

September 12, 2003

The Honorable Mel Martinez
Secretary
U.S. Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, DC 20410

Dear Mr. Secretary:

The undersigned lender trade associations want to reiterate their views on your major Real Estate Settlement Procedures Act (“RESPA”) reform proposals that have been so vigorously debated this summer. We strongly support your Guaranteed Mortgage Package (“GMP”) proposal despite the criticisms that have been leveled against it. With minor modifications that we set forth in our individual comment letters to your proposal, we believe the GMP will lead to enormous consumer savings and much-improved customer experience for American consumers. In addition, the savings will have the beneficial effect of expanding homeownership, and the added simplicity will remove some of the home financing process’s complexity for first time homebuyers, especially ones from traditionally underserved communities.

We are aware that several trade groups have been advocating a “two package” approach. We have analyzed these proposals carefully and we have come to the conclusion that a two-package approach is complex and unworkable. The two-package approach would undo both the simplicity and the savings that your proposal promises to give American consumers. RESPA was enacted primarily because of high priced settlement services, but by discouraging packaging, RESPA has unintentionally protected settlement service prices. Only your “one package” proposal can bring RESPA’s reality in line with Congress’s intent in enacting it nearly thirty years ago, and the Department should move swiftly to adopting a final rule incorporating the one package approach.

The two-package approach is clearly more complex than one package, and no amount of spin can make two numbers as easy to shop with as one number. Even mortgage lending professionals will have trouble understanding what exactly belongs in each package and how the two packages interrelate, and we imagine that this change will only further baffle consumers, who are clamoring for greater simplicity. Moreover, the two-package approach would require consumers to make two applications in their transaction rather than one: one for the loan package and one for the second “settlement service” package. This is because, like the loan, the cost of the second package will vary based on the specific loan amount, property location and other factors specific to the transaction that the borrower must disclose to the packager. This adds time and complexity to the transaction; it does not reduce it.

In short, the two-package approach will not improve American consumers’ experiences with buying or refinancing a home. Even if the two package approach can somehow be made workable, and could be explained both to our own employees and to consumers, we believe that

it will function as designed by these trade groups – to protect the prices of certain settlement service providers that do not want to negotiate volume discounts with sophisticated buyers of services but prefer to negotiate with unsophisticated one-time buyers like consumers. Thus, in the two package world advocated by the opponents of your proposal, a consumer will in essence be in no better position than he or she is in today: complexity combined with stubbornly high prices.

Proponents of the two-package approach have pleaded that their approach will provide more consumer choice, and somehow be better for small businesses. Practically speaking, most consumers we know would choose simplicity, low prices, and no surprises at closing against having a greater ability to shop for loan closing services, an ability they have – but rarely exercise – today. Consumers who wish to use any particular settlement agent will still be able to do so – they just will not necessarily be able to obtain the best overall price for their closing. As they do today, lenders will be fiercely competing for borrowers, and this competition will finally be used to push settlement prices down. We believe that businesses small and large will be participating in the one package marketplace that your proposal would create, both as providers and as packagers.

As before, however, we urge you to delay the effectiveness of the part of your proposal that enhances the RESPA Good Faith Estimate (“GFE”). Those proposed changes would create an enormous burden for lenders, adding compliance and other expenses as lenders embark on an enormous systems programming and training undertaking to implement the new rule. Unfortunately, that effort will not have a corresponding consumer benefit. Our analysis of the proposed change is that it will have the reverse effect from that intended by the Department, raising rather than lowering the costs of the charges that are listed in the GFE. This is because, unlike in the GMP approach, lenders will be guaranteeing amounts over which the lender does not have control. In addition, a delay of the GFE changes is warranted so that the Department can evaluate the viability of the GMP in practice prior to making changes that might undermine the current GFE option.

We remain committed to supporting your RESPA reform proposal and we believe that you should act swiftly to adopt the GMP as a final rule. As always, we would be happy to meet with you or your staff to discuss any of the particulars or discuss any questions you may have.

Very truly yours,

American Financial Services Association
America’s Community Bankers
Consumer Bankers Association
Consumer Mortgage Coalition
Mortgage Bankers Association of American

Cc: The Honorable John C. Weicher
The Honorable Richard A. Hauser