March 18, 2015

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Dear Director Cordray:

The undersigned trade associations and organizations thank the Bureau for its work on the TILA-RESPA Integrated Disclosure (TRID) regulation and encourage the Bureau to provide needed assistance in the form of authoritative written guidance to complete implementation. We also urge the Bureau to announce and implement a "restrained enforcement and liability" or "grace period" for those seeking to comply in good faith after August 1 through the end of 2015. These steps will help ease the burden on consumers from unanticipated obstacles to successful implementation of the TRID regulation.

We appreciated your statement during your recent appearance before the House Financial Services Committee to the effect that effective implementation of the regulation by the industry is essential to serve consumers. We also appreciate the Bureau's support to date through webinars, compliance guides and especially your staff's participation in industry educational efforts.

There are, however, situations – such as what will occur if a closing cannot go forward on schedule because of occurrences outside the control of the parties – that are not addressed by the regulation which still require additional guidance. We would like to use this grace period to identify pain points with stakeholders and then meet with Bureau staff to address these issues and allow the CFPB time to provide additional written guidance.

An additional area of uncertainty is the scope and effect of RESPA's and TILA's liability provisions given the integration of the two sets of disclosures. There is considerable concern about which laws' remedies are effective under particular circumstances and the extent which they affect non-creditors. The result is that industry assumes the more stringent liability will apply to most every instance even if that is not the intent of the law or the Bureau. For this reason, clarification in this area will avoid undue confusion, frustration and costs for consumers.

Even with twenty-one months to prepare for these changes, understanding how to properly implement and comply with this uniquely complex regulation will not become clear until guidance is provided and stakeholders have experience using these new forms and processes. While you have indicated that the CFPB would not act unreasonably on August 2, there is no opportunity under this regulation to comply early, which means that industry will not be able to test systems, in real-time, in real circumstances, until after August 1. That is why we encourage the Bureau to announce and implement a “restrained enforcement and liability” or “grace period” for those seeking to comply in good faith following the provision of guidance after August 1 through the end of 2015.

We urge the Bureau to take necessary regulatory action to require that the forms and rules be followed in good faith on and after August 1 with enforcement beginning on January 1. Industry would still be required to use the new forms and processes during this period so there would be no delay in implementation. Instead it would give both industry and the Bureau a chance to see what actually works and what might need fine tuning or further clarification without costly disruptions to consumers during peak transaction months. This enforcement and liability “grace period” “should be coordinated with other Federal and state banking regulators.

A restrained enforcement period is not without precedent. The Department of Housing and Urban Development (HUD) took a similar approach when it revised the RESPA disclosures in 2010. In that effort, HUD encouraged industry to provide feedback on the new disclosures by announcing it would not conduct enforcement actions against companies that tried to comply in good faith. Moreover, in the case at hand, it is important for the Bureau to restrain both enforcement <u>and</u> liability during the grace period for those acting in good faith since liability is as big or an even a larger concern than enforcement. Enforcement restraint will make the grace period much more useful. Consumers who buy homes or refinance mortgages should not have to bear undue burdens from complex rules and forms that have not been tested under real-life conditions as industry feels its way through these new regulations.

We appreciate your consideration of these recommendations, and welcome the opportunity to meet with you or your staff to discuss them. We look forward to continuing to work closely with the Bureau to ensure a successful implementation of this important regulation.

Sincerely,

American Bankers Association
American Escrow Association
American Land Title Association
Center for Responsible Lending
Community Mortgage Lenders of America
Credit Union National Association
Housing Policy Council of Financial Services Roundtable

Independent Community Bankers of America
Leading Builders of America
Mortgage Bankers Association
National Association of Federal Credit Unions
National Association of Home Builders
National Association of Mortgage Brokers
National Association of REALTORS®
The Realty Alliance
RESPRO