



FEDERAL RESERVE BANK
OF DALLAS

ROBERT D. McTEER, JR.
PRESIDENT
AND CHIEF EXECUTIVE OFFICER

DALLAS, TEXAS
75265-5906

January 14, 1997

Notice 97-04

TO: The Chief Executive Officer of each
financial institution and others concerned
in the Eleventh Federal Reserve District

SUBJECT

**Amendments to the Truth in Lending and
Real Estate Settlement Procedures Acts**

DETAILS

The Board of Governors of the Federal Reserve System and the Department of Housing and Urban Development are requesting public comment on possible amendments to the Truth in Lending Act (TILA) and Real Estate Settlement Procedures Act (RESPA). Specifically, comment is requested on how to improve and consolidate disclosures given in home mortgage loan transactions subject to both TILA and RESPA.

The Board must receive comments by January 31, 1997. Please address comments to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551. All comments should refer to Docket No. R-0954.

ATTACHMENT

A copy of the Board's notice as it appears on pages 69055-58, Vol. 61, No. 252, of the *Federal Register* dated December 31, 1996, is attached.

MORE INFORMATION

For more information, please contact Eugene Coy at (214) 922-6201. For additional copies of this Bank's notice, please contact the Public Affairs Department at (214) 922-5254.

Sincerely yours,

Robert D. McTeer, Jr.

For additional copies, bankers and others are encouraged to use one of the following toll-free numbers in contacting the Federal Reserve Bank of Dallas: Dallas Office (800) 333-4460; El Paso Branch *Intrastate* (800) 592-1631, *Interstate* (800) 351-1012; Houston Branch *Intrastate* (800) 392-4162, *Interstate* (800) 221-0363; San Antonio Branch *Intrastate* (800) 292-5810.

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

12 CFR Part 226

[Regulation Z; Docket No. R-0954]

24 CFR Part 3500

[Regulation X; Docket No. FR-4184-P-01]

RIN 2502-AG86

**Advance Notice of Proposed
Rulemaking on Improvement of
Disclosures Under the Real Estate
Settlement Procedures Act and the
Truth in Lending Act**

AGENCIES: Office of the Assistant Secretary for Housing—Federal Housing Commissioner (HUD); Board of Governors of the Federal Reserve System (the Board) (collectively, the agencies).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This notice is issued jointly by HUD and the Board to initiate fact finding that will assist the agencies in revising disclosures to consumers under the Real Estate Settlement Procedures Act (RESPA) and the Truth in Lending Act (TILA). The Economic Growth and Regulatory Paperwork Reduction Act of 1996 requires the agencies to simplify and improve these disclosures where possible, and to provide a single format satisfying the requirements of RESPA and TILA. To ensure that these disclosures meet the consumer protection goals of the statutes with minimal compliance burdens, HUD and the Board are soliciting comments from the public on what specific regulatory or legislative changes might achieve these goals. Following the consideration of the public comments and the agencies own reviews, HUD and the Board plan to publish proposed amendments to their respective regulations, as appropriate, by March 1997.

DATES: Comments are due January 30, 1997.

ADDRESSES: Comments regarding this advance notice of proposed rulemaking may be sent to either agency.

HUD: Comments to HUD should be addressed to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-0500.

Communications should refer to the above docket number and title.

Facsimile (FAX) comments are not acceptable. A copy of comments received will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

Board: Comments to the Board should refer to Docket No. R-0954, and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551. Comments also may be delivered to Room B-2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard on 20th Street, N.W. (between Constitution Avenue and C Street) at any time. When possible, comment letters should use a standard Courier typeface with a type size of 10 or 12 characters per inch. This will enable the Board to convert the text into machine-readable form through electronic scanning, and will facilitate automated retrieval of comments for review. Also, if accompanied by an original document in paper form, comments may be submitted on 3½ inch or 5¼ inch

computer diskettes in any IBM-compatible DOS-based format. Comments received will be available for inspection in Room MP-500 of the Martin Building between 9:00 a.m. and 5:00 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding availability of information.

FOR FURTHER INFORMATION CONTACT:

HUD: David R. Williamson, Director, Office of Consumer and Regulatory Affairs, Room 9146, telephone (202) 708-4560; or for legal questions, Kenneth A. Markison, Assistant General Counsel for GSE/RESPA, Grant E. Mitchell, Senior Attorney for RESPA, or Rodrigo J. Alba, Attorney, Office of General Counsel, Room 9262, telephone (202) 708-1550. For hearing- and speech-impaired persons, these numbers may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1-800-877-8339. The address for the above-listed persons is: Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, DC 20410.

Board: Sheilah A. Goodman or Manley Williams, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452-3667 or (202) 452-2412; for the hearing impaired only, Dorothea Thompson, Telecommunications Device for the Deaf, at (202) 452-3544. The telephone numbers for the agencies are not toll-free.

SUPPLEMENTARY INFORMATION:

I. Background

On September 30, 1996, the President approved the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (Title II of the Omnibus Consolidated Appropriations Act, 1997) (Pub. L. 104-208, 110 Stat. 3009) (the 1996 Act). Section 2101 of the 1996 Act requires the Board and HUD to simplify and improve the disclosures given in a mortgage transaction subject to TILA and RESPA, and to create a single disclosure that will satisfy the requirements of both statutes. The 1996 Act imposes a six-month deadline for the publication of any proposed regulations necessary to carry out the required changes within the context of the existing statutes. If legislation is necessary to accomplish the purpose of section 2101, the Board and HUD are required to submit legislative recommendations to the Congress.

A. The Real Estate Settlement Procedures Act

The Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 *et seq.*) was

enacted in large measure to ensure that the home-buying public is afforded timely and effective information about costs of settlement in mortgage transactions. To achieve this goal, RESPA mandates disclosures at various points in the home financing process for transactions involving "federally related mortgage loans," which include most financial transactions creating a lien on owner-occupied residential structures. RESPA is implemented by HUD's Regulation X (24 CFR part 3500).

Section 5 of RESPA (12 U.S.C. 2604) and §§ 3500.6 and 3500.7 of Regulation X, require that no later than three days after loan application, potential borrowers be provided with a Special Information Booklet and a good faith estimate of charges that they are likely to incur in connection with the settlement. If the lender requires the use of a particular settlement service provider and imposes any part of the cost on the borrower, the lender must provide an additional disclosure informing the borrower of the required use and identifying the designated provider and its relationship to the lender, along with an estimate of the charges imposed by the provider.

Section 6 of RESPA (12 U.S.C. 2605) requires that borrowers be provided with disclosures regarding the possibility of mortgage servicing transfers. These disclosure requirements are subject to the same delivery requirements as the good faith estimate.

Section 4 of RESPA (12 U.S.C. 2603) and § 3500.8 of Regulation X provide that, at or before closing, the borrower must receive a HUD-prescribed settlement statement, the HUD-1 form, or in transactions where there is no seller (refinancings, home equity loans and lines of credit), either the HUD-1 or the HUD-1A form. Under section 4, the forms must itemize all costs imposed on the borrower and the seller in connection with the settlement. Under § 3500.10 of Regulation X, the person conducting the settlement must, if requested, provide the borrower with a preliminary settlement statement one day prior to settlement.

Section 8 of RESPA (12 U.S.C. 2607) and § 3500.15 of Regulation X set forth additional disclosure requirements for referrals among related business entities. Specifically, RESPA creates an exemption providing that referrals to affiliates do not violate section 8 so long as certain conditions are satisfied. This provision's disclosure component provides that the business arrangement must be disclosed and a written estimate of the charges or range of charges generally made by the provider

must be supplied to the person being referred.

For purposes of this fact finding effort, the agencies are focusing on those disclosures for which consolidation between RESPA and TILA is possible. RESPA and Regulation X impose other disclosure requirements in the mortgage finance process, including initial and annual escrow account statements (12 U.S.C. 2609(c); 24 CFR 3500.17(g)-(i)) and notice of transfer of servicing (12 U.S.C. 2605(b); 24 CFR 3500.21(d)). Since these two areas of RESPA do not seem amenable to consolidation, however, the agencies do not contemplate any joint action regarding them at this time.

B. The Truth in Lending Act

The purpose of the Truth in Lending Act (TILA) (15 U.S.C. 1601 *et seq.*) is to promote the informed use of consumer credit by requiring disclosures about credit terms and costs. The TILA requires creditors to disclose the cost of credit as a dollar amount (the finance charge) and as an annual percentage rate (the APR). Uniformity in creditors' disclosures is intended to assist consumers in comparison shopping. The TILA requires additional disclosures for a loan secured by a consumer's home and permits consumers to rescind certain transactions that involve their principal dwelling. The act is implemented by the

Board's Regulation Z (12 CFR part 226). An official staff commentary interprets the regulation.

The disclosure rules that creditors must follow depend upon the type of credit the creditor is offering. For example, Subpart B of Regulation Z (§§ 226.5 through 226.16) concerns open-end credit, such as home equity lines of credit. Subpart C (§§ 226.17 through 226.24), sets forth the provisions for closed-end credit, including purchase-money and refinance mortgage transactions.

Section 226.5a sets forth general disclosure requirements for home equity lines of credit, including format and timing rules. Section 226.17 contains the general disclosure requirements for closed-end credit, including format and timing rules. Section 226.18 provides the specific disclosures that must be given in all closed-end credit transactions, such as the APR, finance charge, and payment schedule. Section 226.19 provides that in purchase-money mortgage transactions subject to RESPA, good faith estimates of the disclosures required under § 226.18 must be provided within three days of application. That section also describes the special disclosures required for variable-rate transactions secured by the consumer's principal dwelling.

Disclosure requirements for assumptions, refinancings, and variable-

rate adjustments are set forth in § 226.20. The requirements for transactions subject to the right of rescission appear in § 226.23. The agencies are focusing only on those disclosures where consolidation seems possible. Since the disclosures related to variable-rate adjustments and the right of rescission do not seem to be ones which could be consolidated, the Board does not contemplate any changes to these disclosures at this time.

Subpart E (§§ 226.31 through 226.33) contains the disclosure requirements for particular types of home mortgage transactions. Section 226.31 sets forth general disclosure requirements for these transactions, including format and timing rules. Section 226.32 contains the disclosure requirements for certain closed-end home mortgages with an annual percentage rate or points and fees above a certain level. Section 226.33 sets out the disclosure requirements for reverse mortgages.

II. The Simplification Process

HUD and the Board have begun a review of Regulations X and Z to simplify, improve, and unify the disclosure requirements under RESPA and TILA as those statutes currently exist. The following table illustrates certain disclosures that may be relevant to this simplification process—most of which are mandated by the statutes.

Timing	TILA 12 CFR 226	RESPA 24 CFR 3500
At or before referral	Affiliated business arrangement disclosure (3500.15).
At or before application	Home equity line of credit booklet and disclosure (226.5a). Adjustable rate booklet and disclosure (226.19b).	
Within three days of application	TILA disclosure (including APR and finance charge) (226.19a).	Special information booklet (3500.6). Good faith estimate (3500.7). Required providers (3500.7). Initial transfer of servicing disclosure (3500.21).
Three days before closing/consummation.	Section 32 disclosures (226.32). Reverse mortgage disclosures (226.33).	
One day before closing/consummation.	Right to inspect HUD-1 or HUD-1A (3500.10).
At closing/consummation	TILA disclosure (226.18) Rescission notice (226.23)	HUD-1 or HUD-1A (3500.8). Initial escrow account statement (within 45 days of closing) (3500.17).

A. Past Efforts

During the past several years, the agencies have been actively working together to try to ensure that TILA and RESPA regulations are as consistent as possible. Much of this was addressed in 1994 by HUD when it amended Regulation X to cover subordinate lien loans, and subsequently by the Board in updates to the Regulation Z

commentary. For example, the regulations now use similar definitions for the terms "assumption," "refinance," "business day," and "business purpose."

Where possible, the agencies also have worked to streamline disclosure requirements. For example, Regulation Z permits creditors to substitute both the good faith estimate and the

settlement statement required under RESPA for the itemization of the "amount financed" under TILA. Similarly, Regulation X permits Regulation Z's disclosure for home equity lines of credit to substitute for RESPA disclosures.

Where the requirements of the statutes do not overlap but are related, the agencies have provided guidance on

compliance issues. For example, the Regulation Z commentary has been revised to avoid conflict between the RESPA escrow accounting rules and TILA's rules on calculating prepaid finance charges, such as private mortgage insurance.

HUD and the Board recognize that this revision process requires a careful balancing of competing interests. Consumers need timely and accurate information in order to make decisions, but too much information may confuse or intimidate the consumer, and thus may be counterproductive. Creditors need clear and workable rules that do not unnecessarily drive up compliance costs, which could lead to higher settlement costs for consumers. Therefore, the benefits of improvements to the regulations will be weighed against the cost of implementing and complying with those changes.

B. Issues for Comment

HUD and the Board request public comment on specific ways to simplify and improve the present disclosure scheme. To the extent possible, comments should be clearly separated into two parts: (1) Those that entail regulatory changes within the existing statutory framework, and (2) Those that require legislative change. The agencies request:

1. Specific recommendations on how disclosures presently required under RESPA and TILA can be made more consistent (including how the disclosures can be combined, simplified, or improved); and how the timing and format of such disclosures can be made more compatible.

2. Recommendations about ways to enhance the educational value for consumers of any of the present disclosures, including suggestions as to alternative methods of disclosure.

3. Any reports, documents, articles or other material that will assist the agencies in the present task.

After consideration of the public comments on this advance notice of proposed rulemaking and the agencies own review, HUD and the Board will coordinate the publication of proposed amendments to their regulations to simplify and improve the present disclosure scheme, to the extent that the current statutory framework permits. Subsequently, the agencies also may submit recommendations to the Congress for legislative changes necessary to improve disclosure requirements.

By order of the Board of Governors of the Federal Reserve System, December 26, 1996.

William W. Wiles,

Secretary of the Board.

Dated: December 23, 1996.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 96-33299 Filed 12-30-96; 8:45 am]

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