ARDA
American Resort Development Association

Consumer Financial Protection Bureau (CFPB)

For more than 30 years, federal law required lenders to provide two different disclosure forms to consumers who were applying to a lender for any type of mortgage financing. These forms were developed by two different federal agencies under two federal statutes, the Truth in Lending Act ("TILA") and the Real Estate Settlement Procedures Act ("RESPA"). The Dodd Frank Wall Street Reform and Consumer Protection Act, which became law in 2010, directed the CFPB to integrate mortgage loan disclosures under TILA and RESPA. The CFPB published its proposed rule for integrated mortgage disclosures in 2012 ("Proposed Rule"). The CFPB sought public comments on the Proposed Rule and engaged in extensive consumer and industry research before finalizing the Proposed Rule. ARDA submitted extensive comments on behalf of the timeshare industry, many of which were accepted by the CFPB. The final rule including the new integrated disclosure forms was published in the Federal Register on December 31, 2013 ("TILA-RESPA Rule"). Effective date for compliance with the TILA-RESPA Rule was October 3, 2015.

Timeshare Lending Practices Differ Significantly From Subprime Lending Practices

Timeshare loan products are vastly different from the products and practices common to the subprime mortgage market. Important distinctions include:

- **Fixed Rates and Fixed Payments.** More than 90 percent of timeshare secured loans have a fixed interest rate—meaning that the portfolio includes few variable or adjustable rate loans without teaser rates. These timeshare loans have a fixed monthly payment for the entire term of the loan and therefore minimal risk of payment shock to the borrower.
- **No "Predatory" Terms and Practices.** Timeshare loan products do not contain other "predatory" terms or practices such as the financing of points, balloon payments or prepayment penalties.
- **Shorter Loan Terms.** Loan terms for timeshare purchases are typically for a period of seven to ten years—compared to a traditional home mortgage finance period of 15 to 30 years.
- **Significant Down Payments.** Consumers typically pay a minimum down payment of 10 percent and in some cases 20 percent or more, so there is always some equity in the purchase.
- **Borrowers Do Not Lose Their Homes.** If foreclosed, the consumer or purchaser will lose only their right to vacation and not their primary dwelling.
- **Deficiency Judgments.** Deficiency judgments against consumers are almost never pursued by timeshare lenders.
- **Defaults and Delinquencies.** Most significantly, in terms of performance, approximately only 6.4 percent of the total timeshare consumer loans are over 120 days delinquent (based upon the 2015 Financial Performance survey). On a quarterly basis, the percentage is 4.0 percent in Q2 2015.
- **No Yield Spread Premiums.** There are no yield spread premiums in timeshare loan products by which a lender compensates a mortgage broker by charging a higher interest rate on the loan.
- **Loan Steering.** There is no loan steering of borrowers to more costly loans since the vast majority of timeshare of loans are seller financed.

Timeshare Purchases Differ Significantly From Home Mortgage Lending

Timeshare interests are purchased and financed differently than traditional real estate products. While the product is often real estate based, the consumer's primary purpose in purchasing a timeshare is to acquire a fully pre-paid, lifetime vacation experience rather than to purchase a dwelling or residence. Unlike home mortgages, timeshare loans are virtually all fixed rate, with small balances and no balloon or prepayment penalties so a consumer can prepay the loan at any time without any cost or penalty.

Timeshare is a heavily regulated industry at the federal and state level. Unlike buying a home, there is a state-mandated rescission period for timeshare buyers so that the buyer can cancel his or her purchase and related loan for any reason for a period of time after buying. State laws typically have rescission periods of three (3) days on the low end to fifteen (15) days on the high end during which time a consumer can cancel his or her purchase for any reason whatsoever without penalty. During this period, the buyer can seek counseling or decide that he or she is not happy with the purchase and rescind and cancel the purchase and related loan.

State timeshare registration laws require that a Public Offering Statement and/or Prospectus be delivered to consumers to provide for extensive disclosure, including, but not limited to, information regarding the developer, the timeshare product and the purchase money financing being provided by the developer for the acquisition of the timeshare interest. These voluminous state mandated disclosures are in addition to the disclosures required by federal law which regulate timeshare developers, lenders, servicers and collection companies. Other state consumer protection laws also exist to provide additional protections for timeshare purchasers.

Bureau of Consumer Financial Protection-Inspector General Reform Act of 2015 (H.R. 957)

The House Financial Services Committee passed a bipartisan bill, sponsored by Congressmen Steve Stivers (R–OH) and Tim Walz (D-MN), which would create an independent Inspector General (IG) at the CFPB.

The CFPB receives its operating funds from the Federal Reserve. Currently, it has very little Congressional oversight and does not have an independent Inspector General solely dedicated to the Bureau. Instead, the CFPB shares an Inspector General with the Federal Reserve, which is appointed by the Fed Chairman. The bill amends the Inspector General Act of 1978 to establish an independent Inspector General for the CFPB.

ARDA Position

ARDA applauds the CFPB for their continued work to ensure that the proper consumer protection devices are in place to prevent fraudulent activities for financial products. However, the CFPB has been given broad authority. More than 30 other federal departments and agencies have an independent Inspector General. ARDA supports this bill as it will bring the CFPB in line with these agencies and provides what we believe is the necessary oversight and transparency.