



August 2, 2024

VIA E-MAIL ONLY

Comment Intake
Residential Mortgage Fees Assessment
Docket No. CFPB–2024–0021
Consumer Financial Protection Bureau,
1700 G Street NW,
Washington, DC 20552

RE: Request for Information Regarding Fees Imposed in Residential Mortgage Transactions; Docket No. CFPB–2024–0021

To Whom It May Concern,

The Wisconsin Bankers Association (WBA) is the largest financial trade association in Wisconsin, representing nearly 200 state and nationally chartered banks, savings banks, and savings and loan associations of all sizes located in Wisconsin, their branches, and over 30,000 employees. WBA appreciates the opportunity to comment on the Consumer Financial Protection Bureau’s (CFPB) request for information regarding fees charged by providers of mortgages and related settlement services (request).

The request seeks input on the impact closing costs have on borrowers and the mortgage market, including the degree to which they add overall costs or otherwise cause borrower harm, and any impact such fees may have on the ability to purchase a home, anticipate and afford monthly payments, or refinance an existing mortgage. CFPB predicates the request on the concern that complex sets of fees may result in borrowers paying more, pointing to recent studies performed by CFPB, and observes that closing costs, and particularly the costs the lender imposes on the borrower as part of the cost of getting the loan, have recently risen sharply, citing to a March 08, 2024 blog post stating that “junk fees are driving up housing costs” and soliciting comments from borrowers.¹

This blog post is one of many, by which CFPB has undertaken an initiative targeting what it categorizes as junk fees charged by banks. This campaign has included characterizing various fees and practices as junk fees through blogs, circulars, advisory opinions, and public speeches, including the post cited within the request. WBA appreciates CFPB’s interest in ensuring affordability, transparency, and fairness in the homebuying process, and recognizes the affordability challenges facing the housing market. However, CFPB shouldn’t categorize mortgage fees as junk fees. WBA is concerned that CFPB is inappropriately prejudging and inaccurately categorizing fees which are required, necessary, and clearly disclosed loan origination fees as junk fees. Any future action arising out of the request should not mischaracterize legitimate and necessary fees as junk fees.

Wisconsin banks are aware of the significance of mortgage loans, as a means for consumers to buy their homes, tap equity, and refinance when interest rates decline. As CFPB recognizes, these mortgages come with closing costs. Wisconsin banks are well

¹ <https://www.consumerfinance.gov/about-us/blog/junk-fees-are-driving-up-housing-costs-the-cfpb-wants-to-hear-from-you/>



aware of the increased pressures placed on borrowers' budgets, through increased home prices and interest rates, and strive to keep their necessary loan origination fees low. Wisconsin banks don't add fees to loan costs, other than necessary fees such as title fees or credit report fees or other third-party fees. As CFPB observes in its request, all of these fees are clearly disclosed through the Loan Estimate and Closing Disclosure, divided into loan costs and other costs appropriately, which is discussed further below.

As CFPB is aware, mortgage origination is an involved process, which includes an evaluation of creditworthiness, ability to repay, verification of borrower's income, assets, and debt, determination of the property's value and condition, assessment of insurance needs, proper provision of government forms and consumer education materials, among other things. These are lender responsibilities, to ensure proper adherence to risk profiles, compliance with laws and regulations, and investor programs where applicable. These are necessary facets of loan origination, and to complete these functions, lenders charge necessary origination fees to cover administrative, resource, and manpower costs. Costs which, ultimately, compensate the lender for the business of providing the loan.

These are not new fees. Wisconsin banks are not conjuring new fees to turn a profit. These origination fees have long been accepted as legal and legitimate assessments of costs to make a loan. They are necessary for the mortgage transaction in that they pay for the essential costs the lender incurs in making the loan. Furthermore, these fees are very clearly disclosed, pursuant to CFPB's regulatorily mandated formats through the loan estimate and closing disclosure (TRID). These disclosures are required, and given, three days after application, early in the process, in a clear, pre-established format, providing transparent understanding of these fees and giving the consumer ample opportunity for comparison shopping.

In addition to disclosure requirements, TRID prohibits lenders from charging any fees before those delivery requirements are met. In this way, lenders never force consumers to pay fees before they can shop or obtain further information about the transaction. The only fee a consumer might be charged would be a permitted "reasonable fee" to obtain a credit report. Lastly, TRID mandates that origination fees cannot increase at closing as zero tolerance fees, except under certain limited circumstances.

As mentioned above, mortgage transactions do include other fees that may be collected as third-party fees. For example, fees which are collected by lenders, which go to compensate a third-party for services performed, necessary to the mortgage transaction. For example, appraisal fees, which are necessary to meet federal appraisal requirements and guidelines as well as safety and soundness considerations. A transaction may also involve mortgage program fees, for local, state, and federal government loan programs. Similarly, secondary market programs apply fees, such as loan level price adjustments charged by Fannie Mae and Freddie Mac pursuant to risk tables issued by the Federal Housing Finance Administration. There may also be other fees which fall outside of the lender's control, such as property tax, transfer taxes, and recording fees, among others. All these fees relate to services required in most mortgage transactions, but do not compensate the lender.

These charges are the cost of a mortgage loan, and while they can be a burden to consumers, they are necessary, and properly disclosed to consumers as part of the process of seeking credit and the business of extending credit. While the CFPB's goals in addressing the problem of increasing prices in mortgage markets is noble, it must be



mindful of the true nature of these fees and not mischaracterize them as junk fees. Lastly, CFPB lacks the authority to set or cap fees. The mortgage protection statutes promote competition and maintain consumer protection through disclosure-based laws, such as those outlined above.

Conclusion

WBA appreciates CFPB's careful consideration of our many comments on this request. It is damaging for consumers and lenders alike to have a principal financial regulator denigrate legitimate and transparent fees that are connected to products and services that are of crucial financial utility and serve critical risk management purposes. As such, in its efforts to address the increasing costs of mortgage loans, WBA encourages CFPB to not mischaracterize legitimate fees as "junk fees" and that any solution that CFPB pursues be properly supported by accurate information and facts.

Once again, WBA appreciates the opportunity to comment.

Respectfully,

A handwritten signature in black ink that reads "Rose Oswald Poels". The signature is written in a cursive, flowing style.

Rose Oswald Poels
President/CEO