

# Strategic Relationships and the Home-Buying Experience: The Critical Connection

Commentary by Mark L. Meyer

Collaborative, convenient, streamlined and compliant home-buying processes among settlement providers can be one of the most critical contributors to a homebuyer's positive experience. Meanwhile, the Consumer Financial Protection Bureau (CFPB) and other federal and state regulators are focused on the homebuyer experience, in addition to compliance with laws. In response, residential settlement service providers that pursue the establishment of complementary relationships should not only strive to be compliant, but also consumer-conscious in the design and execution of such arrangements. In particular, these arrangements must be compliant with the Real Estate Settlement Procedures Act (RESPA).

## What Homebuyers Deserve

In addition to the desire to purchase a home and secure related financing at a competitive price, homebuyers want the purchase process to be easier to understand and simpler to perform. They also deserve transparency and choice in what they buy and who they use. Once the home purchase has begun, consumers want a predictable, coordinated and efficient transaction with a smooth closing. In order to achieve what homebuyers want, settlement providers must integrate their business processes in a way that puts buyers first and creates the best experience for all parties.

## Strategic Relationships Must Benefit Consumers and Be Compliant

Strategic relationships among settlement providers must be in compliance with Section 8 of RESPA, prohibiting the giving or receiving of a "thing of value" in exchange for a referral of a settlement service for a federally related mortgage loan. Several RESPA compliant relationships, recognized under applicable law, can also lead

to a better home-buying process.

An Affiliated Business Arrangement (ABA), if properly structured and disclosed, allows a business source to hold an ownership interest in a jointly owned settlement provider from which it may receive distributions of related profits. ABAs can provide homebuyers with a one-stop shopping choice, frequently reducing the time, complexity and costs associated with settlements.

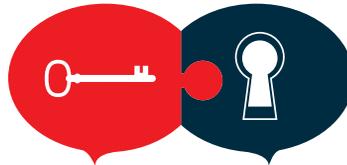
Additionally, as reinforced by the recent PHH DC Circuit Court Decision, RESPA Section 8(c)(2) still allows payment for legitimate services provided by one settlement provider to another, as long as the payment does not exceed the value of the services performed and is not based upon the amount or volume of referrals.

Typical services agreements, which can be compliant under this Section, include office leases and Marketing Services Agreements

(MSAs) between one settlement provider and another.

In the case of an office lease, a mortgage company may rent space and amenities from a real estate broker to place a loan officer inside or adjacent to the real estate office. Being located close to the real estate agents can enhance the ease and convenience of a loan officer working with the agents and their buyers.

Through an MSA, on the other hand, a mortgage company may pay a real estate broker a reasonable fee for actual advertising services performed on its behalf to brand who it is and what it does among homebuyers, agents and salespeople, so it can effectively compete for the business. When a settlement provider can accomplish critical functions like marketing in a more productive and efficient manner, homebuyers may benefit from more attractively priced services.



## A Better Home-Buying Experience

Strategic relationships and services agreements between settlement service providers should be a catalyst for designing and implementing a better home-buying process that puts the buyer first. Working together, providers can coordinate and communicate to make the experience more convenient, predictable, smooth and timely for the buyer and all other participants. Positive response, from homebuyers and others, can also help validate and defend the relationships with regulators, as needed. **RE**

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