLC

Fairfax, VA

Fillmore Real Estate

New York, NY

First Continental Mortgage, Ltd.

Houston, TX

Gold Title

Andover, MA

Heritage Mortgage Services, LLC

Woodmere, OH

Hicks, Motto & Ehrlich, PA

Palm Beach Gardens, FL

Home Security of America, Inc.

Cross Plains, WI

Investors Title Company

St. Louis, MO

Keller Williams Realty – Hilltop

Virginia Beach, VA

K. Hovnanian American

Mortgage, LLC

Boynton Beach, FL

K. Hovnanian Title Division

Eatontown, NJ

Land Bound Services

Melville, NY

Law Offices of Morton W. Baird, II

San Antonio, TX

Lawyers Title of Cincinnati, Inc.

Cincinnati, OH

Leading Real Estate Companies of the World

Chicago, IL

Legacy Mortgage

Albuquerque, NM

Lyon Real Estate

Sacramento, CA

M/I Financial Corporation

Columbus, OH

Matt Martin Real Estate

Management

Arlington, VA

McColly Real Estate

Schererville, IN

Michael Saunders & Company

Sarasota, FL

Morreale Real Estate Services

Glen Ellyn, IL

National Real Estate Information

Services

Pittsburgh, PA

New American Mortgage

Charlotte, NC

NM Management, Inc

Alexandria, VA

Northwest Title

Columbus, OH

Northwood Realty Services

Wexford, PA

PNC Mortgage

Cleveland, OH

PPR Title Agency

Rockford, MI

Preferred Title

Madison, WI

PrimeLending Ventures

Management, LLC

Dallas, TX

Primary Land Services

Commack, NY

Professional Closing Network, Inc.

Pittsburgh, PA

Prudential Douglas Elliman

South Huntington, NY

Prudential Preferred Realty

Pittsburgh, PA

Real Estate One

Southfield, MI

Regions Insurance Services, Inc.

Memphis, TN

Residential Mortgage Services, Inc.

South Portland, ME

Risk Mitigation Group

Arlington, TX

Rose & Womble Realty Company,

LLC

RPM Mortgage, Inc.

Walnut Creek, CA

Rubicon Mortgage Advisors, LLC

Edina, MN

Spectra Funding, Inc.

Carlsbad, CA

Surety Title Company, LLC

Marlton, NJ

Taylor Morrison Home Funding

Maitland, FL

The Agent Owned Realty Co.

Mount Pleasant, SC

The Exacta Companies

Cleveland, OH

The Group, Inc. Real Estate

Ft. Collins, CO

Thoroughbred Title Services, LLC

Rye Brook, NY

Title Alliance

Media, PA

Title Security Agency

Tucson, AZ

Title Ventures, LLC

Chesapeake, VA

Towne Bank Mortgage

Virginia Beach, VA

VOI Insurance Solutions, LLC

Sherman Oaks, CA

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Longmont, CO
Alliant National Title Company
Austin, TX
American Home Title and Escrow Company
Denver, CO
Bray & Company
Grand Junction, CO

Castle Stawiariski, LLC Denver, CO
Equity Title Agency, Inc.
Scottsdale, AZ
Equity Title of Colorado
Aurora, CO
Guardian Title Agency
Englewood, CO
Integrity Title Records
Houston, TX

Mountain States Title Corp.
Denver, CO
Oakwood Homes, LLC
Denver, CO
Randolph-Brooks Federal Credit Union
Live Oak, TX
Universal Land Title of Colorado
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