Consumer Financia
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

April 7, 2016

The Honorable Bob Corker
United States Senate
425 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Corker:

Thank you for your March 11, 2016, letter about the Consumer Financial Protection Bureau's implementation of the Know Before You Owe mortgage disclosure rule (also known as the Truth In Lending Act-Real Estate Settlement Procedures Act Integrated Disclosure Rule). The Bureau finalized the rule over two years ago, in November 2013, to carry out requirements in the Dodd-Frank Wall Street Reform and Consumer Protection Act. The Know Before You Owe mortgage disclosure rule is an important advance in eliminating consumer confusion as homeowners and prospective homeowners make significant financial decisions for their families. Like you, the Bureau recognizes that successful implementation requires continuous monitoring and engagement.

As you may know, the Bureau has taken many steps to support the efforts of creditors, vendors, investors, and others affected by the rule to better understand, operationalize, and comply with the rule's new streamlined disclosures. The Bureau has also provided resources to facilitate consumer understanding of the home-buying process, including shopping for homes, mortgages and mortgage-related services. The Bureau's regulatory implementation efforts include the following:

- **Inter-agency coordination.** In-depth exam procedures were approved by the Federal Financial Institutions Examination Council in February 2015 and published by the Bureau on April 1, 2015. The Bureau's own examination procedures incorporating the FFIEC exam procedures were initially published on May 4, 2015.

- **Publishing a "readiness guide," plain-language guides, and other resources.** The "readiness guide" includes a wide-ranging questionnaire to help industry come into and maintain compliance with the rule. The Bureau has also published a compliance guide, a guide to the new integrated disclosure forms, and an illustrative timeline.[1]

- **Providing resources and tools for consumers.** The Bureau has provided a suite of tools and resources to guide consumers through the process of getting a mortgage. On April 1, 2015, the Bureau released and made available for download the *Your Home Loan Toolkit: a*

[1] These resources are available at http://www.consumerfinance.gov/regulatory-implementation/tila-respa/.

step-by-step guide, which provides step-by-step guidance to consumers shopping for mortgages and mortgage-related services.[2]

- **Publishing amendments and updates to the rule in response to industry requests.** In January 2015, after extensive outreach to stakeholders, the Bureau adopted two minor modifications and technical amendments to the rule.[3] In July 2015, we extended the rule's effective date by two months and made some minor clarifications to smooth industry implementation.[4] In February 2016, we corrected a typographical error in the Supplementary Information to the Know Before You Own mortgage disclosure final rule.[5]

- **Providing unofficial staff guidance.** Bureau staff provides guidance directly to creditors, vendors, their trade associations and legal representatives, and other stakeholders. These efforts have been ongoing since the rule was issued.

- **Engaging with stakeholders.** Bureau staff has provided remarks and addressed questions about the rule and related implementation matters at over 70 formal events and over 80 informal stakeholder meetings since the rule was issued. In addition, as part of its ongoing engagement with stakeholders, the Bureau has supported implementation of the rule in over 300 more general meetings with stakeholders.

- **Conducting webinars.** The Bureau has conducted six free, publicly available webinars, available for viewing through the Bureau's website,[6] that provide guidance on how to interpret and apply specific provisions of the rule. The Bureau has also conducted a free, publicly available webinar targeted to housing counselors. The Bureau recently announced that it will hold another webinar in conjunction with the Federal Reserve Board on April 12.

The Bureau will continue to adjust our efforts to the experience of implementation.

You inquired about the disclosure of the cost of title insurance on the new forms. Different states provide for different methods of calculating and disclosing title insurance premiums in light of potential discounts. In developing a uniform approach, the Bureau ultimately determined that the most transparent way of disclosing the amounts paid by consumers is to require that the lender's and owner's title policies be disclosed as separate items, with any discount applied to reduce the cost disclosed for the owner's title policy. The Bureau believes that the approach adopted in the Know Before You Owe mortgage disclosure rule is the most practical method of providing concise and accurate disclosures to consumers across the United States about the incremental cost of the optional owner's policy.

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[2] These resources are available at http://www.consumerfinance.gov/know-before-you-owe/.
[3] 80 Fed. Reg. 8767 (Feb. 19, 2015).
[4] 80 Fed. Reg. 43911 (July 24, 2015).
[5] 81 Fed. Reg. 7032 (Feb. 10, 2016).
[6] These webinars are available at http://www.consumerfinance.gov/regulatory-implementation/tila-respa/.

In addition, the Bureau's staff has had extensive conversations with title industry trade groups and the National Association of Insurance Commissioners, as well as engaged with representatives from State insurance commissions, regarding the disclosure of the amount paid by the consumer for title insurance. Based on our outreach, we have provided additional guidance concerning the disclosure of title insurance premiums when the seller has agreed to pay for the owner's title policy as part of the purchase and sale contract with the consumer, but we believe that our current approach, given the various considerations involved, strikes the best balance of how to disclose the amount paid by the consumer for title insurance. To your question about consumer education, we have also included some information about the nature of title insurance and the possible different methods of disclosing title insurance costs in the *Your Home Loan Toolkit*, the booklet that every consumer receives when financing a home purchase. An online tool, *Ask CFPB*, that provides answers to consumer questions about financial products and services, also includes information about title insurance premium disclosures.[7]

You also ask what steps we are taking to prevent lenders from shifting liability to settlement agents. The Know Before You Owe mortgage disclosure rule places responsibility for the accuracy and delivery of the integrated disclosures on the creditor, but, as discussed in the preamble to the Know Before You Owe mortgage disclosure final rule, creditors and settlement agents are free, as they have always been, to decide how to divide responsibility and risk most efficiently and to implement those mutual decisions via contract. While creditors may enter into indemnification agreements and other risk-sharing arrangements with third parties, creditors cannot unilaterally shift their liability to third parties and, under the Truth in Lending Act, alone remain liable for errors on the Know Before You Owe mortgage disclosures.

Your letter asks if we will consider forming an internal task force to identify and address issues arising from implementation. The Bureau has had an internal team working on addressing questions and industry issues since before the rule was published on December 31, 2013. They meet weekly to discuss industry concerns and identify appropriate responses and have equally frequent touchpoints with external stakeholders. We continue to consider how we can best provide the technical guidance industry needs in implementing the Know Before You Owe mortgage disclosure rule. For example, we published a notice in the Federal Register in early February to clarify widespread uncertainty caused by a typographical error[8] and are currently preparing for another webinar with the Federal Reserve Board on April 12, designed to answer publicly questions we have received from industry. We hope and expect industry will continue to feel free to reach out to our internal team, as they have been doing. The robust dialogue we have with industry is critical to everyone's efforts in promoting the smoothest possible implementation.

Finally, your letter asks about cure provisions for violations of the rule. The Know Before You Owe mortgage disclosure rule provides for the issuance of a corrected Closing Disclosure, even

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[7] http://www.consumerfinance.gov/askcfpb/1993/why-is-the-title-insurance-premium-on-the-loan-estimate-and-closing-disclosure-different-from-the-premium-listed-on-the-paperwork-i-received-from-the-title-insurance-company.html.

[8] 81 Fed. Reg. 7032 (Feb. 10, 2016).

after closing. This can be used, for example, for up to 60 days after consummation to correct non-numerical clerical errors or as a component of curing any violations of the monetary tolerance limits, if they exist. In addition to the cure provisions contained in the rule, TILA itself contains provisions for the correction of errors. These provisions continue to apply to the Know Before You Owe mortgage disclosures. For example, TILA has long permitted creditors to cure violations, provided that, within 60 days of discovering an error, the creditor notifies the borrower of the error and makes appropriate adjustments to the account before the creditor receives notice of the violation from the borrower.[9] Similarly, TILA provides an exception from civil liability for unintentional errors, subject to certain conditions.[10] We will continue to evaluate how we can best provide further guidance to industry on these and other matters.

Thank you for your strong interest in the Bureau's work, and I personally appreciate your efforts to gain a better understanding of our work. The Bureau carefully considers how we can best address the issues that you raise as we pursue this important advance in consumer protection and disclosure. Please feel free to contact me should you have any additional questions, or have your staff contact Matthew Pippin in the Bureau's Office of Legislative Affairs. Mr. Pippin can be reached at (202) 435-7552.

Sincerely,

Richard Cordray
Director

[9] 15 U.S.C. 1640(b).
[10] 15 U.S.C. 1640(c).