

Advocacy Requests Consideration of Additional Costs and Alternatives in the Department of Housing and Urban Development's Proposed Rule on the Real Estate Settlement Procedures Act (RESPA)

On June 11, 2008, the U.S. Small Business Administration's Office of Advocacy (Advocacy) filed comments on the Department of Housing and Urban Development's (HUD) proposed regulations on the *Real Estate Settlement Procedures Act (RESPA): Proposed Rule to Simplify and Improve the Process of Obtaining Mortgages and Reduce Consumer Settlement Costs*. A copy of Advocacy's comments can be found at: www.sba.gov/advo/laws/comments.

- The purpose of the proposed rule is to simplify and improve the disclosure requirements for mortgage settlement costs under the Real Estate Settlement Procedures Act of 1974 (RESPA), to protect consumers from unnecessarily high settlement costs. The proposal endeavours to: 1) improve the Good Faith Estimate (GFE) form to make it easier to shop for settlement service providers; 2) ensure that page one of the GFE provides a clear summary of the loan terms and total settlement charges; 3) provide accurate estimates of costs of settlement services; 4) improve disclosure of yield spread premiums; 5) facilitate comparison of the GFE and the HUD-1/HUD-1A Settlement Statements; 6) ensure that at settlement, borrowers are aware of final loan terms and settlement costs, by reading and providing a copy of a "closing script" to borrowers; 7) clarify HUD-1 instructions; 8) clarify HUD's current regulations concerning discounts; and 9) expressly state when RESPA permits certain pricing mechanisms that benefit consumers, including average cost pricing and discounts, including volume based discounts.
- Advocacy commented that although the agency put forth a significant amount of effort in its initial regulatory flexibility analysis (IRFA) the agency may have underestimated the economic impact on small businesses as required by the Regulatory Flexibility Act (RFA).
- Advocacy suggested that HUD create a GFE that mirrors the HUD-1 to prevent consumer confusion and clarify the language on tolerances. Advocacy also suggested that HUD eliminate the closing script from the proposal, reconsider volume discounts, and the yield spread premium disclosure.
- Advocacy further requested a delayed implementation period for small entities, if HUD decides to go forward with the proposal.

For more information, visit Advocacy's webpage at www.sba.gov/advo or contact Jennifer Smith at 202-205-6943.