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# Prepared Remarks of CFPB Deputy Director Steve Antonakes at the American Mortgage Conference

By **Steve Antonakes**

Good afternoon. Thank you for the invitation to speak with you today. I know that we share common goals: a strong and vibrant housing sector, as well as a highly competitive, sustainable economy.

By way of background, I am a career bank regulator. I cut my teeth during the end of the S&L Crisis as an entry-level bank examiner 24 years ago. I later served for seven years as the Massachusetts Commissioner of Banks. There, like many of you, I witnessed the alarming increase in mortgage delinquencies and foreclosures that characterized the market at the time.

We then saw the housing market implode, unemployment skyrocket, and retirement savings shrivel. In the aftermath of that crisis, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act. Dodd-Frank sought to ensure that the problems that led to the financial crisis would not recur in the future. Among the steps taken in the law was the creation of the new Consumer Financial Protection Bureau.

At the Bureau, we are charged with promoting evenhanded oversight of the consumer financial market and preventing bad practices from taking root. Congress has given us a number of tools to achieve that—including, rulemaking, consumer complaint response, supervision, enforcement, and consumer education.

We have been using these tools to affect positive market change and there are encouraging signs with unemployment decreasing and the economy growing. However, many homeowners continue to struggle. Nationwide, one in ten homeowners remain underwater and two million households are at a high risk of foreclosure. Our mission is to make markets for consumer financial products and services work for Americans. This means ensuring that consumers are treated fairly and have the information they need to make sound financial decisions.

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One of our largest tasks to achieve this has been drafting rules to restore confidence and common sense to our mortgage market. Our goal is quite straightforward. We want to ensure there are no debt traps, no surprises, and no runarounds.

In the lead-up to the crisis, many mortgage businesses failed to conduct the very due diligence necessary to safely and prudently underwrite mortgages. Some joined their customers in wishful thinking. Some tricked people into believing they could afford loans they could not. Some actually falsified documents. Certainly some consumers should have known better and made very bad choices. But too many consumers could not recognize the risks they were taking until it was too late.

Our mortgage origination work marks a return to traditional mortgage lending. Our Loan Originator Compensation rule restricts certain practices that created financial incentives to push

people into loans with higher interest rates. Under our Ability to Repay rule, lenders must now make a reasonable, good-faith determination that the consumer can actually afford the mortgage before they make the loan.

Now, obviously, mortgage lenders do not have a crystal ball: they cannot predict if someone will lose a job or have an unexpected financial emergency. But they must look at a consumer's income or assets, and at their debt, and must weigh them against the monthly payments over the long term. In other words, lenders must revert to responsible lending.

Our second back-to-basics approach affects the mortgage servicing industry. We recognize that servicers play a critical role in the mortgage market. Markets work best when consumers can vote with their feet. However, when it comes to servicing, consumers have little choice in the matter. After a borrower chooses a lender and takes on a mortgage, the responsibility for managing that loan can be transferred to another servicer without any say from the borrower. And, if consumers are dissatisfied with their servicer they have no opportunity to switch over to another provider.

This fundamental disconnect became starkly revealed during the financial crisis. When the tsunami of delinquencies hit, servicers were unprepared to work with borrowers. The existing low-cost, high-volume servicing model was ill equipped to help individual homeowners deal with their problems. People did not get the support they needed, such as timely and accurate information about their options for saving their homes. Servicers failed to answer phone calls, lost paperwork, and mishandled accounts. Consumers missed out on much-needed help due to the repeatedly inadequate service.

Communication and coordination were so poor that many consumers thought they were on their way to a solution, only to find their homes being foreclosed upon. Sometimes people arrived home to find they had been unexpectedly locked out. Sometimes people found themselves stuck in a nightmare of lost paperwork even as the clock ticked on toward foreclosure.

Like our mortgage origination regulations, our servicing rules embody a back-to-basics approach. Simply put, consumers should not be hit with surprises by those responsible for collecting their payments. Our new rules help borrowers know where they stand. Servicers now must send monthly statements showing how they applied the monthly payment. The statement puts all the important information in one place, including the interest rate, the payment amount due; a breakdown of how the payment will be applied to principal, interest, and escrow; and the outstanding balance on the loan. Servicers are now required to keep the consumer informed well in advance of interest rate adjustments so they are not caught off guard by a payment increase.

Servicers must investigate and fix errors which are brought to their attention. If a consumer experiences problems repaying the loan, they should be able to get help within a reasonable timeframe from one point of contact, be able to submit documents without them being continuously lost and get a timely response to their request for loss mitigation.

These protections are especially important when servicing is transferred from one servicer to another. In recognition of the unique issues that arise during servicing transfers, we recently updated our guidance. Our new Compliance Bulletin and Policy Guidance, which supersedes a prior bulletin, answers certain frequently asked questions about how our new servicing rules apply in the area of servicing transfers, including the protections for consumers applying for loss mitigation assistance or trial modifications. It is also intended to highlight the Bureau's

continued concern relative to the potential risks to consumers that may arise in connection with transfers of residential mortgage servicing rights.

It is important to note that these rules apply equally to bank and nonbank institutions. We are leveling the playing field for the first time for responsible mortgage servicers by holding all servicers accountable to the same standards.

Since we first announced our new rules, we have been working to ensure a smooth transition to compliance. We have coordinated with other agencies, published plain-language guides and other compliance aids, and had regular contact with industry participants, consumer advocates, legal aid attorneys, housing counselors, and others to answer questions. We have done these things because we believe that consumers will not be helped unless industry understands and properly implements the rules. All of this will lead to a fair, transparent marketplace that works for both the consumers and for industry.

The results so far have been very positive: few market disruptions, safer loans to consumers, greater consumer protections, and a market where all those involved can operate on a level playing field.

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We are taking a similar tack with our next big mortgage project: the new Know Before You Owe mortgage disclosure forms that will take effect in August 2015. For more than 30 years, federal law has generally required that within three business days of receiving a mortgage application, mortgage lenders must deliver two different, overlapping disclosures to consumers.

Under our new rule consumers will no longer receive these overlapping forms. Instead, they will get a single form three business days after applying for a loan—known as the Loan Estimate. They will get another form, the Closing Disclosure, three business days before finalizing a loan. These new forms will enable consumers to more readily spot crucial information such as the interest rate, monthly payments, and total closing costs, as well as any special risk factors that could lead to payment increases over time.

One of our main goals with Know Before You Owe is improving consumer understanding. We have made it a point to present the information in plain language, in a format that is easy to follow, where the costs and risks of the loan are made clear.

Another major goal is to improve the experience when consumers are comparing various mortgage offers. Consumers will get the Loan Estimate within three business days after they apply for a loan. The design and layout of the form makes it easy for consumers to compare multiple Loan Estimates for different loan offers and lenders. Consumers will be better able to weigh price differences between the terms of each offering – such as when interest rates are likely to adjust on one loan compared to the other.

Once consumers have decided on a loan, our new rules also require that they must get the Closing Disclosure three business days before the closing occurs. It summarizes the final loan terms and costs, and also provides a detailed accounting of the transaction. With the three day notice, consumers have time to compare this form to their Loan Estimate before they get to the closing table, to see if anything has changed. This minimizes the potential for bait-and-switch increases in rates, fees, or settlement costs.

The underlying premise for both the Loan Estimate and the Closing Disclosure is that consumers will be better able to understand the mortgages they are buying and the costs they are paying.

They will be better able to compare and find the mortgage that suits their needs. Importantly, we see these forms as beneficial to industry as well as consumers. We are reducing paperwork and making it possible for honest businesses to compete on fair terms. Consumers will be able to see offers for what they really are.

While these forms are not required until August 2015, mortgage lenders should already be working on the new rule and getting ready now. Significant changes to business operations and technology platforms will require close collaboration with third-party service providers. While many mortgage institutions are already deep into implementing these changes, we want to make sure that everyone understands the need to be focusing on August 2015 now. We have allowed 21 months for industry to implement these changes but we are now nearly halfway through that time.

To help you get to August 2015 as easily as possible, a TILA-RESPA Regulatory Implementation webpage was introduced in April on our website, www.consumerfinance.gov. There, we have posted a Small Entity Compliance Guide explaining the new requirements for disclosing information on the new forms. We have also included a number of sample forms that illustrate how the forms will look for different loan types.

Recognizing that this rule may require the development of technology to populate the forms, we also developed a guide to walk through the form content, field by field. To date, we have received very positive feedback on these materials and encourage everyone to use them.

In addition to these materials, we also have been streamlining interpretive guidance on the new provisions and delivering it through a series of webinars. A link to the recorded webinars can be found on our Regulatory Implementation website. The first webinar was hosted in June and provided an overview of the rule and some basic interpretive questions. A second webinar was held in August and focused heavily on addressing common industry questions.

Within the next few months, we will also publish a readiness guide to give industry a broad checklist of things to do to prepare for the rules taking effect – like updating policies and procedures and providing training for staff. In sum, we are trying to make our rules more understandable and user-friendly – so that you are ready to implement the new disclosure system come August 2015.

We are also working with our fellow regulators to help ensure consistency in our examinations of mortgage lenders under the new rules and to clarify issues as needed. Ultimately, what we all want is for different institutions to get consistent supervisory treatment from their regulators. That requires us to consult and collaborate closely with our fellow regulators, which is exactly what we are doing. We will make public our common examination guidelines and standards so that institutions will know what to expect.

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As part of the process to make the mortgage process more transparent for consumers, we just recently announced the participants for our mortgage eClosing pilot project scheduled for later this year. We can all agree that the stack of closing documents is too large. It results in information overload for consumers. So as part of our Know Before You Owe initiative, we are making a commitment to work with industry to improve the mortgage closing experience for consumers through the use of technology.

We believe that eClosings could represent a positive development along these lines, and we want to know more about how we can foster innovation in this area. By reducing the stack of closing documents, we can focus more attention on the new user-friendly Closing Disclosure, which may enable further advances in consumer education and understanding. We also want to work collaboratively with industry, with consumer advocates, and with government officials to take a close look at all the closing documents and identify how they can be reduced or eliminated if they are no longer adding value to the transaction.

We want to work with all stakeholders to improve the overall mortgage closing experience. To this end, our three-month pilot that will begin later this year with twelve participants that are drawn from a mix of banks, credit unions and technology providers and will explore how the increased use of technology during the mortgage closing process could affect consumer understanding and engagement and save time and money for consumers, lenders, and other market participants.

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Our goal is to improve the mortgage market and the mortgage closing experience for consumers. A mortgage is often the biggest financial decision of a consumer's life. They deserve to be treated fairly during that process—not to be given the runaround or face constant surprises about their loan.

Consumers also deserve to be given accurate and helpful information they need to properly understand all aspects of their loan. Educated and informed consumers are important to ensure the marketplace functions properly.

Our rules and our initiatives are designed to achieve these goals while promoting responsible business practices. Through these efforts, and our vigilant oversight, we will be able to realize a stronger, more sustainable marketplace. Thank you.

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*The Consumer Financial Protection Bureau is a 21st century agency that helps consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives. For more information, visit ConsumerFinance.gov.*