



RESPA Reform 2008

Other than GFE

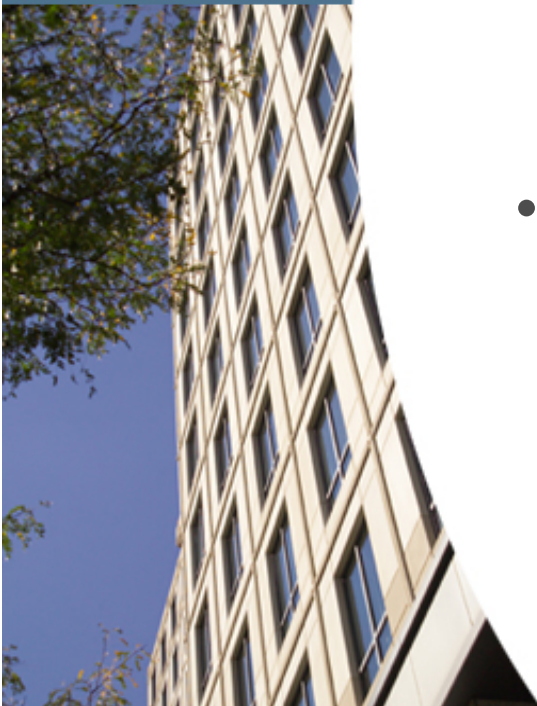


**WELLS
FARGO** HOME
MORTGAGE

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- Attempted to make HUD 1 comparable to the GFE.
- New form uses some of same terms and identifies GFE Sections, but overall fails to be comparable.
- Use of bundled rather than itemized fees for certain settlement services makes TIL analysis impossible.
- Includes an inexplicable breakout of title agent/underwriter portion of title charges.
- The amount stated on the HUD 1 for any itemized service cannot exceed the amount actually received by the third party for that itemized service, unless the charge is based on an average cost price (more later).



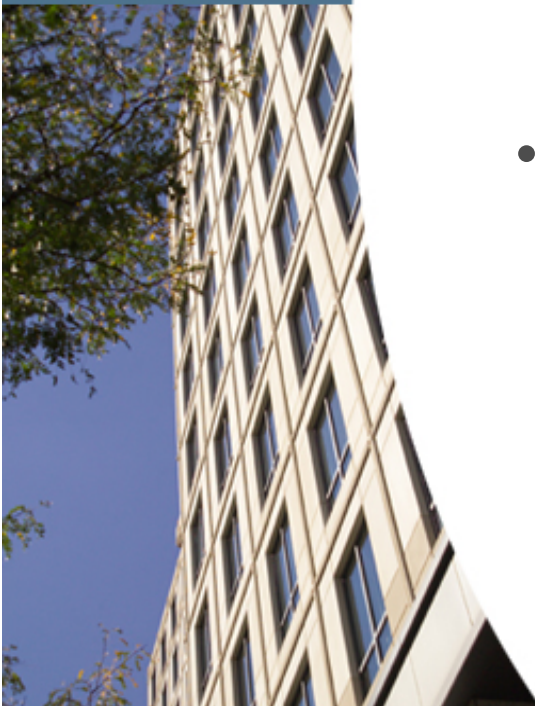
- Apparently because no normal human can intelligently compare charges from the new 4 page GFE with the new HUD 1, HUD is proposing that a Closing Script be prepared and read by settlement agents at the closing table.
- The purpose is to compare the GFE charges to the HUD 1 charges and point out to the consumer when the tolerances have been exceeded.
- HUD estimates this will add 45 minutes and at least \$36 to the settlement process.



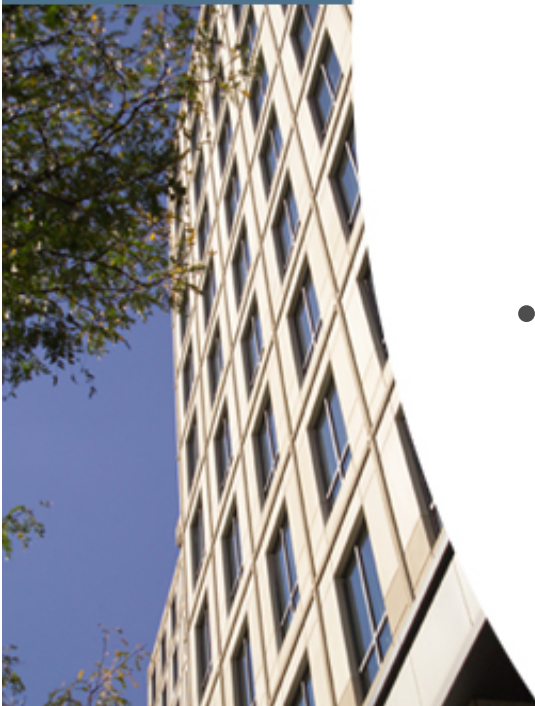
- Settlement agent required to (i) prepare; (ii) read aloud at closing; and (iii) obtain consumer acknowledgment in writing.
- Requires settlement agent to:
 - » Explain specific loan terms
 - » Compare settlement service charges on GFE to HUD-1
 - » Notify consumer if final settlement service charges exceed applicable tolerances
 - » Explain if mortgage documents differ from GFE loan terms.



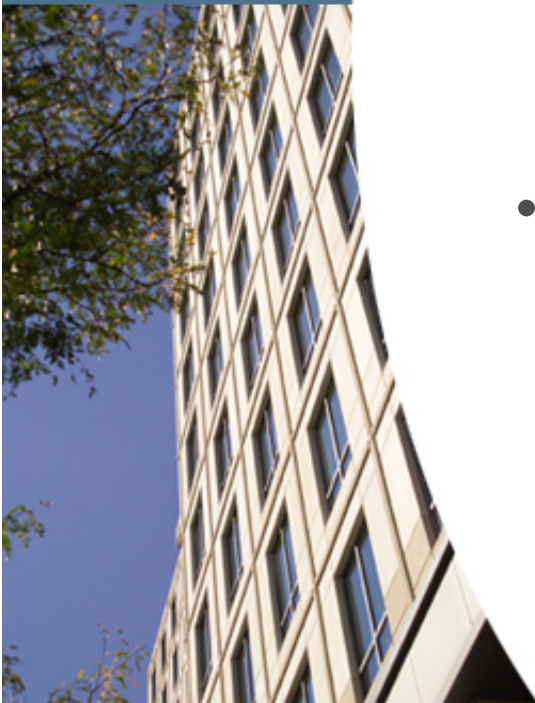
- Many loans do not close at a traditional closing table.
- The requirement to answer questions and offer advice violates UPL laws in many states.
- Settlement agents do not want the duty or the liability that comes with identifying tolerance issues.
- Buyers may not want sellers to know about the terms of their loan.



- The rule would allow mortgage lenders and brokers to use average cost for settlement services, rather than exact charge.
 - » Only for “loan originators?”
 - » Appears to require complex ongoing (semiannual) calculations.
 - » No clarity about what the parameters to be used in the calculations should be. (MSA, state, etc.).
- Litigation and discovery exposure makes it most likely not worth the effort.



- Modifies definition of “thing of value” to exclude discounts negotiated by settlement service providers from third party vendors, as long as discount is passed on to the borrower and disclosed on the HUD-1.
 - » May only the borrower receive discounts? What about seller?
 - » May only settlement service providers negotiate discounts? Not Builders?
 - » What does this mean for Vendor Managers?
- Little incentive for lenders to negotiate.



- Modifies definition of “required use” to indicate that both economic incentives and disincentives contingent on a borrower’s failure to use a particular provider constitutes required use.
- If a settlement service provider offers an optional combination of services at a total price lower than the sum of the price of the individual services, then no required use.
- Appears to be a ham handed attempt to restrict “too big” incentives by Home Builders.



- May only a borrower receive a discounted combination of services? What about sellers who often pay the majority of closing costs?
- May a settlement service provider discount only the services of preferred or affiliated providers?
- Can they discount their own services?





- Updates mortgage servicing disclosures.
- Removes expired provisions of escrow regulations.
- Recognizes the applicability of ESIGN (electronic transmission of disclosures).
- Removes 1% origination fee cap on FHA loans.





- In conjunction with the 2008 Proposed Rule, HUD says it will ask Congress for:
 - » Authority to impose Civil Money Penalties for violations of RESPA Sections 4,5,6,8,9 and 10.
 - » Authority to seek injunctive and equitable relief in cooperation with state regulators.
 - » A requirement that the HUD 1 be delivered Three Days prior to Closing.
 - » Expanded statute of limitations under RESPA.



• Thank You.