

Mortgage Banking Update

PATTON BOGGS LLP | February 22, 2010

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HUD Conducts RESPA Meeting to Promote Consistency

Did You Know?

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HUD CONDUCTS RESPA MEETING TO PROMOTE CONSISTENCY

On February 18, 2010 the Department of Housing and Urban Development (HUD) conducted a meeting in Washington, DC with major Federal Housing Administration (FHA) lenders to help promote consistency with regard to the implementation of the new rule under the Real Estate Settlement Procedures Act (RESPA).

In the meeting invitation, HUD noted that “[b]ased on industry feedback and questions, we understand that there are some inconsistencies in the application of RESPA which may impact a consumer’s ability to comparison shop.” Thus, HUD invited lenders “who represent the largest portion of our endorsements to meet with the HUD RESPA team to review proper application of the RESPA requirements in completing both the GFE and HUD.”

HUD addressed its “restrained enforcement” position and advised that restrained enforcement only covers a party that has implemented the new RESPA rule in good faith. Implementation in good faith requires use of the new good faith estimate (GFE) and HUD-1 forms, and abiding by the intent of the new rule with regard to fee categories and tolerances. (Please see the [November 16, 2009 edition](#) of Mortgage Banking Update for an article on restrained enforcement.)

HUD addressed the practice of providing a consumer with a worksheet containing preliminary loan information. HUD advised that worksheets can be useful for generic rate quotes. However, HUD also explained that:

- A worksheet should not look like a GFE and it should be clear that the worksheet is not a GFE.
- A worksheet never should be used “in lieu of” a GFE. If a consumer has provided the required elements of an application under a lender’s policy, a GFE must be provided.
- A consumer should not have to show an “intent to move forward” to receive a GFE.

With regard to pre-approvals, HUD advised that a pre-approval without the issuance of a GFE may be used in a purchase transaction only if the consumer has not executed a purchase contract on a property. HUD also explained that a pre-approval may not be used with a refinance, and that a lender should never advise a consumer not to disclose their property address in order to avoid providing a GFE.

LOOKING AHEAD:

AllRegs Audio Course

February 26, 2010

Topic: RESPA: What You Need to Know

Time: 2:00 – 3:30 p.m. EST

Patton Boggs participant:
Richard Andreano

Addressing the confusion regarding the disclosure of a yield spread premium in the GFE, HUD explained that Block 1 of the GFE includes all lender and broker compensation, including the portion of a yield spread premium that is being paid to the broker. Any portion of a yield spread premium that is not being paid to the broker, such as a portion of a yield spread premium applied to pay closing costs, is not included in Block 1 of the GFE. The entire yield spread premium, whether paid to the broker, applied to closing costs, or both, is included in Block 2 of the GFE.

DID YOU KNOW?

- Effective October 1, 2010, all branch locations that are licensed to conduct Florida mortgage business on behalf of Florida-licensed mortgage lenders or mortgage brokers will be required to maintain a branch manager that holds a Florida Mortgage Loan Originator License.
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