

September 5, 2012

Adam Rust
Director of Research
Reinvestment Partners
110 E. Geer St.
Durham, NC 27701

Brenda Y. Muñiz
Office of Community Affairs
Consumer Financial Protection Bureau
Bureau of Consumer Financial Protection
1700 "G" St., NW
Washington, DC 20006

RE: RIN 3170-AA19

"Integrated Mortgage Disclosures under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z)"

Dear Sirs:

I contest the decision in this proposed rule to exclude personal property loans which finance a mobile home not classified as real property.

These are loans made for residential real estate. RESPA is meant to cover loans made for residential real estate.

The logic that supported the original creation of RESPA and TILA – that enhanced disclosures on home loans could protect consumers – is without a doubt applicable for these loans. In practice, this opinion should be undergirded by empirical evidence. Chattel loans are more often utilized by members of protected classes. There are numerous problems with the process of lending in the market. In many cases, the seller of a home is held within the same corporate umbrella as the entity that finances the purchase of the home. The possibility for abuse is great. Consumers will benefit with an item-by-item disclosure of their financing costs.

Reinvestment Partners is a 501 © 3 organization located in Durham, North Carolina with a mission of bringing economic justice to underserved households. I am the author of *"This is My Home: The Challenges and Opportunities of Manufactured Housing."* Since 2010, I have served on Manufactured Housing Consensus Committee. The MHCC is an advisory committee to the Department of Housing and Urban Development with a responsibility to advance policy changes to the HUD Code.

About the Marketplace for Chattel Financing

This approach, if enacted, means that a significant portion of American home buyers will be denied an important consumer protection. Manufactured housing is not a small portion of our nation's housing stock. The most recent Census determined that more than 8 million households were sheltered in a mobile home not classified as real property. In North Carolina – the home state of our organization – one in six households lives in a mobile home.

These households constitute a group that is traditionally underserved by credit markets. They skew towards the lower half of the income spectrum and often come from areas where financing for site built homes is not as available.

Many households choose to buy a new manufactured home because of a lack of better options. Rural low-income communities tend to be overlooked by homebuilders. Existing housing stock tends to be much older and more often in need of repairs. A manufactured home is the most affordable avenue to a new home.

Manufactured homes are rarely mobile. Once delivered to a lot, 99 percent stay in the original location for the remainder of their lifespan (West, 2006).

Redefining RESPA Coverage

The real property designation itself is poorly suited. Although the majority of new homes shipped today are put on land owned by the borrower, fewer are subsequently titled as real property. In 2008, seventy-five percent of manufactured homes were sited on private property but only 28 percent were legally characterized as real property. (US Census Bureau, 2008). Often the value of the land relative to the value of the property is so much greater that there is little sense in attaching one to the other. When a person owns five or ten acres outright they are logically hesitant to attach a lien to it for a loan of forty or fifty thousand dollars.

There are two possible means of re-evaluating the proposed rule:

- Provide RESPA coverage when a chattel loan borrower is the same person as the owner of the land where the home is sited.
- Provide RESPA coverage when a home titled as personal property is intended to serve as a personal residence. This would exclude homes titled as personal property but used for other purposes than shelter: as mobile offices, as school classrooms, or as recreational shelters.

The need for a RESPA disclosure can be discarded when the home is not purchased with the intent of being used as a residence. The preferable principle for evaluating the coverage of RESPA should be that loans (mortgages and chattel) must finance structures used as a residence.

There is Demonstrated Need for RESPA Protection

RESPA provides a discrete and transparent system for disclosure of the cost of housing finance. The HUD-1 statement mandates that specific fees and terms of a loan are disclosed on a line-by-line basis to the borrower. The Department of Housing and Urban Development estimates that RESPA disclosures

save borrowers an average of \$700 – either because the system enhances the ability of consumers to compare loan offers or because the transparency prevents lenders from affixing hidden fees inside a loan.

None of these protections are in play for chattel loans. The empirical evidence suggests that borrowers are paying substantially more for their financing. While RESPA coverage would not bring down the ultimate cost of borrowing to a rate that is equivalent to that for real property, it would most likely have some effect. HMDA data reports that the majority of loans that finance manufactured housing exceed the threshold for the definition of high-cost. Many are labeled as HOEPA loans.

The nature of the transaction makes it very difficult for borrowers to understand their costs. Often home sellers simultaneously provide financing. In some instances, the two functions are performed by the same person. This allows the classic t-square financing procedure. In the t-square, the interdependence of pricing on four factors: the cost of the home, additional features, the interest rate, and the origination fees – allow the seller to add opacity to pricing. If the buyer negotiates for a lower price, then the seller/financer can negotiate for a higher interest rate or a larger set of financing fees.

The end result is that many buyers shop on the basis of monthly payment. With better disclosures, many of these practices would be eliminated in the market place.

Conclusion

I hope that you will reconsider the intended plan to exclude chattel loans from RESPA requirements.

Sincerely,

Adam Rust
adam@reinvestmentpartners.org
(919) 667-1000