



August 1, 2024

**CHLA Comment Letter:  
CFPB Request for Information Regarding Fees  
Imposed in Residential Mortgage Transactions  
[Docket No. CFPB-2024-0021]**

The Community Home Lenders of America (CHLA)<sup>1</sup> writes to submit our comments regarding increasing costs and lack of competition in third party provider mortgage origination and settlement fees.

The CFPB RFI notes that mortgage closing costs have “*have recently risen sharply.*” CHLA appreciates that the RFI also notes that both borrowers and mortgage lenders have been adversely affected by this. CHLA has taken a leadership role on this issue, starting with a October 2022 **Letter** asking federal regulators to ban “click fees,” i.e., junk fees that Ice Mortgage Technology charges mortgage lenders - just to access their own data and provide access to their vendors as part of the mortgage loan process!!

However, the more prevalent problem with third party mortgage fees is not that there is no service provided (a true junk fee) - but that fees for necessary loan functions have grown exponentially in recent years, in areas where mortgage lenders have no other real alternatives to a dominant service provider.

In January CHLA issued a **White Paper** on credits reports and the 500% increase in credit score pricing. In April, CHLA responded to CFPB Junk Fee blogs with a **Letter** asking the CFPB to compile a Report on third party fees - including FICO credit score fees, Credit Bureau credit report fees, title insurance and Equifax TWN Employment Verification Fees. Therefore, CHLA commends this RFI, which solicits details from consumers and borrowers about their mortgage fee experiences.

These CHLA actions reflect our lender members’ experiences in originating and closing mortgage loans and their significant concerns about the trajectory of third party provider closing costs. **The Appendix to this letter includes specific submissions by individual CHLA members on various cost categories.**

CHLA’s overall conclusion is that the common factor underlying excessive third party mortgage provider fee increases is a lack of competition for each product, combined with the fact that most of these products are effectively required on all mortgage loans by federal mortgage programs (both GSEs, FHA, RHS, VA).

CHLA believes that an important strategy in addressing excessive fees by providers in markets that lack competition is to shine a bright spotlight on such pricing and practices. This can have a real impact. For example, in January 2023 CHLA highlighted unfair pricing discounts FICO granted to only a handful of large lenders. Under pressure, FICO eliminated these discriminatory pricing policies just one year later.

But CHLA believes more than jawboning is needed and offers the following action recommendations:

- **Credit Bureau Reports.** Under Federal FCRA law, the consumer is entitled to one free credit report each year. Underlying this right is the concept that the consumer should own this report,

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<sup>1</sup> CHLA is the only national trade association focused exclusively on small and mid-sized independent mortgage banks (IMBs).

subject to being charged a reasonable fee. In practice, lenders and consumers are charged for multiple credit pulls for the same loan, made both by the loan originator and competing lenders.

Therefore, CHLA suggests that the CFPB explore ways to empower the consumer to take more ownership of the credit report, to avoid these excessive and redundant charges.

- **FICO Credit Score Fees.** Since Fannie Mae and Freddie Mac both require a credit score, FHFA as conservator could explore whether it is appropriate to have them limit excessive cost increases. There is an argument that without true competition among credit score providers, FICO should not be allowed to raise prices with impunity, but rather should be subject to price regulation as a utility.
- **Title Insurance Costs.** CHLA supports Fannie Mae’s pilot program, which FHFA recently approved, to lower title insurance costs on refinance loans. CHLA also continues to encourage the FHFA and GSEs to explore the use of Attorney Opinion Letters, in a responsible manner, as an alternative to costly title insurance costs (see December [\*\*CHLA Letter to the FHFA\*\*](#)).
- **Employment Verification.** CHLA commends Fannie Mae for developing alternatives to Equifax’s Employee The Work Number Verification service, as a start in breaking down the near monopoly Equifax has on third party verification of employment services.
- **ICE Mortgage Technology Vendor Access Fees.** CHLA is disappointed that the FTC did not negotiate - as part of the Consent Order approval of the ICE purchase of Black Knight - requirements that ICE: (1) end click fee toll charges that ICE charges lenders to access data from vendors the lender has hired, and (2) end one-way user seat charge pricing that increases when the number of users increases but does not decrease when they decrease. CHLA urges the FTC to take whatever action is possible pursuant to the Consent Order to address these anti-consumer actions – and asks the CFPB to explore whether it has legal authority to stop these junk fees.

## **CHLA RESPONSES TO RFI QUESTIONS**

The CFPB posed a number of specific questions in the RFI, some of which we want to respond to below. CHLA member submissions included in the Appendix also address many of these questions.

### **Credit Reports and Credit Scores are a Particular Concern**

The RFI asks “*Which closing costs have increased the most over the past several years?*”

The answer to this question is clear: credit scores. For this reason CHLA released its January White Paper and an [\*\*Addendum\*\*](#) in April. Following are key conclusions from our White Paper and Addendum:

- To say that the cost of a mortgage credit score is only \$3.50 is misleading because it’s applied 3 times (or 6 times for joint applicants) in the current tri-merge model, and pulled multiple times in the process (because a credit pull is only valid for 120 days, and home searches and mortgage application processes can last for many months.)
  - Thus—without considering the sunk costs of credit pulls for mortgage applications that did not close—the credit costs incurred to close a loan for a family has risen from roughly \$50 in 2022 to \$100+ in late 2023 to \$150-\$250 today.
- Add in those sunk costs, which have risen from \$150-\$200 in 2022, to \$250-\$300 in late 2023, to

\$360-\$475+ today, and the total credit costs per closed loan has now risen from \$200-\$250 in 2022, to \$350-\$400 in 2023, and to \$510-\$725+ today.

- FICO's mortgage revenue was up 147% percent last year and the stock price has quadrupled (up 300%) since the fall of 2022. By way of comparison, the S&P 500 is up 26% during this same time period.

### **The Problem with Third Party Fees is a Lack of Competition – Not who Chooses the Provider**

The RFI asks *“Would lenders be more effective at negotiating closing costs than consumers.”*

The simple answer to this question is no.

As noted, the excessive costs and recent price increases for third party provider mortgage costs are largely explained by a lack of competition. Therefore, it does not really matter whether the consumer chooses the third party provider or the lender chooses. It is the lack of competition that needs to be addressed.

The CFPB said it best in its March BlogPost: *‘It appears that some closing costs are high and increasing because there is little competition. Borrowers are required to pay for many of the costs associated with closing a home loan but cannot pick the provider and do not benefit from the service. In many cases, the lender simply picks from a very small universe of providers, and the costs are then passed on to the borrower.’*

We would also note that some have interpreted this RFI question and the CFPB Junk Fee initiative as a potential first step to changing TRID disclosure requirements, to have the mortgage lender negotiate third party closing costs and then include them in the rate and lender fee it proposes to charge the borrower.

CHLA is skeptical that this approach is permitted under current law. We are also concerned that this approach would bring back volume discounts to large lenders, creating an uneven playing field thus reducing competition among lenders and negatively impacting borrowers.

But most importantly, as noted in our April letter to the CFPB, we believe that such an approach could actually undermine efforts to bring down third party provider fees. Since there is a lack of competition, more – not less – public scrutiny is needed to shine a spotlight on excessive costs. This is necessary to maximize public pressure for the providers to reduce costs and for federal policy makers to diligently work to design solutions to create more competition to reduce borrower costs.

Burying these items in a single lender's fee would undermine this important objective.

### **Mortgage Lender Discount Pricing Is Competitive**

The RFI mentions mortgage lender discount points, which were also the subject of a recent CFPB. Blog post. We would like to make several points regarding mortgage discount points.

First, while banks have broadly retreated from mortgage loan origination and servicing since the 2008 Housing Crisis, independent mortgage banks (IMB) have more than picked up the slack, doing a demonstrably better job of serving minority and other underserved borrowers than banks, [see page 14 of CHLA's annual **IMB Report** for conclusions by the Urban Institute and the Greenlighting Institute].

Thus, while third party provider mortgage fees are mostly characterized by a lack of competition, there is an abundance of competition for loan originations, with around a thousand IMBs competing vigorously for loans.

Second, as CFPB acknowledged in its March Blogpost, discount fees are not a *fee per se* - but instead *“Discount points are a one-time fee paid at closing to a lender in exchange for a lower interest rate.”*

The same Blogpost made the claim that discount points have *“uncertain value for borrowers.”* CHLA disagrees. Here we quote from CHLA’s extended response to that claim in our April letter to the CFPB:

*“Most people would agree that it is easier to comparison shop among different lenders on refinance loans than on home purchase loans. Direct rate and cost comparisons between lenders are easier for refinances, because the transaction is less complex, and borrowers are not concerned about a looming contract deadline to close the home sale.*

*Therefore, if discount points represented an uncertain value for borrowers” – with the implication that discount points are overcharging borrowers, and a lack of competition facilitates such an outcome - we would have expected home purchase borrowers to pay higher discount points than refinance borrowers.*

*In fact, as the CFPB discount point report data clearly shows, the opposite is true.*

*The report states that “discount points were most common among borrowers with cash-out refinance. . .” and that the level of discount points for refinances was twice the level of discount points for home purchase loans.*

*Finally, there are objective, market-driven factors that are responsible for the increase in the use of discount points over the last few years.*

*Borrowers had no good reason to buy down mortgage rates when 30-year mortgage rates were 3% - but have obvious reasons to do so when they are at 7%. Additionally, secondary markets became choppier as rates increased and the Federal Reserve stopping buying mortgage loans; often, MBS investors were unwilling to buy higher coupon notes, which forced the use of rate buydowns (and discount points).”*

In closing, CHLA continues to commend the CFPB’s leadership in shining a spotlight on excessive third party provider mortgage fees and the lack of competition in many areas.

On behalf of our lender members and the consumers they serve, CHLA plans to continue to make this a priority in our advocacy efforts.

Sincerely

COMMUNITY HOME LENDERS OF AMERICA

# **APPENDIX**

## **SUBMISSIONS BY INDIVIDUAL CHLA MEMBER LENDERS**

### **Title Insurance**

*CHLA MEMBER:*

*“There is a broad misconception that “Lenders Title Insurance” on a purchase is provided by vendors chosen by the lender and thus influenceable by the lender. In nearly all cases, the provider is determined by either the buyer’s or seller’s real estate agent or a closing attorney. In many states, legislation requires that agents or attorneys choose the title insurance provider. The lender has little influence and no control over the choice of title insurance provider.”*

*ANOTHER CHLA MEMBER:*

*“The use of Attorney Opinion Letters can really bring down closing costs.” Following are examples:*

*NC example – title company is willing to be competitive and negotiate*

*AOL cost: \$400 for AOL plus standard \$700 attorney fees plus recording fees*

*Loan amount: \$300,000 – title insurance is \$686.*

***Savings would be \$286.***

*PA example – willing to be competitive and negotiate*

*AOL cost: \$1600 – changes per loan amount – no title policy for 300, no CPL for 125 and no endorsements for 400.*

*Loan amount: \$300,000 – title insurance is \$1867.25 (Katie estimated but he estimated \$1900)*

***Savings would be  $400+125+300 = \$825$  also difference***

*OH example – this attorney has excellent service and is probably the best*

*AOL cost: \$355 for an attorney opinion letter and NO OTHER FEES! Except recording fees.*

*Loan amount: \$247,307 (average mortgage in Ohio) – title insurance is \$1,487.*

***Base savings is \$1,132 plus the other costs associated with title fees.***

***Savings would be closer to \$1,500.”***

### **FICO Credit Scores**

*CHLA MEMBER:*

*“When it comes to FICO specifically, FICO provides tiered pricing for lenders. This has increased nearly 400% for Tier 3 lenders (IMBs). Lenders have but no choice to pass these fees along to the consumer. IMBs originate nearly 81% of all mortgages and 90% of FHA and VA loans.*

*Given the landscape of the current lending environment and economy, government backed loan programs are the often the only and/or more favorable lending terms for a consumer to obtain. With IMBs being the dominant platform to obtain these mortgages, consumers are facing steeper costs to obtain these types of mortgages. It is also well-known that FHA and VA loan programs often serve underserved and protected classes at a much higher rate than the conforming market.*

*It would be an interesting research or report to see if FICO's price structure would be found to be causing a disparate impact on these communities. Again, it is not the lender, it is FICO causing this disparate treatment to consumers based on their price structure and gouging due to zero competition in this 3<sup>rd</sup> Party provider service."*

### **Credit Report Costs**

*CHLA MEMBER:*

*"Our credit score costs have skyrocketed over the last four years.*

- *2024 so far: \$371.60 cost per closed loan.*
- *2023 - \$228.93 cost per closed loan.*
- *2022 - \$118.51 cost per closed loan*
- *2021 - \$86.27 cost per closed loan*
- *2020 - \$73.70 cost per closed loan"*

*An analysis shows that credit score fees are a major factor in these cost increases.*

### **Equifax Work Number Verification**

*CHLA MEMBER:*

*"Employment verification is necessary to close a mortgage loan. Equifax work number has therefore become necessary to close the loan because so many employers won't talk to mortgage companies unless they are set up with the Equifax Work number.*

*There is no alternative to this service. The vendor is the only one that profits by these fees. Per TRID, lenders are not allowed to upcharge any of these expenses.*

*One final point. If the negotiated cost for the work number is \$50 per hit (and it is more than this), and the report comes back with 2 hits, even if we only need the current employer, we pay \$100. That is simply not fair. We should be able to specify the current employer only, but that is not allowed, so if the previous employer and current employer both are with the Work Number, then we get 2 hits and pay double – or even triple."*

### **ICE Mortgage Technology Vendor Access Fees**

*CHLA MEMBER:*

*Technology providers, notably certain Loan Origination System (LOS) providers, also charge vendor-to-vendor click fees, sometimes up to 20% of the service-based cost for transferring consumer data between systems. This cost is typically passed down through the third-party service provider to the mortgage lender and may trickle down to the consumer via increased mortgage application and service-based fees.*

*Lenders cannot circumvent these fees by creating a "workaround."*

*This is just one example of how, despite substantial lender investments and implementation costs of financial technology, loan origination manufacturing costs continue to rise over the last decade. This increase directly correlates to third party fees in the mortgage application and manufacturing process.*

## **ICE Mortgage Technology One-Way User Seat Pricing**

*CHLA MEMBER:*

*“ICE contracts with lenders for software services typically dictate pricing that keys off the number of individuals at the lender that use the service to originate loans – commonly referred to as “user seats.”*

*ICE contract agreements are a one way street for user seats. They increase fees when a lender’s number of user seats increases during the contract. But if the number of user seats then declines back to the original level when the contract was put in place, ICE refuses to decrease user seat charges.”*

## **Bank Correspondent Lender Fees**

*CHLA MEMBER:*

*“While Banks have largely exited the direct-to-consumer mortgage loan origination space, our largest commercial banks represent the investors that our independent mortgage banks will sell loans to. These lenders are often at the mercy of the investor’s credit guidelines and fee structure. These fees can represent significant additional cost to the borrower, and most often those costs are exponentially higher for non-qualified mortgage loans or loans to first time home buyers or low to moderate income home buyers.*

*Fees can include everything from an application fee to an underwriting fee, to a funding fee and can aggregate to over \$1,000 in addition to origination charges a borrower may also pay. Several investors require an application or commitment fee ranging across these investors from \$600 to \$1,495.*

*Certain states have taken steps to impose restrictions on certain fees outside of the origination fee. By addressing limits on third party fees at the federal level it will only serve to promote transparency and consistency for home buyers when evaluating product and programs and allow independent mortgage banks who have stepped in to fill a much needed role in the home loan market to continue to compete and serve the best interest of their borrowers.”*