



Connecticut Mortgage  
Bankers Association, Inc.



Maine  
Association  
of Mortgage  
Professionals



MORTGAGE  
BANKERS &  
BROKERS  
ASSOCIATION  
OF NEW HAMPSHIRE, INC.

BUILDING A STRONG FOUNDATION



July 29, 2024

Comment Intake—Residential Mortgage Fees  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, DC 20552

re: Docket No. CFPB-2024-0021

Dear Director Chopra,

The Connecticut Mortgage Bankers Association (CMBA), Maine Association of Mortgage Professionals (MAMP), Massachusetts Mortgage Bankers Association (MMBA), Mortgage Bankers & Brokers Association of New Hampshire (MBBA-NH) and Rhode Island Mortgage Bankers Association (RIMBA) appreciate the opportunity to comment on the Request for Information (RFI) about the Consumer Financial Protection Bureau's inquiry on increased residential mortgage fees.

In recent posts, it is clear that the CFPB is understandably concerned with rising mortgage closing costs. The association would respectfully ask the Bureau not to automatically assume or put in print that the increase in fees is solely because of "junk fees". Junk fees are thought of as hidden and bogus fees that can harm consumers. We would respectfully argue that very few mortgage lenders charge consumers with "junk fees" and it casts the mortgage industry in a negative light when this is suggested as a practice.

**Regarding the May 30<sup>th</sup> announcement and title insurance:**

Contained within the announcement for this RFI were comments related to title insurance, yet no specific question addressing title insurance was contained in the RFI. The RFI indicated that title insurance was another major fee paid at closing, with limited options for consumers to comparison shop.

We would like to first address the importance of title insurance for consumers and lenders; and resources available for [data analysis](#) by the CFPB. The American Land Title Association (ALTA) publishes quarterly industry financial data reports. According to a [press release](#) regarding 2023 volume:

- In 2023, the industry paid more than **\$638 million in claims**. This is up from \$596 million in claims paid in 2022
- According to [an independent analysis](#) conducted by consulting firm Milliman, nearly 30% of title insurers' losses and claims expenses arose from title problems not discoverable from a public records search. While Fraud and Forgery claims are the most expensive to address in terms of losses and

expenses, the most frequent type of claims are related to mortgages, judgments, and liens other than mechanics' liens.

As associations, we occasionally receive calls directly from consumers or referrals from legislators asking for constituent assistance. It is very common that a mortgage will not be able to close because of a missing discharge – usually from a lender that has not been in business for several years. It is the title insurance company that will track down and obtain discharges for both the lender and borrower to have a clear title to their property.

**Suggestions regarding the improvement of title insurance:**

Prior to the implementation of TRID, a title insurance policy was disclosed on the Good Faith Estimate as two separate categories – the amount that the attorney received and the amount that was maintained by the title insurance company. Consumers could see what percentage of the title insurance fee was dispersed to which party. Since TRID, this is no longer required. If the intention of TRID was to provide an easier understanding of closing costs, and the CFPB is stating that it is a “major fee”, why was detailing the title insurance proceeds discontinued? This would make it easier for a consumer to shop or at least better understand the title insurance cost.

**Suggestions regarding the cost of appraisals:**

The New England Associations would also like the Bureau to consider itemizing the cost of an appraisal. The industry predominately orders appraisals through independent Appraisal Management Companies (AMCs). There is no required disclosure to separate the fee that is paid to the AMC versus the appraiser. We should ensure that regulated institutions are fully cognizant of the practices of AMCs they hire. By disclosing the appraisal fee breakdown on the mortgage disclosures, we believe that it will be easier for an institution to monitor the practice of appraisal selection and track the amount that the borrower-paid fee goes towards the appraisal.

**Are there particular fees that are concerning or cause hardships for consumers?**

The cost of both homeowners' insurance, flood insurance and condominium insurance are prohibitive.

- According to a [recent report](#) in S&P Global, consecutive higher-than-average increases in homeowners insurance rates have pushed the countrywide cumulative increase since 2022 close to 20%. Between 2018 and 2021, the countrywide yearly average rate change ranged from 2.5% to 3.8%, but this jumped to 6.2% in 2022 and 11.3% in 2023.
- According to [research](#) by the National Bureau of Economic Research, there was a sharp 33% increase in average premiums from 2020 to 2023 (13% in real terms) that is highly uneven across geographies.
- According to a Wall Street Journal [article](#), condo dues rose 20% between 2022 and 2024, according to an analysis of 1,800 associations in 44 states by real-estate tech company Rexera. In a 2023 survey of community associations, 91% said their insurance premium increased at the last renewal. More than half of communities surveyed paid for the increase by raising annual dues or imposing a special assessment, according to the Foundation for Community Association Research

**Potential Impact – REALTOR compensation:**

The National Association of Realtors lawsuit that was settled earlier in the year may potentially create an additional cost for homebuyers. Many sellers may opt not to pay buyers' agents in the future. In that case, buyers will have to pay their own agent out of pocket, on top of a down payment and other closing costs.

**Provide data or evidence on the degree to which consumers compare closing costs across lenders.**

Although we cannot specify data or evidence to the degree to which consumers compare closing costs, we would like to provide you with examples of lender's closing cost estimates which we feel are confusing to the consumer.

Our members report that consumers will bring in Loan Estimates from competing lenders showing lower interest rates but paying points combined with a lender's credit. The consumer can easily see the lower rate but often does not understand the benefits or disadvantages to paying points. A suggestion for the CFPB to consider is adding a checkbox onto Page 1 of the Loan Estimate indicating if this interest rate was with points or no points. This may assist consumers to understand that there is a fee associated with the quoted interest rate.

**How are fees currently set? Who profits from the various fees? Who benefits from the service provided? What leverage or oversight do lenders have over third-party costs that are passed onto the consumer?**

As addressed throughout this response, the majority of the closing costs are set by third-party providers from credit bureaus, title insurance, appraisers, insurance companies and municipalities to name a few. Any profit would be realized by those providers. The third-party services that are itemized on the Loan Estimate are required to obtain the mortgage and therefore result in homeownership. Often, when the consumer selects their own closing agent and/or closing attorney, those fees are often not available at the time of Loan Estimate because the consumer has not selected the provider at that time. Any additional title & settlement fees that are added to the Closing Disclosure are deemed the consumer's selection and reflected directly on the Closing Disclosure

**Would lenders be more effective at negotiating closing costs than consumers? Are there reports or evidence that are relevant to the topic?**

Related to title insurance are the fees for the closing attorney. Massachusetts requires an attorney to oversee all mortgage transactions, and this is also a service that consumers can shop for. Although we wish there was data available, if you ask any loan originator or loan processor, the average attorney fee increases for those attorneys that are chosen by the consumer. It is vital for the loan closing to have a reputable attorney that has been vetted by the lender, meets third-party vendor protocols, is familiar with guidelines and secondary market requirements, etc. As well as being more expensive, most often there is a higher percentage of mistakes that happen due to an attorney chosen by the consumer that is not proficient in residential real estate closings.

**What is driving the recent price increases of credit reports and credit scores? How are different parts of the credit report chain (credit score provider, national credit reporting agencies, reseller) contributing to this increase in costs? What competitive forces are or can be brought to bear on these costs? What are the impacts on consumers of the increased costs?**

This is one of the most concerning areas in this RFI. In November, 2022, the National Consumer Reporting Association (NCRA) released an [announcement](#) confirming the massive (in some cases 400% ) increase in costs, mostly attributed to the pricing tiers announced by Fair Issac (FICO). This increase in credit reporting pricing was dictated to lenders by all three national credit bureaus and/or FICO. To further complicate matters, the credit bureaus also increased the fees for "soft pulls" which make the cost of obtaining a "soft" credit report almost the same cost as a merged "hard" credit report. Credit bureaus also sell "trigger leads" as the result of a merged "hard copy" credit report. Although FICO score costs have not increased for several years prior to this increase, the drastic percentage of increase ultimately increases the cost of credit report dramatically.

In summary, we have 4 entities (the national credit bureaus + FICO) that dictated a sharp increase in pricing to the industry, making it a monopoly as these products/services are required and therefore without competition. There are

virtually no other alternatives and there is little negotiation leverage. Resellers of credit reports needed to increase pricing to pass along the added cost. Lenders then pass along the cost to consumers, who are also being bombarded with large amounts of unsolicited calls, emails, and text messages in a relatively short period of time because of trigger leads.

As a mortgage industry that heavily allows the FICO score and credit history to determine a consumer's interest rate and qualification, it is concerning that 4 entities can increase cost so dramatically. Banking, collection agencies, energy and utility companies, healthcare, insurance, manufacturing, retail, telecommunications, media, transportation, and government are [all](#) using the FICO score model in one way or another.

How do we allow one company to influence and monopolize market pricing? According to the Federal Trade Commission's Anticompetitive Practices [website](#):

"As that law has been interpreted, it is not illegal for a company to have a monopoly, to charge "high prices," or to try to achieve a monopoly position by what might be viewed by some as particularly aggressive methods.

In October 2022 the FHFA [announced](#) the approval of two new credit scores – FICO 10T and VantageScore 4.0. Determining how this will impact consumers both in associated closing costs and mortgage qualification is something that the Bureau should pay close attention to.

**Which closing costs have increased the most over the past several years? What is the cause of such increases? Do they differ for purchase or refinance? Please provide data to support if possible.**

- In a US News [report](#), the average 30-year fixed rate reached an all-time record low of 2.65% in January 2021 before surging to 7.79% in October 2023. In 2024, mortgage rates have been hovering at the 7% mark.
- The average monthly payment for a 30-year fixed-rate mortgage rose 46 percent, to \$2,045 at the end of 2022 from \$1,400 a year earlier, the bureau found. The median price of a single-family home [in January](#) was \$383,500, up 5 percent from a year earlier, the National Association of Realtors reported.
- The FHFA [House Price Index](#) is up 6.3 % from April 2023 to April 2024
- According to [Freddie Mac's calculations](#), average origination costs have gone up **35%** over the past three years alone.
- [Fannie Mae](#) and [Freddie Mac](#) implemented new loan-level price adjustments and a redesign of the LLPA pricing structure.

The mortgage industry has experienced in a very short time historically increasing home prices, a national housing supply shortage, historically low interest rates that increased drastically, increased origination costs and a shift to remote work force due to the pandemic. As a result,

- Lenders have increased fees to offset soaring loan production expenses
- Consumers are paying discount points and temporary buydown fees to lower interest rates
- Lenders do not often pay closing costs in return for charging a higher interest rate
- Increase in housing prices leading to higher costs tied to the loan amount or housing price.
- Lack of housing has increased the cost to purchase a home.
- Overall costs increasing due to inflation.
- Third-party vendor price increases that are passed along to consumers.

All these factors contribute to increased closing costs for a consumer. If home prices increase, so does the mortgage amount. If interest rates are higher, that makes qualifying for a mortgage more difficult and the

potential to absorb closing costs into the interest rate. Until we can solve the housing crisis, we will continue to see consumers experiencing higher closing costs and finding it more difficult to achieve the goal of homeownership.

Employment verification costs:

As an example of third-party rising closing costs that are passed along to consumers, the average increase in employment verifications have increased over 300% since 2018 as reported by our members when solicited for input for this RFI response.

For those lenders and consumers that do not use automated verification by analyzing bank statements information through Fannie Mae and Freddie Mac, the cost of using a third-part provider such as the Work Number to verify (and then re-verify) employment could cost consumers an average of \$120 per job. Typically, the underwriting process would need to verify employment and income prior to loan approval, and again a few days before consummation to verify the borrower is still employed. The initial third-party verification and then a subsequent employment refresh are the same cost. The loan verification costs are passed along to the consumer.

By regulation, lenders are only disclosing and charging the exact third-party fees on the Loan Estimate and Closing Disclosure. Regulatory examinations ensure that lenders are adhering to this. For a two-person mortgage application where each applicant has a salaried job and perhaps one applicant has a second job, the cost of the employment verification alone could be \$360. A large percentage of employers use a third party such as the Work Number to verify employment instead of completing Verification of Employment forms. Although this has decreased employment and income fraud, it has contributed to increased closing costs.

**What studies or data are available to measure the potential impact closing costs may have on overall costs, housing affordability, access to homeownership, or home equity?**

The Joint Center for Housing Studies of Harvard University released it's annual [State of the Nation's Housing Report for 2023](#). The [2022 report](#) and the [2021 report](#). These annual reports provide valuable information, on the impact of housing and homeownership.

In general, we believe that closing costs have increased more because of the housing supply and interest rate increases during the past few years. While these factors are beyond the control of the Bureau, there is still room to improve the clarity of information provided to consumers including:

- Disclosure and breakdown of fees relative to the ultimate vendor recipients
- Credit score cost and impact of non-competition

Thank you for taking the opportunity to listen our concerns and feedback. Should you have any questions about this letter, please do not hesitate to contact any of the below listed associations;

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