



January 7, 2010

**Richard Ivar Rydstrom, Chairman CMIS
Coalition for Mortgage Industry Solutions**

www.CMISMortgageCoalition.Org

info@CMISMortgageCoalition.org

New RESPA, TILA (Reg. Z), and the Protecting Tenants at Foreclosure Act Rules

There are numerous unanswered questions regarding the new HUD-1 Good Faith Estimate (GFE) form, which are likely to take several months to filter out. If HUD holds true to its promises of restraint on enforcement, then an orderly transition may be within the cards. However, if the HAMP program implementation is any indication, getting up to speed on new RESPA policy, rules, guidelines, and implementation, should take some time. With that said, there are numerous industry compliance companies stepping up to the plate with new updated compliance services and software programs. This should speed up compliance greatly. Compared to the HAMP implementation, very few software companies could step up and offer HAMP compliance, and many have not yet released same.

Consumers Point of View: As Chairman of CMIS, I deal with all often diverse and conflicting interests to the mortgage transaction, including those of the consumer. From a consumer's point of view, not only is it expected that the industry will comply with the *new RESPA, TILA (Reg. Z), and the Protecting Tenants at Foreclosure Act* rules, but the new GFE form itself is expected to be in summary (short) form and simple to understand without ambiguities and lurking confusion. The new GFE is much better, but very long in size.

My statement to Congress (going on 3 years now), suggested that we implement truly intelligent disclosures. I opined that the automated GFE (and HUD 1) summary page would be the most useful tool to lessen consumer confusion. It appears the automated summary page got lost in the detail (again). We now have a much better long-form.

To effectively lessen consumer confusion, the GFE, HUD-1 and disclosure forms should be reviewed and refined – one more time – but without delay. We should be able to do this long before May 1, 2010, prior to the promised enforcement start-date. To obtain compliance with the new rules, once the new rules are clarified for the many unknowns, the industry should be able to quickly update its automation for an orderly and speedy implementation. It is not difficult for software to trigger or flag excessive fees or costs

between any (2 or more) numerically known quantities (from the GFE and HUD-1), to determine if either is greater than allowed under RESPA.

Let's take one example of lurking confusion – from the consumer's point of view. The new GFE on page 1 under Escrow account information states:

Some lenders require an escrow account to hold funds for paying property taxes or other property-related charges in addition to your monthly amount owed of \$_____.

Well, that's nice. But is that the escrow dollar amount that the consumer will pay or is it the monthly payment amount without escrow amounts? Well it must be the escrow amount – because why would we restate the monthly payment amount when discussing the escrow amount, and then not disclose the escrow amounts? The consumer would think it's the escrow amounts – wouldn't they?

Then it goes on in part to allow for a No or Yes choice. If YES it states:

Yes, you have an escrow account. It may or may not cover all of these charges.
Ask us.

Ask us? Well, that will only result in more accusations and consumer lawsuits requiring subjective factual testimony on what was said. Reference to #9 on page 2 of the GFE only further complicates a basic understanding of what the escrow charges are. That box states that it is the "Initial deposit for your escrow account." Will someone simply tell the consumer what the slated escrow amounts are – on the front page – in summary form – for a quick and easy review – to avoid more confusion and lawsuits? Doesn't it make more sense to simply have a monthly (mortgage) payment amount box along with the monthly escrow payment amount box resulting in a total monthly payment amount box?

Of course to fix these basics, we have to revisit the process. Well, then revisit the process – but do it now. The industry goals may be in consonance with the consumer's goals, but it would take a short delay and an attempt to reconcile and clarify the new rules and workflow to realize that potential efficiency. ***The new rules will require substantial changes in consumer disclosures, operational and compliance software and workflow.*** It is likely that this will increase costs to the industry. However, if the new rules are refined or reconciled with the potential new workflow, in synergy with the consumer's goals, efficiencies could be found that reduce costs.

///