

**REAL ESTATE AND MORTGAGE
INDUSTRIES SUCCESSES AND
CHALLENGES WITH THE CFPB**

March 1, 2017

REAL ESTATE AND MORTGAGE INDUSTRIES GREAT RECESSION – PRE CFPB

- 2008 RE/MAX Helped pioneer systemization of Short Sales for Consumers Nationwide
- Coordinated efforts with Treasury, FHFA, GSE's, Major Banking Institutions for Short Sales, Deed In Lieu of Foreclosure
- No licensure in mortgage only in real estate

CFPB OVERSIGHT OF THE REAL ESTATE AND MORTGAGE INDUSTRIES

- Dodd-Frank Act created the CFPB in 2010 as an independent agency designed to protect consumers from bad actors in the financial industry.
- CFPB is generally excluded from exercising authority over real estate brokerage activities, as licensee regulation is done at the state level, but the CFPB does have authority under the *Real Estate Settlement Procedures Act of 1974* (RESPA) over agents and brokers
- The residential real estate industry has worked closely with the Bureau on RESPA issues and has weighed in on mortgage lending regulations that affect the ability of borrowers to access affordable mortgage credit.

REAL ESTATE AND MORTGAGE INDUSTRIES SUCCESSES WITH THE CFPB

- Qualified Mortgage Rule
 - Good Faith Determination for “ability to repay”
- Student Loan debt
 - Collaboration / Improved Process / “Fix It Form”
- Mortgage Licensing
 - Entity and Loan Originator / NMLS / Continuing Education
- Support of e-Closings
 - Technology adoption / Statewide Pilot programs
- TRID rule or “Know before you Owe”
 - Empower / Educate the Consumer

REAL ESTATE AND MORTGAGE INDUSTRIES CHALLENGES WITH THE CFPB

- Qualified Mortgage Rule
 - Definition of Fees and points to ensure consumer choice
 - Capped compensation – Mortgage and Title
- RESPA Enforcement
 - Lack of Clear Guidance / Industry Expertise
 - Interpretations contrary to HUD precedents
 - Marketing Service Agreements (MSA's) vs. Affiliated Businesses
- TRID Rule or “Know before you Owe”
 - Cost of Compliance – Small vs. Large Business
 - Few Measurable Benefits

FUTURE OF THE CFPB

- Outcome of the PHH V. CFPB Case
- Legislation proposing restrictions on the CFPB
- Impact of limiting or abolishing the CFPB

CFPB / REAL ESTATE AND MORTGAGE STATUS IN THE COMING MONTHS

- CFPB will continue to operate “business as usual”
- We will continue to see Real Estate and Mortgage related enforcement actions in the coming months
- Practitioners in the real estate and mortgage industries will continue to work closely with state regulators