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April 29, 2002

Mr. Wayne Eddins  
Reports Management Officer  
Department of Housing and Urban Development  
451 7<sup>th</sup> Street, SW  
L'Enfant Plaza Building, Room 8001  
Washington, DC 20410

Attention: Docket No. FR-4739-N- 04

Re: Notice of Proposed Information Collection: Comment Request; Real Estate Settlement Procedures Act (RESPA) Disclosures; 67 Federal Register 9315, February 28, 2002

Dear Mr. Eddins:

The American Bankers Association ("ABA") is pleased to respond to the Department of Housing and Urban Development's ("HUD") notice of public comment regarding its information collection requirement. This requirement relates to the disclosures required by HUD under the Real Estate Settlement Procedures Act ("RESPA").

The American Bankers Association brings together all categories of banking institutions to best represent the interests of this rapidly changing industry. Its membership--which includes community, regional and money center banks and holding companies, as well as savings associations, trust companies and savings banks--makes ABA the largest banking trade association in the country.

#### Background

HUD has initiated this request for public comment on this information collection requirement under RESPA in response to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended) in cooperation with the Office of Management and Budget. This request is designed to "(1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency...; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; ...".

As implemented by HUD in Regulation X, RESPA requires extensive information collection procedures through the multiple and often complex disclosures under

this statute. As identified in HUD's request for comment, these include the Good Faith Estimate, the Mortgage Servicing Disclosure, the HUD-1 or HUD-1A, various escrow account statements and disclosures, an Affiliated Business Arrangement Disclosure Statement and acknowledgement, various mortgage servicing transfer disclosures and the HUD Special Information Booklet. These disclosures, booklets and forms create a significant compliance burden for banks, other mortgage lenders and others involved in the settlement service process. These requirements under RESPA are not the totality of the information collection process. As examples, RESPA's disclosures, booklets and forms are joined by disclosures and forms mandated by the Flood Disaster Protection Act, as amended, along with various forms mandated by state and municipal jurisdictions.

### ABA Position

In this request for comment notice, HUD estimates that the total number of hours to prepare the above information is 6,500,000 based on some 20,000 respondents generating 105,300,000 responses annually. In order for the ABA to analyze the accuracy of HUD's estimates, it would be helpful to know the basis of HUD's methodology used to arrive at these numbers. This information is not provided as a component of this request for comment.

The ABA estimates there are 12 million mortgage loans brought to closing per year. This does not include instances in which mortgage applications do not result in closed loans but at least generate the Good Faith Estimate, among other RESPA disclosures and forms. This "applications without closed mortgage loans" figure is an important factor in determining the total number of annual responses. It might well be that the 105,300,000 responses per year is a conservative estimate. Also, HUD employs a very conservative estimate of from 2 minutes to 15 minutes to complete each response. It would seem that 15 minutes to successfully complete a HUD-1 in all its detail is an unrealistic estimation. The ABA believes HUD's person hours estimate is much below the actual time needed to prepare the various RESPA responses in their totality. As an example, 12,000,000 mortgage loans when multiplied by at least three responses per loan such as the Good Faith Estimate, Mortgage Servicing Disclosure and HUD-1 or HUD-1A would result in 36,000,000 responses which would probably average at least 15 minutes per response. This results in 9,000,000 person hours, a 38% increase in HUD's estimate. Thus, the regulatory burden imposed on banks, other mortgage lenders and settlement service providers in generating these RESPA disclosures, booklets and forms is significant and should be reflected in HUD's efforts to work with the mortgage lending community to reduce such burden.

In terms of reducing this RESPA information collection burden, the ABA urges HUD to address two aspects of Regulation X which will help meet this objective. Such action can be accomplished in the near term without affecting the flow of essential settlement service information to the public or impeding HUD's efforts to accomplish overall mortgage reform.

Title II of the Department of Defense appropriations bill for Fiscal Year 1997 (P.L. 104-208) addressed several modifications to the then existing law designed to reduce regulatory burden. The Economic Growth and Regulatory Paperwork Reduction Act of 1996 (“EGRPRA”) included a subtitle designated “Streamlining the Home Mortgage Lending Process”. In Section 2103 of this subtitle, Congress reduced the information collection burden in the mortgage servicing disclosure statement by eliminating the requirement for identifying by percentage the historic context of a bank’s assignment, sale or transfer of mortgage servicing and projection as to the likelihood of such assignment, sale or transfer in the future. Also, in effect, Congress eliminated the requirement of the customer’s signed acknowledgement of his or her receipt of this mortgage servicing disclosure and the retention of this acknowledgement in the customer’s mortgage loan file.

In May 1997 HUD issued a proposed rule addressing a number of RESPA initiatives. HUD included in this proposal language implementing the mortgage servicing transfer section of EGRPRA. In ABA’s July 8, 1997 letter to HUD in response to this proposal, the ABA indicated that it fully supported the inclusion of these mortgage servicing disclosure modifications in EGRPRA and its implementation in Regulation X.

Unfortunately, HUD has never finalized this aspect of the proposed rule. The ABA urges HUD to take such action as quickly as possible to bring the mortgage servicing transfer section of Regulation X in full conformance with the statute.

The second aspect of Regulation X in which HUD can minimize the information collection burden relates to the Affiliated Business Arrangement Disclosure Statement (“AfBA”). In particular, HUD incorporates in the AfBA as exemplified in Appendix D of Regulation X a requirement for a signed acknowledgement by the customer that he or she has received, read and understood the AfBA. RESPA and Regulation X do not specifically mandate such a written acknowledgement.

The ABA urges HUD to eliminate this requirement since it is unsupported by law or regulation. Such written acknowledgement should not be mandated but should be a matter of business practice. Banks, other lenders and other settlement service providers can decide for themselves whether such a written acknowledgement makes business and customer relations sense. There are other systems for monitoring disclosure that ensure compliance with the law. A written acknowledgement in the context of this disclosure should be optional. The ABA did not support a mandatory written AfBA acknowledgement in previous letters to HUD on this issue and urges HUD’s elimination of this requirement.

### Conclusion

The ABA believes that HUD has underestimated the information collection burden imposed by RESPA and Regulation X and that such burden is much greater in terms of person hours and financial costs. The ABA urges HUD to reduce this burden by implementing the statutory language reducing the mortgage

servicing transfer disclosure requirements and by eliminating the AfBA written acknowledgement as a mandatory requirement.

If you have additional questions or need additional information, please do not hesitate to contact the undersigned at 202-663-5333.

Sincerely

A handwritten signature in black ink that reads "John C. Rasmus". The signature is written in a cursive style with a large, stylized initial "J".

John C. Rasmus