

MBA's Regulatory Compliance Conference Hot Topics: RESPA Update

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1. HUD's letter to National Association of Realtors, dated August 6, 2008.
2. Proposed RESPA Rule Issued March 14, 2008.

What is it?

What was the response?

Only informal guidance in response to NAR's questions - primarily regarding real estate agents as loan originators.

NO SURPRISES!

Services performed by realtor loan originators must be actual, necessary and distinct from primary services performed as a real estate agent.

Must perform loan origination services!

In essence, take an application
and do 5 things from HUD's list.

See HUD Policy Statements
1999-1 and 2001-1.

RESPA permits *bona fide* salaries to
bona fide employees . . .

even for referrals.

Who is an employee?

Is meeting IRS test enough for HUD?

Not necessarily.

HUD focused on:

- » method of payment (W-2 v. 1099)
- » training and benefits
- » type of supervision
- » work schedule

Donations to charity of referral source's choice =
thing of value.

Summary Of Proposed RESPA Rule

1. New application definitions and process.
2. Revised and Binding Good Faith Estimate.

3. Disclosure of YSP as credit to borrower's total origination costs.
4. Revised HUD-1 to allow direct comparison with revised GFE.
5. Closing Script.

6. OK to Average Cost Pricing.
7. OK to volume discount if passed on to consumer.
8. Negotiated discount \neq thing of value.

9. “Required” use includes avoidance of economic disincentives but not optional bundled and discounted services offered by *settlement service provider*.

HUD Extended Deadline for Comments from May 13 to June 12 with the goal of publishing a final rule by November 1, 2008.

4276 electronic comments include those from:

- » settlement service providers,
- » MBA,
- » other professional and trade associations,
- » FTC and
- » Federal Reserve Board.

And now for the rest of the story . . .