NATIONAL ASSOCIATION OF REALTORS®

August 2, 2024

Honorable Rohit Chopra
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Dear Director Chopra:

On behalf of the 1.5 million members of the National Association of REALTORS® (NAR), we submit this letter in response to the *Request for Information Regarding Fees Imposed in Residential Mortgage Transactions*. NAR appreciates the work the Consumer Financial Protection Bureau (CFPB) is doing to reduce the affordability burden on consumers. While some fees have merit, others could be refined to better support consumers and the market.

By way of background, the National Association of REALTORS® is America's largest trade association, including NAR's five commercial real estate institutes and its societies and councils. REALTORS® are involved in all aspects of the residential and commercial real estate industries and belong to one or more of some 1,200 local associations or boards, and 54 state and territory associations of REALTORS®. NAR represents a wide variety of housing industry professionals, including approximately 25,000 licensed and certified appraisers, committed to the development and preservation of the nation's housing stock, along with its availability to the widest range of potential homebuyers.

Homeownership is a central part of the fabric of the American Dream. Unfortunately, the country is facing a historic housing affordability challenge. Housing prices rose steadily in recent years, driven by a shortage of supply, and reached another record high in June with the median home sale price coming in at $426,900.[1] A near doubling of mortgage rates since 2020 has compounded the affordability challenge. This challenge is forcing consumers, regulators, and industry to find ways to reduce costs and improve affordability.

FICO Scores and Price Competition

The availability of mortgage credit at a fair and reasonable cost is central to the home purchase transaction and for the businesses of REALTORS®. Critical to the extension of credit is the credit score. REALTORS® see firsthand the negative impacts on consumers who are buying, selling, leasing, or renting properties

[1] "Existing-Home Sales Edged Lower by 0.7% in May as Median Sales Price Reached Record High of $419,300" https://www.nar.realtor/newsroom/existing-home-sales-edged-lower-by-0-7-in-may-as-median-sales-price-reached-record-high-of-419300

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when flawed or lacking credit scores make it hard or impossible for their clients to purchase homes. REALTORS® view competition as critical to the adoption of innovations in credit scoring that will meet the expanding needs of American homeowners and option three under the request for input best satisfies this need.

Competition also aids price discovery for goods including the appropriate cost of a credit report. A recent report[2] produced by the Community Home Lenders of America (CHLA) outlines how in 2023, the Fair Isaac Corporation (FICO) implemented a new pricing structure with regressive fee schedule, where mid-sized and smallest lenders saw the largest increases. This change applied to both hard and soft credit pulls. A second rate change was implemented in 2024 culminating in a 500% increase over the two-year period according to the CHLA.

These changes were implemented while FICO faced little competition to its score in the conventional mortgage finance space. The Federal Housing Finance Agency has implemented a framework for Fannie Mae and Freddie Mac to vet and adopt new credit scoring models, but no new score has yet been adopted by Fannie Mae or Freddie Mac. This lack of competition for FICO is concerning in light of its ability to implement such drastic fee hikes, which are likely born by consumers. Therefore, we encourage the CFPB to promote alternative credit scoring models and providers to increase competition and accuracy in the marketplace, which will lower costs for consumers and lenders.

Transparency in Third-Party Party Appraisal Fees

When appraisal fees are listed in the closing disclosure (CD), fees for third-party party appraisal management companies (AMCs) are bundled with them. This development came about because Congress gave the regulators leeway in determining how this field was constructed.[3] Thus, the figure reported in the CD is an amalgam that masks the true cost of the appraisal and third-party fees paid by consumers. Worse, the opaque nature of the true appraisal fee prevents competition in the appraisal industry and inhibits regulators, analysts, and consumers' ability to evaluate price discovery for appraisal and AMC services. This opacity opens the door to an adverse selection issue where AMCs may provide low quality or poorly matched appraisers without a market or regulatory mechanism to correct it. It also confounds the ability of regulators and the industry to determine whether appraisers' compensation is reasonable, and customary as required under the §1026.42, the Valuation Independence Law.[4]

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[2] CHLA White Paper on Mortgage Credit Score Markets and Pricing: How to Ensure the Market Remains Fair to All Borrowers. January 2024. pp. 16

[3] See the use of the word "may" in Section 1475 of the Dodd-Frank Wall Street Reform Act. SEC. 1475. "The standard form described in subsection (a) *may* include, in the case of an appraisal coordinated by an appraisal management company…". https://www.congress.gov/111/plaws/publ203/PLAW-111publ203.pdf

[4] https://www.consumerfinance.gov/rules-policy/regulations/1026/42/

REALTORS® believe that for regulatory oversight and enforcement purposes, transparency, and market efficiency, fees charged by AMCs should be identified separately from those charged by appraisers. To this end, REALTORS® urge the CFPB to amend the current structure of the CD to mandate that lenders stipulate separate line item for the appraisal fee and AMC fee. Furthermore, the CFPB should collect information on appraisals and AMCs fees for research and reporting to the public.

3% Cap on Points and Fees
The Dodd-Frank Ability to Repay/Qualified Mortgage (QM) rule discriminates against various business models including lenders affiliated with real estate companies. Specifically, for a mortgage to be a QM and receive safe harbor protections, the mortgage's fees and points cannot exceed three percent of the loan amount. However, mortgage bankers, mortgage brokers, and affiliated companies are required to count more items towards fees and points than large retail financial institutions. The services may include title or settlement. This stipulation puts these smaller affiliated firms at a competitive disadvantage, reduces competition and price discovery, and undermines affiliates' ability to bundle fees in order to reduce costs for consumers.

NAR previously cited survey work by Harris Interactive[5] that demonstrated consumers' preference for bundled services from affiliated lenders. In addition, the CFPB recently published research[6] that found consumers pay more when fees are listed separately, verifying the benefit of bundling fees for consumers. We appreciate the CFPB's efforts to this end and call on all parties to work towards legislation to amend the Dodd-Frank law's statutory language so that the QM may be amended to benefit consumers through competition.

Other Related Settlement Fees in Real Estate Transactions
Along with the general increase in the costs of goods and services in recent years, the cost for services associated with real estate transactions have also increased. For example, other costs related settlement fees such as title insurance and search fees, inspection fees, notarization, recording fees, and taxes have increased, but they are associated with real estate transactions and an integral part of the process. Furthermore, certain transactions costs may vary based upon location, property type, and other substantive factors. However, the CFPB should continue to promote education on real estate transaction costs and should encourage consumers to understand how to compare services and costs.

Conclusion
We thank you again for your commitment and attention to addressing competition and costs for origination fees and settlement services. Given the

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[5] NAR statement for the hearing, "Examining how the Dodd-Frank Act Hampers Home Ownership". 2013. https://financialservices.house.gov/uploadedfiles/hhrg-113-ba15-wstate-gthomas-20130618.pdf
[6] Dustin Beckett. *Price Complexity in Laboratory Markets*. Consumer Financial Protection Bureau. April 30, 2024

historic affordability challenges facing the market and headwinds to mortgage rates, addressing areas of inefficiencies in the system while preserving those with merit will help consumers over the long term. The CFPB's reform efforts will play a vital role in this effort, and we thank you for your strong commitment. Together, we can all make a difference. If you have any questions or comments, please feel free to reach out to Ken Fears, NAR's Director of Conventional Finance and Valuation Policy, at KFears@NAR.Realtor.

Sincerely,

Kevin M Sears

Kevin Sears
2024 President
National Association of REALTORS ®