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## FINAL REPORT

**Prepared for:**

The REACH Consortium

# State regulation of home mortgage settlements: Some empirical evidence about costs

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## EXECUTIVE SUMMARY

*There is a long history of arguments, in state legislatures and in state and federal courts, about who should be permitted to provide mortgage settlement services, and more specifically about how governmental regulation concerning settlement service provision may affect the closing costs charged to borrowers. The Federal Trade Commission and the US Department of Justice have participated in these debates through (for example) amicus curiae submissions, letters to state legislators, and Congressional testimony. The agencies have argued that, consistent with general competition theory and the FTC's broader analysis of professional licensing practices, restricting settlement services to lawyers "is likely to cause . . . consumers to pay higher prices . . ."*<sup>1</sup>

*We were asked by The REACH Consortium, an ad hoc consortium of real estate law interests, to investigate whether this assertion is supported by empirical evidence. In particular, we investigated whether the amounts paid by consumers for residential mortgage settlement services were influenced significantly by (i) the effects of state regulations or customary business practices in the region, or (ii) the type of firm chosen as the settlement agent. This paper describes our data collection and analysis procedures, and presents our conclusions about any such price impacts.*

*We carried out a survey in 2006 among a representative sample of United States' residents who, within the twelve months preceding the interview, had participated in a mortgage settlement either to purchase or refinance a residential property.<sup>2</sup> The database assembled in this study is, to the best of our knowledge, the only systematic, national scale attempt in the last quarter century to quantify the closing costs experienced in a fully representative sample of residential mortgage settlements. Moreover, it is the only such effort to have combined transaction-specific details with information about the characteristics of the borrowers.*

*We used the survey responses to estimate the closing costs charged by the settlement agent for the sampled transactions,<sup>3</sup> and then to explore econometrically how those costs varied*

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<sup>1</sup> See, for example, Brief *Amici Curiae* of the United States of America and the FTC in *Lorrie McMahon v. Advanced Title Services Company of West Virginia et al.*, in the Supreme Court of Appeals of the State of West Virginia, No. 31706 (filed May 25, 2004) at pp.11–13. [<http://www.ftc.gov/be/V040017.pdf>]

<sup>2</sup> A total of 1,260 respondents participated in the survey in September and October, 2006. For the greater part, these respondents were members of a pre-recruited, randomly-selected panel of US consumers maintained by *Knowledge Networks*, augmented by additional respondents drawn from a collaborating "opt-in" panel. To qualify for interview, a respondent was required to have a copy of the "uniform settlement statement" (form HUD-1 or HUD-1A, or substitute) in hand, and to be willing to transcribe information from identified sections of that form. While the issued sample covered the complete United States, it was stratified to emphasize those states that we believed were particularly germane to identifying any cross-sectional variations in closing costs that might be related to different competition regimes across the states.

<sup>3</sup> For the purposes of this study we define "closing costs" as the charges imposed – to either the borrower or the seller – at the discretion of the settlement agent, excluding the pass-through of legitimate charges by third parties (such as for surveys, appraisals, inspections, or carrier services) or regulated charges (such as for title insurance).

*with the characteristics of the transaction, the borrower, and the region in which the transaction took place. The key findings of our analysis are that*

- *of the various factors we considered as potentially influencing consumers' costs of settlement, regulatory considerations were rarely the most important influence on such costs;*
- *across all of the market segments that we examined, there was no systematic evidence that "attorney only" jurisdictions were associated with higher settlement costs to consumers.*

*We concluded that findings about closing costs contained in the most comprehensive previous study on the topic of residential mortgage closing practices – one carried out for the US Department of Housing and Urban Development in the late 1970s, based on a sample of almost 16,000 HUD-1 forms – remain broadly correct. Yes, there may well be some places, times, circumstances, or market segments for which attorney settlements (or restrictions prescribing that only attorneys may provide settlement services) are associated with higher costs. But equally, there appear to be other situations where the reverse is true. And our comprehensive sifting of the new 2006 database provided no clear evidence of any systematic effect one way or the other.*

## 1. THE CONTEXT AND RATIONALE FOR THIS INVESTIGATION

### 1.1. The underlying public policy issue

The rights of various parties involved in real estate conveyancing in the United States to perform “settlement services” – that is, among other things, to carry out title searches and examinations, to provide title reports or opinions, to perform real estate closings, and to register and deliver closing documents – has long been a contentious issue between real estate lawyers on the one hand and “title” or “escrow” companies on the other.<sup>4</sup> Licensing practices to perform settlement services vary from state to state.

In recent years, as various “unauthorized practice of law” cases have arisen around this matter in state courts or as state legislatures have been considering revisions to their licensing practices, it has been customary for the Federal Trade Commission and the US Department of Justice to make a joint submission on the matter in hand, in the form of *amici curiae* briefs in court proceedings, or letters to appropriate officers or committees of the legislature or state Bar.<sup>5</sup> Among the other contentions in their submissions, the federal agencies claim that restricting settlement services to lawyers “*is likely to cause . . .*

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<sup>4</sup> Much of this history is well captured in Michael Braunstein, *Structural Change and Inter-Professional Competitive Advantage: An Example Drawn From Residential Real Estate Conveyancing*, 62 MO. L. REV. 241–279 (1997); Joyce Palomar, *The War Between Attorneys and Lay Conveyancers – Empirical Evidence Says “Cease Fire!”*, 31 CONN. L. REV. 423–546 (1999).

<sup>5</sup> Examples include Letter from Joel I Klein and William J Baer to the Supreme Court of Virginia re Proposed UPL Opinion #183 (January 3, 1997) [<http://www.ftc.gov/be/V960015a.pdf>]; Brief *Amicus Curiae* of the United States of America in support of movants Kentucky Land Title Association *et al.*, in the Supreme Court of Kentucky, No. 2000-SC-000207-KB (March 9, 2000) [<http://www.DOJ.gov/atr/cases/f4400/4491.htm>]; Letter from Charles A James *et al.* and Timothy J Muris *et al.* to the Ethics Committee of the North Carolina Bar re North Carolina State Bar Opinions Restricting Involvement of Non-Attorneys in Real Estate Closings and Refinancing Transactions (December 14, 2001) [<http://www.ftc.gov/be/V020006.pdf>]; Letter from Charles A James and Jessica N Butler-Arkow to the Speaker, Majority and Minority Leaders, and the Judiciary Committee of the Rhode Island House of Representatives re Proposed Bill H.7462 Restricting Competition from Non-Attorneys in Real Estate Closing Activities (March 29, 2002) [<http://www.ftc.gov/be/V020013.pdf>]; Letter from R Hewitt Pate *et al.* and Timothy J Muris *et al.* to the Standing Committee on the Unlicensed Practice of Law of the State Bar of Georgia (March 20, 2003) [<http://www.ftc.gov/be/v030007.shtm>]; Brief *Amici Curiae* of the United States of America and the FTC in *Lorrie McMahon v. Advanced Title Services Company of West Virginia et al.*, in the Supreme Court of Appeals of the State of West Virginia, No. 31706 (filed May 25, 2004) [<http://www.ftc.gov/be/V040017.pdf>]; Letter from Susan A Creighton *et al.* and Jessica N Butler-Arkow *et al.* to State Representative Paul Kujawski of the Massachusetts House of Representatives re House Bill No. 180 (October 6, 2004) [<http://www.ftc.gov/os/2004/10/041008kujawskicomment.pdf>]; Letter from Thomas O Barnett *et al.* and Deborah Platt Majoras *et al.* to the Committee on Judiciary of the New York State Assembly re Assembly Bill A05596 (June 21, 2006) [<http://www.ftc.gov/os/2006/06/V060016NYUplFinal.pdf>].

consumers to pay higher prices . . . ,”<sup>6</sup> and that this conclusion is consistent with general competition theory, observed facts, and the FTC’s broader analysis of professional licensing practices.<sup>7</sup>

These claims are typically buttressed by fragmentary data suggesting that settlement costs tend on average to be higher when attorneys provide settlement services than when non-attorneys do.<sup>8</sup> Even were these data to portray reality in a comprehensive and representative way, they would not necessarily imply that higher prices would be an inevitable anticompetitive outcome of state practices reserving to attorneys the right to offer settlement services. If attorneys on average offer higher quality settlement services than non-lawyers – be it because attorneys are more successful in handling the contractual details of residential closings, or that as part of their service “package” they include ancillary services or advice to homebuyers which lay providers cannot provide, for example – then it is possible that higher *nominal* prices charged by attorneys may reflect *quality-adjusted* prices similar to those charged by lay sellers of settlement services. Moreover, to the extent that there are large numbers of qualified attorneys and no barriers to entry for lawyers into the provision of settlement services, there is no obvious reason to believe that (barring collusive practices among attorneys) the prices offered by attorneys would exceed competitive levels.

Even leaving aside such theoretical considerations, however, one must discount the predictive power of the data relied upon by the FTC and DOJ. As we subsequently detail, the empirical evidence cited by the federal agencies concerning the costs of real estate settlement services in general, and of residential real estate transactions in particular, has been quite sparse. Conclusions based upon such incomplete data should not be viewed as reliable.

By contrast, our current study assembles and analyzes comprehensive, recent, and statistically reliable cost information for a nationally representative sample of home mortgage closings, with a specific focus on examining whether the costs of the conveyancing services (particularly those borne by the borrower) are influenced significantly by state licensing policies (or, in some cases, local conventions) regarding the parties authorized to provide such services. As explained later, these data reveal no systematic support for the view that rules limiting settlement services to attorneys are likely to cause consumers to incur higher costs of settlement. This suggests that policies based on the federal competition authorities’ analyses may be misguided.

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<sup>6</sup> Emphasis added. See, for example, the West Virginia *amici curiae* brief cited at footnote 1 *supra.*, at p.10.

<sup>7</sup> See Carolyn Cox & Susan Foster, *The Costs and Benefits of Occupational Regulation*, Federal Trade Commission Bureau of Economics (1990).

<sup>8</sup> See, for instance, the West Virginia brief cited at footnote 1 *supra.*

## 1.2. Previous relevant empirical evidence

### 1.2.1. The *Peat, Marwick, Mitchell* report (1978-79)

At the federal level, real estate settlements are conducted subject to the provisions of the *Real Estate Settlement Procedures Act* (RESPA) of 1974 (as amended).<sup>9</sup> Section 4 of RESPA led to the development of the US Department of Housing and Urban Development's form HUD-1 as the "Uniform Settlement Statement."<sup>10</sup> This serves essentially as a standardized means of communication among the parties to the transaction; it is not required to be filed with a government agency. The lender is obliged to retain a copy for five years after settlement, and the Secretary of HUD has the right "to inspect or require copies of the records . . ."<sup>11</sup>

Section 14(a) of RESPA essentially required the Secretary of Housing and Urban Development to evaluate the performance of the Act and to report to the US Congress on the need for further legislation regarding real estate settlements. As part of this evaluation, a survey was conducted that involved the collection of all HUD-1 forms for transactions closed from late 1978 through January 1979 by a nationally representative sample of institutional lenders.<sup>12</sup> These data were augmented by studies in eight local markets involving personal interviews with a total of 80 lenders, 80 buyers, and 40 sellers.

A total of approximately 48,300 HUD-1 forms were collected, of which about 15,600 were selected for analysis. Over a quarter of a century later, this study still provided the only serious attempt to gather objective information about closing costs using a well-designed, reasonably-sized sample permitting quantitative conclusions generalizable to represent the country as a whole. To be sure, there have been more recent attempts to collate some cost information, but (as we describe below) they have been considerably more limited in scale, scope, or representativeness.

The PMM report's focus was on the effectiveness of RESPA in achieving the goals of that legislation, and investigation of the relationship between costs and market entry regulations

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<sup>9</sup> This law was enacted following a 1972 congressionally-mandated study that reinforced congressional concerns that settlement costs were excessive due to market inefficiencies, inadequate consumer information, and anticompetitive behavior on the part of some providers. Among other things, the Act prohibited certain kickbacks and referral fees, and mandated that a "Special Information Booklet" be developed and distributed to all loan applicants, that a *bona fide* estimate of settlement charges be provided to borrowers in advance of the closing, and that a uniform settlement transaction form be used to detail the accounting of the transaction.

<sup>10</sup> At this writing, the version of the form in use at the time of our study (unchanged since 1986) could still be found at <http://www.hud.gov/offices/adm/hudclips/forms/files/1.pdf>. A variant (form HUD-1A) may optionally be used for transactions that do not involve a seller (primarily refinancings) [<http://www.hud.gov/offices/adm/hudclips/forms/files/1a.pdf>]. However, HUD recently issued a Final Rule revising these forms. Use of the new versions will be mandatory as of January 1, 2010, and we anticipate that the versions available online will soon be changed.

<sup>11</sup> 24 CFR §3500.10(e).

<sup>12</sup> Peat, Marwick, Mitchell and Co., *RESPA – Section 14a. The Real Estate Settlement Procedures Act. The 1979-80 Evaluation. Volume II: Settlement Performance Evaluation*, 1980. Henceforth we refer to this document as "the PMM report."

was not a major concern. Insofar as the report does address the issue, it is apparent that the authors were unable to generalize about the existence of any clear quantitative association between closing cost levels and the state regulatory posture:

“A number of participants in the settlement process, as well as numerous commentators, have expressed the opinion that the regular involvement of attorneys in the settlement process causes prices to be artificially high. *Although our findings indicate that this is sometimes true, they do not support the contention that the absence of attorneys causes prices to be low.* The highest prices found in the HUD-1 survey were charged by title and escrow companies in Los Angeles. It appears that each of the participants in the title and conveyancing markets have the potential to charge very high prices in some markets.

*The selected sample sites where attorneys are primary settlement service providers are Boston, Jacksonville, and Washington, DC. . . The HUD-1 data for these sites does not show a consistent pattern of particularly high prices. . .*<sup>13</sup>

Thus, as in our current study, this wide-ranging HUD-sponsored study found no systematic basis by which to conclude that rules permitting attorneys alone to offer settlement services led to higher prices.

### 1.2.2. Data from Virginia (1996)

By comparison with the broad geographical scope and the large number of observations involved in the PMM report, more recent empirical evidence on closing costs is far more fragmentary and elusive. The FTC and DOJ advocacy on the matter typically overlooks the PMM findings and cites two pieces of more recent evidence, drawn from Virginia and New Jersey.

The Virginia data derive from a telephone survey conducted in September 1996 by *Media General Research* for an unidentified client.<sup>14</sup> Phone calls were made to a random sample of Virginia-based “residential real estate law firms” (criteria for that classification are not provided) drawn from the *Westlaw* and *Martindale-Hubbell* directories, and to a random sample of “non-lawyer residential closing operations” identified by the *Virginia Land Title Association*. The interviewer posed as a person buying a house and asked three questions: “How much do you charge for a real estate closing?” “Does that include the title examination (and if not, how much would that be)?” “I am buying from a friend; do you charge them anything?”

The achieved sample comprised 425 law firms and 64 “lay firms.” The mean total closing costs (including title examination charges) quoted by law firms were \$451, compared with a

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<sup>13</sup> PMM report, p.XII.50; emphasis added.

<sup>14</sup> Our knowledge of this survey is restricted to a nine-page unpublished mimeograph [Media General Research, “Residential Real Estate Closing Cost Survey,” September 1996] that provides minimal detail about the survey methods and that would certainly be inadequate for use in a court of law (see Shari Seidman Diamond, “Reference Guide on Survey Research” in Federal Judicial Center, *Reference Manual on Scientific Evidence, second edition*, Federal Judicial Center, 2000 [[http://www.fjc.gov/public/pdf.nsf/lookup/sciman04.pdf/\\$file/sciman04.pdf](http://www.fjc.gov/public/pdf.nsf/lookup/sciman04.pdf/$file/sciman04.pdf)]).

mean quote by lay firms of \$272; the median values were \$400 and \$280 respectively. Note that these values are averages across *firms*, not across *transactions* – *Media General* had no information about the relative numbers of settlements performed by their respondents to enable them to estimate an average per transaction.<sup>15</sup>

As a basis for public policy, we judge the *Media General* survey – or at the very least, the standard of reporting for it – to be seriously deficient. No information is provided about the sample achievement, nor about the incidence and treatment of responses that were not point estimates of costs (for example, range estimates or “it depends on the circumstances” responses). There appeared to be no screening or qualification of respondents to ensure that the interviewer was receiving an authoritative answer, and no probing about the possibility of any additional charges other than for title examination.<sup>16</sup> And importantly, no information is provided about the *variability* of the quoted costs, to afford examination of whether the differences between law firms and lay firms in the mean or median quotes were, in fact, statistically significant.

### 1.2.3. Data from New Jersey (1993)

In the state of New Jersey in the early 1990s, there was a marked difference in residential real estate settlement practices between the northern and southern part of the state. In North Jersey, practices reflected those of New York City and both buyer and seller would typically be represented by counsel. In accordance with ethics rules, none of the attorneys acted as title agent, and title insurance services were provided by title companies. Counsel focused on negotiating and drafting the sales contract, reviewing documents, and resolving any issues that arose in the transaction.

In South Jersey, by contrast, practices predominantly reflected Philadelphia customs. Both title insurance and settlement services were generally provided by title companies. While the parties were free to obtain legal representation, only about four out of every ten buyers or sellers would engage counsel.

These differences came into conflict in March 1992 when the state Committee on the Unauthorized Practice of Law issued an Opinion concluding that many of the tasks performed in residential real estate closings were the “practice of law” and could be performed only by an attorney. Fearing disruption to South Jersey real estate transactions, the state’s Supreme Court stayed the Opinion and appointed a retired judge, Edward S. Miller, to act as a Special Master for the Court. The Court’s subsequent determination of the matter<sup>17</sup> relied heavily on Judge Miller’s findings and recommendations, based on a 16-day evidentiary hearing held by the judge.

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<sup>15</sup> This distinction has usually been lost in the subsequent citations of these data.

<sup>16</sup> Specific ambiguities include possible ancillary charges (such as for document preparation), and whether or not the law firm would provide a title *opinion* or just a title *report*.

<sup>17</sup> *In re Opinion no. 26 of the Committee on the Unauthorized Practice of Law*, 654 A.2d, 1344 (N.J. 1995).

The published record is sparse concerning the nature and provenance of any empirical evidence about settlement costs presented in that hearing. The only quantitative information cited in the Court's opinion is that . . .

"The seller in North Jersey spends on average \$750 in attorney fees, and the buyer in North Jersey spends on average \$1,000. The buyer in South Jersey who chooses to proceed without representation spends nothing. The South Jersey seller whose attorney does no more than prepare the deed and affidavit of title, usually without even consulting with the seller, spends about \$90. South Jersey buyers and sellers who are represented throughout the process, including closing, pay an average of \$650 and \$350, respectively.<sup>18,19</sup>

These statistics, typically without the caveat, are the ones most often referenced for New Jersey in the FTC/DOJ material. But it is not clear from where these data derive and how accurate and representative (of all New Jersey residential closings) they can be judged to be. We have been told by attorneys attending the hearing that a small number of specific cases (probably no more than twenty) were examined in the proceedings, but it is not clear whether Judge Miller's findings about average costs were based on just those few cases. Palomar<sup>20</sup> cites a contemporaneous telephone survey of 107 New Jersey home buyers, primarily about their satisfaction with the settlement process,<sup>21</sup> but does not identify that survey as the source of the average cost estimates.

We note that, regardless of how representative the Court's data were, any differences between North and South Jersey may in part reflect differences in property values and general costs in the two parts of the state. Also, Judge Miller made no explicit finding as to the costs incurred by unrepresented buyers and sellers in South Jersey.<sup>22</sup>

#### 1.2.4. The Woodward study (2001)

Following completion of our own survey and while this report was being prepared, the US Department of Housing and Urban Development published a new major study, carried out by Dr. Susan Woodward on behalf of *The Urban Institute*, examining the closing costs for

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<sup>18</sup> Footnote to the opinion at this point: "It is suggested that although the parties under the South Jersey practice save the cost of counsel, the savings may be offset to some extent because they nonetheless pay others for services attorneys in North Jersey customarily provide."

<sup>19</sup> *In re Opinion no. 26* . . . (*op. cit.*), at 1349.

<sup>20</sup> Palomar, *op. cit.* (footnote 4 *supra.*), at 438 and footnote 44.

<sup>21</sup> Guideline Research Corporation, *A Study to Determine the Extent of Home Buyer Satisfaction or Dissatisfaction with the Title Closing/Settlement Process Having to Do with Whether the Buyer was Represented by an Attorney* (1993). Our diligent efforts to obtain a copy of this report have proved unsuccessful, but it would appear unlikely that this survey could have produced the estimates of *sellers'* average costs.

<sup>22</sup> "Although he made no explicit finding on the point, implicit in all of his findings is the obvious fact that the unrepresented buyers and sellers in the South Jersey practice save the entire counsel fee they would otherwise have to pay, a fairly substantial sum." [*In re Opinion no. 26* . . . (*op. cit.*), at 1348.]

FHA-insured mortgages.<sup>23</sup> The study was based on a nationally-representative sample of 7,560 FHA-insured, 30-year fixed-rate home purchase loans that closed over a six-week period in May and June, 2001. The data for this sample were compiled from the HUD-1 statements and other information (including borrower and property characteristics) included in the FHA loan files, augmented by census tract-specific statistics on loan applications, approvals, and originations collected under the mandate of the Home Mortgage Disclosure Act.<sup>24</sup>

The scope of the Woodward study is both more comprehensive and more limited than our own. It had a considerably more expansive set of objectives, examining mortgage loan terms and costs and real estate agent services as well as the title and settlement services that are the focus of this study. Beyond the information that we assembled, Woodward's study (because of its ability to draw from FHA files) also included consideration of such potential influences as interest rates, borrowers' credit history, and neighborhood-specific racial composition.

However, the data are restricted to *FHA-insured* loans for home purchases only, not including refinancings. According to the most recent *American Housing Survey* data (for 2007), about 10.8% of owner-occupied units with mortgages have FHA-insured loans.<sup>25</sup> FHA mortgage insurance is most prevalent for "Black alone" households (21.3% of the owner-occupied homes with mortgages), Hispanic households (15.8%), the South census region (13.7%), central cities (13.6%), and borrowers who had moved in the past year (12.7%). It is less prevalent for manufactured and mobile housing (5.4%), elderly households (7.3%), the Northeast census region (7.8%), rural homes (8.0%), and the Midwest census region (9.2%).<sup>26</sup>

Woodward's treatment of payments made for "title services" is also more expansive than our own focus; she includes title insurance premiums and other charges (such as courier fees) that we have excluded. While she summarizes and addresses arguments about whether title charges are above competitive levels, her own quantitative analysis does not explicitly address the issue of the identity of the settlement agent nor local conventions or regulatory provisions concerning who may provide settlement services.

Woodward does, however, compute a state-level "premium" in title charges (as she has measured them): that is, the amount by which each state's average fees exceed those for the state with the lowest average title fee (North Carolina), after normalizing for differences that

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<sup>23</sup> Susan E. Woodward, *A Study of Closing Costs for FHA Mortgages*, US Department of Housing and Urban Development Office of Policy Development and Research (2008) [[http://www.huduser.org/Publications/pdf/FHA\\_closing\\_cost.pdf](http://www.huduser.org/Publications/pdf/FHA_closing_cost.pdf)]

<sup>24</sup> Woodward, *op. cit.*, at Appendix III.

<sup>25</sup> US Department of Housing and Urban Development and US Department of Commerce Census Bureau, *American Housing Survey for the United States: 2007* (2008), at Table 3-15. Omitting the numbers for which the type of primary mortgage was either not known or not reported, the survey reports that of 43.0 million owner-occupied homes with mortgages, about 4.6 million had FHA-insured loans. [<http://www.census.gov/prod/2008pubs/h150-07.pdf>]

<sup>26</sup> *Ibid.*, computed from Table 3-15.

she ascribes to loan and borrower characteristics.<sup>27</sup> We examine those data at Section 3.9 of this report.

#### 1.2.5. *Bankrate.com* data (2005-08)

Since 2005, the website [www.bankrate.com](http://www.bankrate.com) has published an annual “closing costs survey,”<sup>28</sup> but we believe that it provides only a very limited (and possibly inaccurate) picture of nationwide closing cost patterns. It surveys the estimated costs associated with a single prototypical transaction,<sup>29</sup> and restricts attention to national internet lenders only. A single zip code is selected (by unspecified means) for the largest city in each state, and six to nine good faith estimates are obtained of the closing costs (including any “origination charges” exacted by the lender) for the prototypical loan on a property located in that zip code. In our opinion, the variations in these data by state provide no useful basis for any careful investigation of the factors influencing closing costs.

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<sup>27</sup> Woodward, *op. cit.*, at Table 10-2.

<sup>28</sup> The survey for 2008 is at [http://www.bankrate.com/brm/news/mortgages/2008/closing\\_costs\\_overview\\_1.asp?](http://www.bankrate.com/brm/news/mortgages/2008/closing_costs_overview_1.asp?), and the data compilation methods are described at [http://www.bankrate.com/brm/news/mortgages/2007/closing\\_costs\\_methodology.asp](http://www.bankrate.com/brm/news/mortgages/2007/closing_costs_methodology.asp).

<sup>29</sup> Cost estimates are compiled for a 30-year, fixed rate mortgage of \$200,000 for a “borrower with excellent credit” to buy and occupy a single-family house, with a down payment of at least 20%.

## 2. THE DESIGN OF OUR STUDY

### 2.1. The general data collection strategy

The standardized HUD-1 settlement form provides a record of closing costs at the level of detail necessary for the purposes of our study. If we could replicate a database of HUD-1 records like the one used for the PMM report, that would afford an examination of how reported closing costs vary by both the identity of the settlement agent and the regulatory posture of the settlement state.

However, the PMM study was carried out under the ægis of the US Department of Housing and Urban Development, which alone has the legal right to inspect those records. Without HUD sponsorship, the prospect of gaining access to the records held by a representative sample of lending institutions was very slender, in our opinion.<sup>30</sup> But we did wonder whether it might be feasible to obtain copies or transcriptions of the relevant parts of HUD-1 forms from a representative sample of *borrowers* instead, albeit for a much smaller number of transactions than was used in the PMM report.

Our primary concern with this possible approach was whether we could achieve the cooperation level necessary to obtain a respectable sample. We would be asking respondents who had closed on a residential mortgage within (say) the last twelve months to find their settlement documents, to identify the HUD-1 form, and to transcribe some possibly lengthy extracts. Would a fully representative sample of borrowers be willing to do this?

We judged that the best prospect for carrying out such a survey in a cost-effective manner would lie in using the randomly-selected, pre-recruited panel maintained by *Knowledge Networks*, responding on-line. The key terms in this sentence are “pre-recruited panel,” “randomly-selected,” and “on-line.” We will briefly explain the significance of each of those considerations.

*Pre-recruited consumer panels* have a long history in US market research, using (until the last decade) mostly mail or telephone survey methods. They have several virtues. They routinely obtain response rates that are significantly higher than is feasible using completely virgin sample . . . and they usually get those responses more quickly, too. The panel sizes can be so large that it is feasible to accomplish achieved samples<sup>31</sup> that very closely mirror relevant known characteristics of the population under study (for example, US Census of Population data). Questionnaires can be shorter because basic classification information about each participant is already on file, is updated regularly, and can be used (where

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<sup>30</sup> We understand that there have been unsuccessful attempts to do this in at least one previous study. As well as finding a way of gaining the cooperation of a representative sample of lenders, this approach would also require the resolution of important privacy issues.

<sup>31</sup> The “issued sample” is the group of people to be invited to participate in the survey, usually selected at random from a larger population (or “survey universe”) that the sample is intended to represent. The “achieved sample” is that part of the issued sample that actually chooses to participate and provides usable information.

advantageous) in selecting the issued sample. Also, because the panel participants are accustomed to completing surveys, their higher levels of cooperation might be expected to extend to carrying out mundane tasks like searching for documents and transcribing somewhat tedious entries accurately.

But there are also disadvantages to consumer panels as they typically operate. Most importantly, the pre-recruited panel is usually not randomly selected; the participants are all volunteers. Even though the achieved sample may match census statistics perfectly, in careful, high quality survey work one can never be absolutely sure that the people who volunteer to be on such panels are not different, in some way that may be important to the enquiry in hand, from those who do not volunteer. In a similar vein, when the panel vendors these days offer on-line survey capabilities, their samples are limited to the ~70% of the total population that has easy on-line access. One cannot be sure that the people who do not have such access are not different in some germane way from those who do.

The *Knowledge Networks*<sup>32</sup> panel differs from the standard pre-recruited consumer panel in several important ways. First, the panel is *randomly-selected*; it accepts no volunteers. All participants have been recruited using random digit dialing, which is the most cost-effective method for achieving a random sample of the general population. Secondly, if a recruit does not already have a more broadband means of on-line access, the company equips the participant with a free *MSN*<sup>®</sup> *TV*<sup>33</sup> unit. This provides Internet access at no cost to the participant, in return for a commitment to participate in surveys.

By their nature, surveys administered *on-line* are “computer-assisted.” Computer-assisted methods provide very significant improvements in questionnaire design. Question wordings can be tailored to the particular circumstances of each respondent, as revealed by his/her answers to prior questions. Other factors equal, framing the questions in a more personalized, more meaningful, less generic fashion can remove any ambiguity and reduce the likelihood of respondent disaffection and “drop-offs” in mid-interview. Moreover, computer-assisted questionnaires make it possible to use complex “skip patterns” (that instruct respondents to skip some number of later questions based on the answer to the current question) in a way that is completely hidden from the respondent (and from the interviewer in an in-person interview). This eliminates a common source of (sometimes numerous) mistakes made by interviewers or self-completion respondents in following questionnaire instructions. The computer can also check in real time for potentially inconsistent responses, and facilitate probing to clarify those situations.

## 2.2. Key specifics of the survey design

Such considerations led us to conclude that if we could persuade qualified panel members to participate in the survey, the *Knowledge Networks* platform provided the best, most cost-effective prospect for achieving our objectives. Accordingly, we conducted careful pilot work

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<sup>32</sup> <http://www.knowledgenetworks.com/index5.html>

<sup>33</sup> Formerly known as *WebTV*.

designed primarily to test the practical feasibility of this approach and to clarify the incidence of qualified panelists (those who had taken out a mortgage on residential property – either to buy the property or to refinance it – over the preceding twelve months).

The logistical details both for this development work and for the subsequent survey are documented in *Appendix A* to this report. Suffice it to observe here that the pilot tests led us to conclude that the proposed survey approach *would* be feasible and would generate good information.

### 2.2.1. Questionnaire design

At the heart of the questionnaire was the task of transcribing several different pieces of information from the HUD-1 form:

- Certain characteristics of the loan, such as the name of the settlement agent, the loan amount, the purchase price of the property (for purchase transactions only), and the settlement state;
- All of the information listed in Section 1100 of the form (“Title charges”); *and*
- Certain lines from the information listed in Section 1300 of the form (“Additional settlement charges”).

However, the questions required to gather this information constitute only a small part of the total questionnaire (a copy of which is provided as *Appendix B*). That is because of several other complexities and important considerations that needed to be taken into account in designing the questionnaire:

- Settlement agents are not restricted to using the official version of Form HUD-1, but may (within certain limits) substitute variants.<sup>34</sup> This has become increasingly popular with the advent of proprietary software packages used to compile and print out the information. We could not be sure that the physical appearance of the form would necessarily correspond to the HUD version. Therefore, a good deal of the introductory section of the questionnaire was taken up by stressing to the respondent that (s)he would not be able to complete the survey without having a copy of the form physically in hand, spelling out exactly which form we were looking for, and ensuring that when the respondent resumed the interview<sup>35</sup> (s)he did so with the correct documentation.
- For refinancings, the settlement agent *may* use Form HUD-1A but is not obliged to do so; the alternative is to use Form HUD-1 with the seller’s details left blank. The questionnaire needed to cope with either eventuality.

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<sup>34</sup> 24 CFR §3500.9. In general terms, a settlement agent may add lines to the form but not delete any of the prescribed lines. The lines should be numbered in a manner consistent with the “official” HUD-1. However, the physical layout and the “look and feel” of the document may vary considerably.

<sup>35</sup> The respondent could break off from the interview and resume it from the breakoff point at a later time.

- It has become increasingly common for a single sale or refinancing transaction to comprise *two* loans. In such a case, the settlement agent may choose to complete a separate statement for each loan, or may record the two loans together on the same statement. Again, the questionnaire had to cope with both situations.<sup>36</sup>

We also considered the possibility of asking for pertinent information about the transaction beyond the details mandated on the form: for example, such matters as the type of loan and the interest rate. However, we were aware that for items not actually recorded on the settlement statement we would necessarily be reliant on the accuracy of the respondent's perceptions and (possibly) memory. In the interests of keeping the task simple and keeping the survey as short as possible, we decided not to ask for any augmentation of the form's data.

Our survey did provide, however, a rich cache of additional descriptive information about each of the respondents. Because basic demographic and socioeconomic data are retained on file for each member of the panel, there is no need to ask for such information in connection with each panel survey. We augmented each data record compiled from the participant's responses with variables describing (for example) the respondent's sex, age, ethnicity, educational attainment, employment status, household income, and residence location. Our database is thus unique not only because it is the only recent account (to our knowledge) of a fully *nationally-representative* sample of home mortgage transactions, but also because it adds a rich layer of descriptive information about the *borrowers*, a dimension that has been lacking in most previous empirical studies in this area.<sup>37</sup>

Consistent with acknowledged good practice for surveys conducted in connection with regulatory or litigation matters, *CRA International* conducts all such surveys in a "double blind" fashion:<sup>38</sup> that is, we do not reveal the exact nature of the issue being studied or the interest of our client in that matter either to the respondent or the survey firm responsible for the data collection.<sup>39</sup>

### 2.2.2. Sample design

We first identified eleven states where, by state restrictions or otherwise, the majority of real estate closings were believed to be performed by lawyers: Alabama (AL), Connecticut (CT), Delaware (DE), Georgia (GA), Louisiana (LA), Massachusetts (MA), North Carolina (NC),

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<sup>36</sup> Our sample of 550 home purchase transactions included 108 (20%) that clearly involved two loans, and another seven for which the number of loans was unclear. Of the 108 dual-loan transactions, precisely a half (54) were reported on one settlement statement while the remaining half involved two statements.

<sup>37</sup> While we restrict our attention in this paper to the subject of the relationship between closing costs and state regulatory posture, the database offers considerable promise for analyses focusing on other types of residential financing issues.

<sup>38</sup> See Shari Seidman Diamond, *op. cit.* (footnote 14 *supra.*), at 258.

<sup>39</sup> We maintain that blanket policy even in cases where (as here) there is very little danger that, were the survey firm to be provided more information about these matters, that could feasibly bias the survey responses.

New York (NY), South Carolina (SC), Vermont (VT), and West Virginia (WV).<sup>40</sup> Following Palomar, we will refer to these states as “attorney-closing states.”<sup>41</sup>

We also identified eighteen states where, by convention or otherwise, the settlement agent is much more likely to be a “title” or “escrow” company than a law firm. This group comprised Alaska (AK), Arizona (AZ), California (CA), Colorado (CO), Hawai'i (HI), Idaho (ID), Kansas (KS), Michigan (MI), Montana (MT), Nebraska (NE), New Mexico (NM) Nevada (NV), Oklahoma (OK), Oregon (OR), Texas (TX), Utah (UT), Washington (WA), and Wyoming (WY). For shorthand, we will refer to this group as the “non-attorney states.”

For the residual twentyone states and the District of Columbia, the picture is more mixed. We characterize this group as “other states.”

Based on a small-sample incidence check among *Knowledge Networks*' panelists of home mortgage closings within the last twelve months carried out in February 2005, and on our pilot survey conducted in May 2006, we estimated the likely distribution by state of a simple random sample of qualified panelists. On this basis, we concluded that, for the purposes of our proposed analysis, such a sample would include too many “other state” transactions at the expense of those in attorney-closing and non-attorney states. Accordingly, we determined to sample panelists resident in the “other states” at *half* the rate used for those in the other two state groupings.

Five populous states of particular interest to our research were the attorney-closing states of Connecticut, Massachusetts, and New York, as well as “other states” Florida and Illinois. We dubbed these five as “focus states,” and sampled them (regardless of their regulatory grouping) at *twice* the rate used for the attorney-closing and non-attorney states.

These differential sampling rates were used to ensure that the types of respondents of greatest interest to our analysis would be well-represented in the sample. Weights were computed at the analysis stage in order (*inter alia*) to correct for this differential sampling and to restore each state's representation to its correct national proportion in the database.

We decided that, for the purposes of the study, an achieved sample size of 1,000 reported transactions should be adequate. We had no strong reasons to anticipate that the closing costs for refinancings might differ significantly from those for home purchases, so we did not stratify our sample selection by this criterion nor set any separate quotas for the two types of transaction: we expected our sample simply to reflect the incidence of the two among the universe of all home mortgage transactions.

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<sup>40</sup> In CT and NC, settlement services are restricted to lawyers by statute. In DE, GA, and SC the restrictions derive from decisions by the state's highest courts. In the remaining six states the dependence on lawyers for settlement services derives either from decisions by lower state courts, by executive actions of the Governor, or from common local practice. For convenience, throughout this report we use the term “regulatory posture” to characterize local settlement conventions, whether they derive from explicit legislation, court decisions, or just local convention.

<sup>41</sup> Palomar (1999), *op. cit.*, p.488. However, as our subsequent Exhibit 1 exemplifies, we found that a substantial fraction of the reported residential mortgage settlements in “attorney-closing states” were being handled by entities other than law offices.

Our development work had led us to expect that we could achieve a sample of over 1,000 qualified respondents from the *Knowledge Networks* panel of approximately 45,000 panelists in total. However, by the time we were ready to undertake the production survey in September/October 2006, the home sales market had cooled considerably, and we worried that the panel would no longer result in 1,000 completed interviews for transactions closed over the preceding twelve months.

*Knowledge Networks* has developed a method that the firm has used successfully in a number of studies among low incidence populations (including, we understand, at least one for the federal government). In collaboration with the vendors of certain opt-in panels, *Knowledge Networks* augments the distribution of the survey (“outgo”) to qualified members of its own panel with additional outgo to qualified members of the collaborating panels. All of the responses are handled through the *Knowledge Networks* computer system, and the statistics that are used to expand the data are drawn exclusively from the *Knowledge Networks* panel responses. We decided that it would be wise to adopt this method, expecting that between a third and a half of the total respondents might be drawn from cooperating opt-in panels.

### 2.2.3. Survey execution and achievement

The survey was fielded first to *Knowledge Networks* panelists beginning in mid-September, 2006. After a set of questions that screened respondents for eligibility (designed in such a way as to create no incentives to “over claim” eligibility), an incentive equivalent to \$10 was offered to respondents who said (i) that they had closed on a residential mortgage in the preceding twelve months and (ii) that they would obtain a copy of the corresponding HUD-1 form to transcribe certain entries. If the respondent indicated that the form was not kept at home but would need to be retrieved from elsewhere (a safe deposit box, for example), we offered a \$20 incentive.

The survey was issued to over 25,200 *Knowledge Networks* panelists aged at least 18, and over 19,800 (78.7%) responded. Of these, roughly 1,600 (8.0%) had a home mortgage transaction within the preceding twelve months, and just over 900 (56.9%) of those people were able to locate their HUD-1 forms and complete the interview.

These are impressively high levels of cooperation relative to the levels that might be expected from alternative survey designs. With a substantial part of the *Knowledge Networks* sample well in hand by late September, the needs for opt-in panel augmentation to achieve the targeted total of 1,000 transactions could be reappraised. Starting at the beginning of October, the survey was issued to 40,000 members of a cooperating opt-in panel. A little over 2,000 (5.1%) of the recipients responded, and 466 (22.9%) qualified to participate. Of these, 356 (76.4%) resulted in completed interviews.

In total, then, the survey yielded reports for 1,260 relevant transactions, of which 710 (56.3%) were refinancings and 550 (43.7%) were home purchases. Further details about survey achievement are provided in *Appendix A*.

### 3. THE ANALYSIS OF SURVEY RESPONSES

#### 3.1. Screening, weighting, and editing of the survey data

When a government mandates the use of a “standardized” form but does not require any systematic independent examination of any of the completed forms, it is perhaps not surprising that there should be a great deal of variation in the ways in which the form is completed. Sources of this variation include different interpretations, completion practices, and levels of assiduity and lexicographic creativity on the part of settlement agents.

We did two principal types of editing to ensure that the sample we would use for analysis would be, as far as we could ascertain, the most valid dataset for our purposes. First, we excluded all information for any reported *transactions* that did not meet certain criteria for inclusion (“data screening,” as described at ¶3.1.1 below); and secondly, we looked closely at the details of the reported *cost items* and excluded from consideration any that did not appear to be payment for the *settlement* services provided (“data editing,” to be described at ¶3.1.3).

##### 3.1.1. Data screening

In any survey there will always be a small number of apparently frivolous responses, and those respondent records need to be detected and excluded (in their entirety) from the analysis. We also excluded from further consideration:

- all home purchase transactions with a sales price of over \$10 million;
- all transactions with a loan amount of over \$2 million;
- all transactions either with a loan amount of less than \$1,000 or with the loan amount unspecified;
- all transactions with no reported closing costs in the 1100 and 1300 series;
- all transactions with closing costs in the 1100 and 1300 series purportedly greater than 20% of the loan amount; *and*
- a number of transactions that appeared to be anomalous when the individual records were reviewed for internal consistency and credibility.<sup>42</sup>

These exclusions reduced the sample size available for analysis to a total of 839 transactions: 366 home purchase mortgages and 473 refinancings.

##### 3.1.2. Weighting the observations for analysis

Because the respondents in different states were sampled with different selection probabilities and because response rates also varied across the sample, it was necessary to

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<sup>42</sup> There appear to be many ways in which the completion of the “uniform settlement statement” is, in fact, far from uniform, and these can create interpretation problems. We understand, for example, that sometimes costs not directly related to the property transfer transaction may also be recorded on the HUD-1 form (or substitute).

compute analysis weights to restore the achieved sample to be a good representation of the overall US population. At the same time, it is possible to align the demographics of the people responding to the survey<sup>43</sup> to match more closely known characteristics of the population at large.

*Knowledge Networks* computed weights to ensure that the “analysis sample” aligned with designated statistics from the Census of Population and other relevant data sources. As is customary, the weights were scaled such that the total number of weighted observations equaled the total number of unweighted observations. More details of this process are provided in *Appendix A*.

### 3.1.3. Defining and measuring “closing costs”

For the purposes of our study, we wanted to focus on just those charges that are *within the discretion* of the settlement agent. Accordingly, we flagged and removed from our estimate of “closing costs” any line item amounts that

- appeared not to be legitimate costs in the 1100 or 1300 series;
- appeared to be the pass-through of legitimate payments to third parties (such as for surveys, appraisals, inspections, or carrier services); *or*
- appeared to be payments for title insurance premiums.

We use the phrase “appeared to be” advisedly here, because some measure of judgment was necessary at times to interpret the HUD-1 form details. Some line item descriptors occasionally defy rational parsing, although circumstantial evidence (such as the name of the party to which payment is made) may sometimes be useful in interpretation. Some forms did not appear to be fully completed, lacking (for instance) information about payment recipients that logic would suggest ought to be there.<sup>44</sup> Sometimes Section 1300 is populated with entries that clearly (or questionably) belong elsewhere on the form, but have perhaps been located there either because of overflow in the more appropriate section or lack of diligence on the part of the settlement agent.

In about half of all states, the premiums charged for borrower’s and lender’s insurance of title are regulated.<sup>45</sup> They are closely related to the amount of the loan, much more closely than we might expect other closing costs to be. In most states there is a limited ability of the settlement agent to adjust title insurance premiums, whereas the primary focus of our study is on those other closing costs that are set at the discretion of the settlement agent. While we

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<sup>43</sup> That is, the full set of people responding *at all*, not just those who subsequently qualified for interview by virtue of their having made a relevant transaction.

<sup>44</sup> Doubtless some of these omissions may have been caused by incomplete transcription on the part of the survey respondents, but we have no evidence to suggest that that was a significant problem. We suspect that, had we been able to get a facsimile of the forms themselves, they would have looked very similar to our survey responses.

<sup>45</sup> In some cases the allowable rates are set by a public regulatory agency, and in other cases title insurance companies have greater pricing discretion but must file their rates with a regulatory agency (so-called “file and use” provisions).

did carry out some limited analyses of closing costs that included title insurance premiums (which did not gainsay the conclusions that we reach here), this report is concerned only with the analysis of closing costs that do not include such premiums.

### 3.2. Some limitations of HUD-1 data as a source of closing cost information

It is important to recognize that while the HUD-1 form was developed in the interests of standardizing the communication of settlement cost information, there is a variety of important ways in which the form may not provide a fully comprehensive picture of all closing costs involved in a transaction. Moreover, for reasons that we will outline, it is reasonable to hypothesize that the completeness of the information may well vary depending on the corporate identity of the settlement agent.

For instance, it is not uncommon for either corporate sellers or lenders to use some defrayal of closing costs as a marketing device. The HUD-1 form identifies costs borne by the seller and borrower but not necessarily costs absorbed or assumed by the lender, and we understand that practices vary as to the extent that any promotions of this sort might affect the HUD-1 entries. Even when it is the seller – most commonly the developer of a new property offering – who is absorbing some costs that the buyer might normally be expected to bear, those costs may not show up consistently on the HUD-1 form. However, in both of these circumstances we would still expect at least the *borrower's* out-of-pocket costs to be reflected accurately.

But we are alerted, in part by recent personal experience, of another way in which the HUD-1 information may underestimate true closing costs such that our analysis of the costs may be significantly biased. In non-attorney states, in particular, there is nothing to prevent the buyer (and/or seller) from engaging his/her own attorney to handle matters associated with the purchase and possibly the closing. In fact, we understand that when this happens it is not uncommon for the buyer's attorney to prepare a letter or memorandum of instruction for the non-attorney settlement agent.

When the buyer's attorney acts as the settlement agent, it is reasonable to expect that all relevant buyer's attorney costs will appear on the HUD-1 form. With an escrow company as settlement agent, in an ideal world such costs *might* be acknowledged on the HUD-1 form, possibly marked as "paid out of closing" (POC). However, there seems to be a strong likelihood that the buyer's attorney will invoice the buyer only at a later time, as an independent transaction not reflected in the HUD-1 form entries.

It may be, therefore, that in net the HUD-1 form is likely to reflect a more comprehensive accounting of the true total closing-related costs (particularly those borne by the borrower) when the settlement agent is an attorney than when the settlement agent is an escrow or title company. Moreover, to the extent that this is the case, HUD-1 data would tend to *understate* the full costs of settlement to consumers who use non-attorney settlement agents. Our finding that there exists no systematic tendency for higher prices when attorneys act as settlement agents assumes no such bias. When the feasibility of such a bias is introduced, it becomes possible that, in fact, the total costs to consumers who use lay settlement agents may on average *exceed* those of consumers who use attorneys for the same purpose. However, our current survey provides no objective evidence by which to test this hypothesis.

### 3.3. Characterization of state “regulatory posture”

Having defined our dependent variable of primary interest – “closing costs” – we turn next to address the potential influence of primary focus in our analysis, the characterization of each state’s “regulatory posture” regarding who may act as the settlement agent. There are several ways in which one might look at this matter. The first is our earlier *a priori* characterization, for sampling purposes, of either the legal or the customary situation regarding conveyancing services in each state: “attorney-closing states,” “non-attorney states,” and “other states.”

The questionnaire included questions about the name of the settlement agent (as recorded on the HUD-1 form) and about the borrower’s perception of that entity’s role: as “a lawyer or law firm,” “the mortgage lender,” “a real estate broker or brokerage firm,” “a ‘title insurance company’ or ‘title insurance agent,’” “an ‘escrow agent,’ ‘escrow company,’ or ‘closing company,’” or something else (to be specified).<sup>46</sup> These responses allowed us to characterize, for analysis purposes, the actual identity of the settlement agent as either “attorney,” “lender,” or “someone else” (primarily a “title” or “escrow” company).

Exhibit 1 provides, on a state-by-state basis, the numbers and percentages of sampled transactions performed by each of three categories of settlement agents: settlements performed by attorneys, settlements performed by lenders, and settlements performed by others. In the “non-attorney states,” we had no reports at all of transactions being closed by attorneys. Rather, over 80% of all transactions were settled by “escrow” or “title” companies, with the rest handled by mortgage lenders. By contrast, in the states that we had classified as “attorney-closing states” a little less than 59% of the reported transactions were actually handled by attorneys, with almost 24% handled by lenders and almost 18% handled by “escrow” or “title” companies. As we expected, the pattern in the residual states was more mixed: attorneys accounted for almost 12% of transactions, lenders for approaching 25%, and the “others” for nearly 64%.<sup>47</sup>

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<sup>46</sup> These perception responses regarding the settlement agent’s identity were edited by CRA where they appeared to be inconsistent with the settlement agent’s name. There was some *possibility* of respondent confusion or uncertainty at this question because (for example) some title companies are believed to be attorney-owned, but the responses did not indicate that the respondents had difficulties with the question.

<sup>47</sup> Exhibit 1 is based on a total of 984 transactions, both home purchases and refinancings, and the data are unweighted. This number of observations represents a somewhat less restrictive screening of our database than was subsequently used for analysis. This is because, in order to generate the maximum possible number of relevant observations to characterize the distribution of transactions by settlement agent identity and state, there was no need to exclude some of the transactions deemed unusable for our regression analyses.

**Exhibit 1: Settlement agent for sampled transactions, by state**

State	Transactions	Settled by attorney		Settled by lender		Settled by others	
		no.	%	no.	%	no.	%
<i>"Attorney-closing states"</i>							
AL	7	4		0		3	
CT	26	13		8		5	
DE	3	3		0		0	
GA	20	14		4		2	
LA	9	2		2		5	
MA	14	10		3		1	
NC	42	31		6		5	
NY	68	32		20		16	
SC	14	10		4		0	
VT	2	2		0		0	
WV	5	2		3		0	
<i>subtotal</i>	210	123	58.6%	50	23.8%	37	17.6%
<i>"Non-attorney states"</i>							
AK	1	0		0		1	
AZ	28	0		6		22	
CA	99	0		25		74	
CO	25	0		5		20	
HI	2	0		1		1	
ID	9	0		2		7	
KS	13	0		4		9	
MI	38	0		9		29	
MT	2	0		0		2	
NE	3	0		1		2	
NM	8	0		1		7	
NV	12	0		3		9	
OK	11	0		2		9	
OR	20	0		3		17	
TX	53	0		5		48	
UT	10	0		2		8	
WA	26	0		3		23	
WY	2	0		0		2	
<i>subtotal</i>	362	0	0.0%	72	19.9%	290	80.1%
<i>"Other states"</i>							
AR	10	0		0		10	
DC	2	1		1		0	
FL	91	15		18		58	
IA	9	3		5		1	
IL	70	2		21		47	
IN	13	0		2		11	
KY	6	4		1		1	
MD	20	2		4		14	
ME	3	2		1		0	
MN	28	1		9		18	
MO	15	0		3		12	
MS	2	0		0		2	
ND	5	0		2		3	
NH	4	0		0		4	
NJ	18	2		4		12	
OH	27	1		7		19	
PA	31	3		9		19	
RI	3	1		0		2	
SD	0	0		0		0	
TN	17	4		6		7	
VA	16	5		3		8	
WI	22	2		5		15	
<i>subtotal</i>	412	48	11.7%	101	24.5%	263	63.8%
<b>All states</b>	<b>984</b>	<b>171</b>	<b>17.4%</b>	<b>223</b>	<b>22.7%</b>	<b>590</b>	<b>60.0%</b>

So another way of characterizing the state regulatory posture would be to rely less on what the state law requires or local convention suggests, and rely more on what we actually found in our sample concerning the proportions of settlements completed by attorneys. But the samples at the level of individual states are often based on very small numbers, so the state-specific “proportion of attorney settlements” statistic is highly imprecise.<sup>48</sup> Rather than use the *actual* percentage value in which there is a great deal of statistical noise – that is, variation occurring just “by the luck of the draw” – we grouped states into four broader categories: “attorney transactions less than 25%,” “attorney transactions 25% to less than 50%,” “attorney transactions 50% to less than 75%,” and “attorney transactions 75% and over.”

In our analysis, we explored both of these ways of characterizing state regulation to see which representation better helped to explain and predict the levels of closing costs.

### 3.4. The general structure of the multivariate analysis

Our general analytic approach was to use multivariate regression techniques to explore empirically how the transaction-specific estimates of the total closing costs – combining (in the case of home purchases) the costs borne by both the borrower and the seller,<sup>49</sup> but excluding title insurance premiums (as previously discussed) – vary systematically with a wide range of potentially influencing factors.

The influencing factors characterized in the database fall into three general categories:

- *Transaction*-specific variables (such as the loan amount, the sales price in the case of home purchases, the type of entity acting as settlement agent, etc.);
- *Borrower*-specific variables (such demographic and socioeconomic descriptors as ethnicity, education, and income); *and*
- *Area*-specific descriptors (for example, mean income level, mean home sales price, mean educational attainment levels, urban/rural characterization, and so on), including most importantly the two different characterizations of the state regulatory posture.

We used standard econometric techniques in our analysis of these data.<sup>50</sup> Certain of the variables we consider are continuous numerical measures of a statistic (the loan amount, for instance), while others are discrete descriptors (the identity of the settlement agent is a good

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<sup>48</sup> The mean sample size for an individual state is  $(984 / 51 =)$  roughly 19 unweighted observations, implying a “margin of error” of  $\pm 22.3\%$  at the individual state level.

<sup>49</sup> We have also done some (much more limited) analysis of the costs incurred by the borrower alone, but those findings are not reported here.

<sup>50</sup> See, for example, Daniel L. Rubinfeld, “Reference Guide on Multiple Regression” in Federal Judicial Center, *Reference Manual on Scientific Evidence, second edition*, Federal Judicial Center (2000) [[http://www.fjc.gov/public/pdf.nsf/lookup/sciman03.pdf/\\$file/sciman03.pdf](http://www.fjc.gov/public/pdf.nsf/lookup/sciman03.pdf/$file/sciman03.pdf)].

example). The latter are represented in our econometric specification by means of dichotomous (“dummy” or “categorical”) variables.<sup>51</sup>

One cannot read the 1980 PMM report without being struck by the extent to which local idiosyncrasies in real estate settlement practices across the United States could well have the potential to blur a *national* picture. Accordingly, we started our analysis using a full set of dummy variables to characterize each state, to allow for the possibility that some unmeasured state-specific influences could well play an important role in affecting the levels of closing costs. However, we found that such a formulation did not significantly increase the explanatory power of the model, and we decided instead to adopt a more parsimonious set of parametric descriptors of state differences.

### 3.4.1. Stratification of the sample

Early exploration of our database convinced us of two principles that shaped our subsequent work. First, we discovered that *home purchase* closing costs were influenced by a different set of factors from those affecting *refinancing* closing costs. Secondly, we found that, after excluding title insurance premiums from our estimates of total closing costs, the size of the loan continued to have an important effect on the costs. After experimenting with various ways of capturing the loan size effect, we settled on dividing the full sample of transactions of each type (home purchase and refinancing) into approximately quartiles by loan size. Exhibit 2 summarizes this stratification scheme.<sup>52</sup>

### 3.4.2. Two analytical approaches

For each of the eight loan type and size strata, our analysis proceeded in the following manner. First, we developed “best” models explaining the variations in closing costs for the sample observations in each stratum. In doing so, we excluded any explanatory variable that (i) did not appear to have a statistically significant influence (at the 90% probability level) on the observed variations in closing costs, and (ii) did not degrade the overall properties of the model significantly when it was removed.

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<sup>51</sup> An observation (sample transaction) is given a value of one if it has the characteristic  $x$ , and zero if it does not have that characteristic. When a set of  $n$  characteristics is mutually exclusive (as for the different settlement agent identity categories, for example), the effect can be described by a set of  $(n - 1)$  dummy variables, since a zero value for all of them must imply that an observation falls into the residual category.

<sup>52</sup> Several aspects of this table merit comment. First, for all of the strata except those capturing the highest loan amounts, the median values of loan amount are quite close to the mean values. That is characteristic of a fairly even spread of loan values within each stratum, uninfluenced by a few atypical outliers – a favorable situation. Secondly, the mean and medians of total closing costs within each stratum are proportionally more disparate than the comparable comparison for the loan amount statistics. That indicates, in any loan level category, a more diverse set of closing cost values than of loan amounts, attributable presumably to other factors being at play than the loan size alone. Next, with the exception of the mean closing cost value for refinancing loans in the range of “over \$150k up to \$250k,” all other mean and median closing cost values increase monotonically with increasing loan size. And finally, the evidence suggests that for any loan size category the closing costs for refinancings are on average *lower* than those for home purchase loans of a similar size.

**Exhibit 2: Stratification of the sample used for analysis purposes**

Loan amount	Transactions		Loan size (\$)		Closing costs (\$)	
	no.	%	mean	median	mean	median
<i>Home purchases:</i>						
Up to \$100k	109	29.8	68,467	69,462	711	625
Over \$100k up to \$150k	85	23.2	122,026	120,000	777	656
Over \$150k up to \$250k	106	29.0	188,649	187,000	994	845
Over \$250k up to \$2 mn.	66	18.0	359,103	302,500	1,065	919
All up to \$2 mn.	366	100.0	165,984	130,000	859	692
<i>Refinancings:</i>						
Up to \$100k	149	31.5	61,828	60,000	547	434
Over \$100k up to \$150k	100	21.1	123,457	124,000	673	550
Over \$150k up to \$250k	138	29.2	190,230	190,000	635	550
Over \$250k up to \$2 mn.	86	18.2	378,502	346,000	829	640
All up to \$2 mn.	473	100.0	160,727	139,200	642	547

Consequently, the set of “best” models did not necessarily always include variables characterizing the state regulatory posture, the primary focus of our interest for the purposes of this paper. We took those best models and in each one reintroduced a complete set of dummy variables characterizing the interplay of state regulatory posture and the identity of the settlement agent (“regulatory policy-relevant variables”). From these we abstracted and displayed the coefficients of the regulatory policy-relevant variables in such a fashion as to facilitate conclusions about their impacts.

We explored model formulations in which the state’s regulatory posture and the identity of the settlement agent in the reported transaction were treated as separate, independent variables, and also formulations in which the two considerations were interlaced.<sup>53</sup>

### 3.5. “Best” models for home purchase closing costs

Exhibit 3 summarizes the best models obtained to characterize the levels of closing costs in home purchase transactions. Pairs of columns from left to right across the table show the models for each of the four sample quartiles representing increasing loan sizes, while the right-most pair of columns shows the best model for all loan sizes up to \$2 million.

The rows of the table list the variables that are included in any of the home purchase models, and at the foot of the table, we list a small number of statistics summarizing the key properties of each model: the mean value of closing costs for that group of transactions, the standard error of estimate (the smaller, the better), and the coefficient of determination ( $R^2$ ) adjusted for the degrees of freedom. The last statistic represents the proportion of the total

<sup>53</sup> For example, in the first approach a particular transaction might be characterized as settled by (i) the lender in (ii) an attorney-closing state, where each of those two characteristics enters independently into the regression equation (in dummy variable form). Under the second approach the same transaction would be characterized as “Lender closing in an attorney-closing state,” a single categorization identifying all possible combinations of the two characteristics.

**Exhibit 3: Preferred models of closing costs for home purchase loans**

<i>Influencing variable</i>	Loans up to \$100k Coefficient	p value	over \$100k up to \$150k Coefficient	p value	over \$150k up to \$250k Coefficient	p value	over \$250k up to \$2 mn. Coefficient	p value	All loans up to \$2 mn. Coefficient	p value
<b>Transaction-specific variables</b>										
Loan amount (\$k)	+10.0	>99.99%			+4.90	94.3%	+1.88	98.6%	+0.708	97.2%
Home sales price (\$k)							-0.548	84.6%		
Loan to value ratio	-448	99.3%	-43.0	62.6%			-64.3	89.7%	-70.2	98.6%
Property located in a metropolitan area									+240	99.5%
Settlement in calendar year 2006										
<b>Settlement agent identity &amp; state regulation:</b>										
Law firm, "attorney closing states"									+309	88.7%
Law firm, "other states"	-411	96.2%							+282	99.9%
Lender, "attorney closing states"										
Lender, lawyer closings 50% to 75%					+2,052	99.7%			+758	99.97%
Lender, "non-attorney states"	+448	91.9%								
Lender, "other states"										
Lender, lawyer closings up to 25%					-589	93.1%				
Escrow/title firm, "attorney closing states"	+775	98.6%							+621	99.9%
Escrow/title firm, "non-attorney states"	+164	88.7%	-479	>99.99%						
Escrow/title firm, "other states"										
Escrow/title firm, lawyer closings up to 25%					-558	99.96%				
<b>Borrower-specific variables</b>										
Hispanic ethnicity	+735	99.6%								
Ethnic minority other than black or Hispanic									-453	84.9%
At least some college education	+214	97.8%			+327	89.9%			+110	84.7%
Household size up to two people	+160	91.0%								
<i>Annual household income:</i>										
less than \$60k					+215	95.1%				
\$125k or more	+764	96.2%							+151	85.5%
<b>Area-specific variables</b>										
State median income in 2005 (\$k)					-36.0	85.8%			-21.3	89.4%
Proportion of state population aged 25+ with a college degree					+67.8	96.2%			+40.2	98.3%
State median home sales price (\$k)	+2.60	>99.99%			+1.70	96.0%			+0.724	92.0%
<b>All other influences (constant term)</b>										
	-673	99.6%	+950	86.0%	-511	47.3%	+1,587	92.8%	60.0	14.1%
<b>Model descriptors</b>										
Number of sample transactions	109 (30%)		85 (23%)		106 (29%)		66 (18%)		366 (100%)	
Mean closing costs (\$)	711		777		994		1,065		609	
Standard error of estimate (\$)	453		489		610		725		859	
Adjusted R <sup>2</sup>	42.2%		24.5%		29.7%		18.4%		21.0%	

Note: Parameter estimates are provided to either three significant figures or to the nearest integer, whichever is more precise. The p value is the probability that the associated coefficient does not equal zero. It indicates the relative statistical certainty with which that variable can be judged to influence closing costs, but not necessarily the magnitude of that influence.

variation in closing costs that is “explained by” the model. In this exhibit, all of the adjusted  $R^2$  values – even the smallest, the one for home purchase loans of between \$250k and \$2 million – are highly significant with a less than 0.01% probability of occurring solely by chance. We note that the adjusted  $R^2$  value for the model of *all* home purchase transactions is lower than three of the four models obtained after stratifying by loan size, indicating a weaker level of explanation.<sup>54</sup> This is the primary reason why we place a greater level of faith in the stratified models than we do in the “all home purchase loans” model.

The model obtained for the 109 sample transactions of up to \$100k is the strongest of the five models summarized in the exhibit, and we will use that as an example of how to interpret the entries in the table. For this stratum the mean closing costs were \$711 (median value \$625) and the preferred model “explains” a little over 42% of the observed variation in closing costs.

The most significant influence (as measured by the magnitude of the “p value”) was the median sales price in 2006Q3, in thousands of dollars, of all homes in that state.<sup>55</sup> All other things equal, the closing costs increased by \$2.60 for every thousand dollars in the statewide median sales price. There is a greater than 99.99% probability that the median sales price has a non-zero effect on closing costs.<sup>56</sup>

The next most significant factor influencing closing costs for this category of transactions was the loan amount. The closing costs increased by \$10.00 for every thousand dollars of loan size, other factors equal.

Next in order of significance, a Hispanic borrower closing a loan of up to \$100,000 for a home purchase appears to be charged an average of \$735 more than other ethnic categories, all else being equal. An association between ethnicity and charges for services has long been posited in a variety of contexts, often on much more fragmentary or anecdotal evidence than we have in this database. This finding clearly illustrates the richness of our database in combining information about a representative sample of closings with data about borrower characteristics.

We constructed a measure of the lender’s risk by expressing the loan amount as a proportion of the sales price, commonly referred to as the “loan to value ratio.” For this stratum of transactions, at the margin the closing costs *decrease* with increased lender’s risk.<sup>57</sup> The

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<sup>54</sup> Our wording here is precise. A higher coefficient of determination indicates a *stronger* relationship, albeit not necessarily one that is more *significant* statistically (that is, has a lower probability of occurring by chance). In this case, the much larger number of observations in the “all loans” model means that it is the most significant of the five models in the exhibit, yet it exhibits a weaker relationship with the explanatory variables than three of the four stratified models.

<sup>55</sup> [http://www.trulia.com/home\\_prices/](http://www.trulia.com/home_prices/). Note that this is a *statewide* effect describing the general environment in which the transaction took place; the sales price of the individual property involved in the transaction was not found to be an important influence *per se*.

<sup>56</sup> Statisticians usually label a probability of greater than 90% as “significant,” and one greater than 95% as “highly significant.”

<sup>57</sup> Our estimation procedures included considerable investigation of different model specifications exploring the interplay between the effects of loan amount, home sales price, and the loan to value ratio. Additionally, we explored various transformations of the loan amount variable (logarithmic and exponential forms, for example), but concluded that the effects appeared to be generally best captured using a non-transformed representation.

increment in closing costs attributable to moving from a 100% loan to an 80% loan is quite small (about \$90 on average), yet still highly significant statistically.

Next in statistical significance come four variables characterizing the interplay between the identity of the settlement agent and the state regulatory posture, using our *a priori* classification of the states. In order to present the most balanced assessment of these key variables we will refrain from interpreting them at this stage, and leave that judgment until we collate the evidence on these regulatory matters across all of the different strata, in Section 3.7.

### 3.5.1. Comparisons across the different loan size strata

In order to discuss the remainder of Exhibit 3 we now switch attention from interpreting the model for home purchase loans of \$100k or less – in the first two numerical *columns* of the exhibit – to comparing findings *along the rows* of the table, looking for broad regularities and differences between the various strata.

Our first general conclusion concerns the importance of including borrower-specific and area-specific influences in the analysis of home purchase closing costs. In every one of the four strata (as well as in the “all loans” model), factors beyond those that describe the particular transaction are importantly in play, and exclusion of such factors from the model markedly lowers the level of explanation of the variations in closing costs. It follows that analyses based *exclusively* on transaction-specific data – such as the Virginia and New Jersey statistics most frequently cited by the FTC and DOJ – will inevitably provide at best only partial, and at worst possibly erroneous, insights.

The *area-specific* effects that appear significant influences in our models have the same signs across all strata.<sup>58</sup> Other factors equal, the closing costs are greater when a state has *relatively high-priced homes* and is *better educated*, but offsetting this is that the closing costs are lower as the *state median income* rises. Of course, these three explanatory variables are highly correlated positively,<sup>59</sup> but nonetheless it so happens that the models disentangle their individual contributions in a consistent way across all of the different loan size strata.

There is obviously less uniformity in how the closing costs relate to *borrower-specific* attributes.<sup>60</sup> The general picture from Exhibit 3 is that (other considerations equal) better-educated and higher-income borrowers appear to pay more in closing costs, but these effects are not necessarily significant for all sizes of loans.

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<sup>58</sup> The three area-specific variables shown in the exhibit are only a subset of the potentially relevant (mostly state level) statistics that we explored in our analysis. We also estimated model formulations that (for instance) included Census regions or sub-regions, differentiated “red” and “blue” states as determined by the 2004 Presidential election, or used an exhaustive set of state-specific dummy variables.

<sup>59</sup> For example, across the full sample the correlation coefficients range from +0.61 (between the statewide education level and the median home sales price) to +0.88 (between the education and median income variables).

<sup>60</sup> Borrower-specific variables that were investigated in the analysis included sex, ethnicity, educational attainment, household size, and gross household income.

Turning next to the *transaction-specific* considerations, across all loan amounts the closing costs appear to increase with increasing loan size and decrease with the loan to value ratio.

Again, we will defer consideration of the findings regarding state regulation and the identity of the settlement agent until the later Section 3.7.

Note that the model for home purchase loans of over \$250k up to \$2 million is the least strong and the least stable of the four. The level of explanation is the lowest; the standard error of estimate is the highest proportion of the mean closing costs; and the model coefficients move around the most as one tweaks the model structure by including or excluding variables. It is noteworthy that no regulatory posture or identity of settlement agent variables proved to be significant in this model.

### 3.6. “Best” models of closing costs for refinance loans

Exhibit 4 summarizes the preferred models for closing costs for refinance loans, again using the same loan size strata as for the home purchase mortgages. Note first that the closing costs here span a much more narrow range than was observed for the home purchase loans, and the list of variables found to explain the variations in costs is a somewhat shorter one. Note also that, despite our having 86 sample cases in which the refinance loan exceeded \$250k, we were unable to estimate a model that successfully accounted for a significant level of the variation in the closing costs reported for those loans.

Indeed, even though our samples of refinancing transactions were uniformly larger than the corresponding stratum for home purchase closing costs, we generally had a harder time finding multivariate explanations of the observed variations in closing costs. The best model across *all* of the sampled refinancings – while statistically significant – accounts for only 14% of the total variation in the subject costs, a lower coefficient of determination than the models for any of the three loan size strata. This finding again supports our decision to place greater faith in the stratified models than in the “all loans” one.

A comparison of the model coefficient values along the rows of Exhibit 4 shows that it is relatively rare for an explanatory variable to show up as statistically significant in more than one of the strata. There are a few exceptions. The only area-specific variable that appears to be highly significant in all strata is the state median home sales price. The higher the property values in your state, the more you may expect to pay in the closing costs for a refinance loan.

The only borrower-specific characteristic appearing significantly in the model for more than one stratum is that Hispanic borrowers appear to face higher closing costs. The fragmentary evidence for the other borrower-specific variables is (consistent with our observation for home purchase loans) that closing costs are higher for better-educated or higher income borrowers, all other things equal.

At the transaction-specific level, closing costs increase quite clearly with the size of the loan up to the \$150k loan level, but they appear to decrease (albeit at a slower rate) for loans in the \$150k to \$250k stratum.

Our comments on the variables characterizing the identity of the settlement agent and the state regulatory posture are again deferred until the next section.

**Exhibit 4: Preferred models of closing costs for refinance loans**

<i>Influencing variable</i>	Loans up to \$100k		over \$100k up to \$150k		over \$150k up to \$250k		over \$250k up to \$2 mn.		All loans up to \$2 mn.	
	Coefficient	p value	Coefficient	p value	Coefficient	p value	Coefficient	p value	Coefficient	p value
<b>Transaction-specific variables</b>										
Loan amount (\$k)	+4.80	99.8%	+7.16	82.0%	-2.93	98.4%	-2.93	98.4%	+0.501	92.7%
<i>Settlement agent identity &amp; state regulation:</i>										
Law firm, lawyer closings over 75%					-864	99.8%				
Lender, lawyer closings up to 25%					+154	87.4%				
Lender, lawyer closings 25% to 50%	+620	99.7%	+1,981	99.9%	+810	98.9%			+664	99.98%
Lender, lawyer closings 50% to 75%			+814	99.6%					+679	>99.99%
Escrow/little firm, lawyer closings 50% to 75%	-444	84.4%								
<b>Borrower-specific variables</b>										
Hispanic ethnicity	+479	99.6%			+588	>99.99%			+220	98.9%
Female					+155	98.7%				
Educated through high school or less										
Household size up to two people			-333	95.5%					+105	94.4%
<i>Annual household income:</i>										
less than \$60k					-214	99.8%			-106	92.8%
\$85k or more			+258	78.0%						
<b>Area-specific variables</b>										
State median home sales price (\$k)	+1.20	99.3%	+2.12	98.0%	+1.53	>99.99%			+0.894	99.9%
<b>All other influences (constant term)</b>										
	-14.8	9.2%	-695	72.4%	+631	98.9%			+282	99.9%
<b>Model descriptors</b>										
Number of sample transactions	149 (32%)		100 (21%)		138 (29%)		86 (18%)		473 (100%)	
Mean closing costs (\$)	547		673		635		829		642	
Standard error of estimate (\$)	442		724		366				591	
Adjusted R <sup>2</sup>	19.7%		28.6%		32.6%				13.7%	

Note: Parameter estimates are provided to either three significant figures or to the nearest integer, whichever is more precise. The p value is the probability that the associated coefficient does not equal zero. It indicates the relative statistical certainty with which that variable can be judged to influence closing costs, but not necessarily the magnitude of that influence.

### 3.7. Regulation and conveyancer identity impacts on home purchase closing costs

In the light of our primary objective of better understanding how home loan closing costs are impacted by state-level decisions or *de facto* conventions about who should be allowed to provide those services, what are we to make of the results summarized thus far? As described in Section 3.4.2, we approached this question by re-estimating each of our preferred models, but this time adding back into the equation the full set of categorical variables used to characterize the interaction between the state's regulatory posture and the professional identity of the organization acting as settlement agent. In our earlier results, we omitted any of these dummy variables that were not judged to be statistically significant.

In the "best" models, the state's regulatory posture was sometimes characterized by our *a priori* classification and sometimes by the four categories measuring the proportion of lawyer closings in the particular state, whichever characterization appeared to provide the better statistical explanation.

Exhibit 5 displays the estimated coefficients for each of the feasible combinations of settlement agent identity and state posture/convention. The coefficients represent the average relative cost impact, positive or negative, from the base case, all other influencing factors remaining constant. For the three columns based on our *a priori* classification of the states, the base case is settlement by an escrow company (or similar) in a state that is neither an attorney-closing state nor a non-attorney state. For the four right-most columns that reflect the proportion of all real estate closings in a state actually completed by attorneys (according to our sample), the base case is usually settlement by an escrow company (or similar) in a state where between 25% and 50% of the closings are handled by attorneys.<sup>61</sup>

Entries in the table flagged by the symbols # and \* represent values that differ from zero at the 95% and 90% probability levels respectively. Entries without those symbols are not statistically different from zero at the 90% probability level.

Inspection of the array of summary values in Exhibit 5 suggests that any consistent patterns are elusive. In some cases attorney closings are more expensive than those by other settlement agents, and in other cases the lender or title company closings are more expensive. Similarly, there appear to be few patterns that relate to state regulations or common practices.

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<sup>61</sup> Because (i) there is not a clean mapping between our two different measures of "regulatory posture" (Exhibit 1 shows that only 59% of the sampled closings in "attorney-closing states" were in fact conducted by lawyers), and (ii) the base cases are defined slightly differently for the two different measures, we would caution the reader not to attempt to compare the dollar amounts presented in Exhibit 5 for the two different approaches. Rather, the relevant comparisons are *within* the set of cells describing a specific loan size stratum and "regulatory posture" measurement method.

**Exhibit 5: State regulation and conveyancer identity impacts on home purchase closing costs**

<i>Effects on closing costs, relative to the base case</i>	<i>Regulatory classification of state</i>			<i>Closings by lawyers in that state</i>			
	<i>Attorney-closing</i>	<i>Non-attorney</i>	<i>Other</i>	<i>&lt;25%</i>	<i>25%-50%</i>	<i>50%-75%</i>	<i>Over 75%</i>
<i>Settlement agent for loans of up to \$100k:</i>							
Escrow, title company	+\$916#	+\$244#	\$0	-\$985#	\$0	-\$861	-
Lender	+\$356	+\$545#	+\$252	-\$595	-\$1,113#	-\$1,291*	-
Attorney	+\$142	-	-\$327	-\$1,210#	-\$1,090#	-\$1,043#	-
<i>Settlement agent for loans of over \$100k up to \$150k:</i>							
Escrow, title company	+\$196	-\$493#	\$0	-\$97	\$0	+\$3,378#	-
Lender	-	-\$117	+\$198	+\$244	+\$391	-	-
Attorney	-\$51	-	+\$17	-\$48	+\$522	+\$107	-\$35
<i>Settlement agent for loans of over \$150k up to \$250k:</i>							
Escrow, title company	+\$392	-\$353*	\$0	-\$1,198*	-	-\$613	-
Lender	+\$1,515#	-\$254	-\$128	-\$1,388*	\$0	+\$1,407	-
Attorney	+\$356*	-	+\$39	-\$1,064	-\$6.3	-\$868	-\$889
<i>Settlement agent for loans of over \$250k up to \$2 million:</i>							
Escrow, title company	+\$565	+\$239	\$0	+\$32	\$0	-\$364	-
Lender	+\$563	-\$73	-\$387	-\$331	+\$303	+\$411	-
Attorney	+\$475	-	+\$25	+\$111	+\$253	-\$108	-
<i>Settlement agent for loans of all loans up to \$2 million:</i>							
Escrow, title company	+\$609#	-\$33	\$0	-\$259	\$0	+\$631	-
Lender	+\$744#	+\$142	+\$37	-\$97	+\$217	+\$668*	-
Attorney	+\$278#	-	-\$25	-\$244	+\$180	-\$134	-\$16
<b>Key:</b>	The "escrow, title company" category includes all entities other than an attorney or the lender (such as real estate brokers).						
	\$0 denotes the base case in each grouping of cells.						
	- denotes that there were no observations in that category.						
	# denotes values that are significantly different from zero at the 95% probability level.						
	* denotes values that are significantly different from zero at the 90% probability level.						

We wished to analyze more systematically the information conveyed by Exhibit 5, although (as we shall describe) data limitations inevitably mean that such an analysis must be quite rudimentary. We counted up the number of instances where, regardless of the statistical significance of the values in the cells of the table, attorney closings were more expensive than lender or escrow company closings. This information is summarized in Exhibit 6. So, for example, when we characterize the state-specific regulatory posture (or convention) using the proportion of attorney closings reported by our survey, we found that an attorney closing was more expensive than an escrow company closing in six of the eleven different market

segments developed for our analysis. An attorney closing was more expensive than either the lender or an escrow/title company in three of twelve market segments.<sup>62</sup>

**Exhibit 6: Summary of Exhibit 5 cost effects across market segments, for home purchases**

In how many of the market segments do the closing costs of attorney settlements exceed those of other types of settlement agent?	State regulation characterized by	
	A priori regulatory classification	Proportion of lawyer closings
<i>Comparison of attorney and escrow/title company closing costs</i>		
Attorney more expensive	3	6
Escrow/title company more expensive	5	5
Total cases	8	11
<i>Comparison of attorney and lender closing costs</i>		
Attorney more expensive	2	5
Lender more expensive	5	6
Total cases	7	11
<i>Comparison of attorney and escrow/title company or lender closing costs</i>		
Attorney most expensive	2	3
Escrow/title company or lender more expensive	6	9
Total cases	8	12

Based on those eleven observations, we used regression techniques to explore whether the cases where attorney settlements were more expensive than escrow/title company closings were systematically related to the proportion of lawyer closings in the state (as characterized by our four levels of that variable). In this case, as in all other cases that we investigated in a similar fashion, we observed no statistically significant relationship between lawyers being more expensive than title/escrow companies and the proportions of closings carried out by lawyers. Indeed, our quantitative analysis confirmed what can be seen by “eyeballing” Exhibit 5 – that as the proportion of lawyer closings increases, lawyer closings appear *less* likely to be more expensive than escrow/title company closings – but that result was not statistically significant: there was roughly a 20% probability that the observed relationship might be due to chance.

<sup>62</sup> Here “market segments” denotes the different combinations of loan size and attorney closing proportions separately identified in Exhibit 5. Of the sixteen possible segments (four loan size categories multiplied by four attorney closing proportion categories), only eleven afford an opportunity to compare directly the closing costs of an attorney settlement with those for an escrow or title company settlement. For example, in the case of loans up to \$100k in states where lawyers handle fewer than 25% of closings, the attorney settlement costs (marginal effect –\$1,210) are lower than those for escrow/title companies (marginal effect –\$985). We focus our discussion mostly on the “attorney closings proportion” characterization of state posture/convention because it provides a greater number of data points than does the alternative *a priori* characterization (where the “non-attorney states” do not include *any* attorney closings). Similarly, we have classified the more expensive market segments regardless of the statistical significance of the differences, again solely to generate data points. Of the eleven segments in which we were able to compare attorney closings with escrow/title company closings, for example, in only two of them (both cases in which attorney settlement was the *less* expensive option) were the cost differences in fact statistically significant at the 90% probability level.

### 3.8. Regulation and conveyancer identity impacts on refinance loan closing costs

Exhibit 7 is the equivalent of Exhibit 5, but based this time on a re-estimation of the models developed from our sample of *refinancing* transactions.

**Exhibit 7: State regulation and conveyancer identity impacts on *refinance* closing costs**

<i>Effects on closing costs, relative to the base case</i>	<i>Regulatory classification of state</i>			<i>Closings by lawyers in that state</i>			
	<i>Attorney-closing</i>	<i>Non-attorney</i>	<i>Other</i>	<i>&lt;25%</i>	<i>25%-50%</i>	<i>50%-75%</i>	<i>Over 75%</i>
<i>Settlement agent for loans of up to \$100k:</i>							
Escrow, title company	-\$118	-\$67	\$0	-\$157	\$0	-\$551	-
Lender	+\$497#	-\$122	+\$111	-\$101	+\$114	+\$524	-
Attorney	+\$202	-	-\$36	-\$330	-\$101	-\$136	-
<i>Settlement agent for loans of over \$100k up to \$150k:</i>							
Escrow, title company	-\$31	+\$45	\$0	+\$38	\$0	+\$309	-
Lender	+\$996#	-\$269	+\$65	-\$95	+\$1,914#	+\$832*	-
Attorney	-\$292	-	+\$8	+\$15	-\$490	-\$117	-
<i>Settlement agent for loans of over \$150k up to \$250k:</i>							
Escrow, title company	-\$343	+\$57	\$0	+\$144	\$0	-	-
Lender	+\$587#	+\$229*	-\$146	+\$261#	+\$957#	+\$182	-
Attorney	-\$248*	-	-\$35	-\$39	+\$173	-\$66	-\$760#
<i>Settlement agent for loans of all loans up to \$2 million:</i>							
Escrow, title company	-\$73	+\$22	\$0	+\$91	\$0	-\$67	-
Lender	+\$740#	-\$60	+\$104	+\$90	+\$752#	+\$774#	-
Attorney	+\$80	-	+\$37	-\$102	+\$170	+\$171	-\$308
<b>Key:</b>	The "escrow, title company" category includes all entities other than an attorney or the lender (such as real estate brokers).						
	\$0 denotes the base case in each grouping of cells.						
	- denotes that there were no observations in that category.						
	# denotes values that are significantly different from zero at the 95% probability level.						
	* denotes values that are significantly different from zero at the 90% probability level.						

Again, patterns revealing consistent effects of a state's regulatory posture or customary practices are hard to detect. We carried out a similar quantitative analysis to that described for home purchase loans in Section 3.7. Exhibit 8 summarizes the numbers of instances where, regardless of the statistical significance of the values in the cells of Exhibit 7, attorney closings were more expensive than lender or escrow company closings. So, for example, out of eight different market segments<sup>63</sup> for which we could directly compare the relative marginal

<sup>63</sup> As before, we define market segments by the different combinations of loan size categories and state regulation/convention categories, and (to increase the number of observations) refer here to the rightmost column of Exhibit 8 in which the four levels of the lawyer closings proportion are used to characterize the practice in each state.

effects on closing costs of attorney settlements and escrow/title company settlements, the lawyer closings were the cheaper alternative in six of them. In fact, in *none* of the market segments was settlement by lawyer the most expensive alternative overall.

#### Exhibit 8: Summary of Exhibit 7 cost effects across market segments, for refinance loans

<i>In how many of the market segments do the closing costs of attorney settlements exceed those of other types of settlement agent?</i>	State regulation characterized by	
	<i>A priori</i> regulatory classification	Proportion of lawyer closings
<i>Comparison of attorney and escrow/title company closing costs</i>		
Attorney more expensive	3	2
Escrow/title company more expensive	3	6
Total cases	6	8
<i>Comparison of attorney and lender closing costs</i>		
Attorney more expensive	1	1
Lender more expensive	5	8
Total cases	6	9
<i>Comparison of attorney and escrow/title company or lender closing costs</i>		
Attorney most expensive	0	0
Escrow/title company or lender more expensive	6	9
Total cases	6	9

### 3.9. An examination of Woodward's inter-state variations in title charges

As a final component of our analysis, we examined some of the data assembled by Dr. Susan Woodward for title charges in FHA mortgages for home purchases in 2001.<sup>64</sup> Recall that Woodward defined title charges more broadly than we do, to include title insurance premiums and some other costs that we have ignored as third-party pass-throughs.<sup>65</sup> Across Woodward's national sample of 7,560 FHA-insured loans, the mean title charge was about \$1,200.

Woodward used multivariate regression methods, both at the national and individual state levels, to explore how her estimates of title charges varied with the characteristics of the loan and the borrower. Some of her potential influences (such as loan amount) were ones also included in our own analysis, but others differed. In particular, while most of our characterizations of area variables were only at the state level, Woodward had access to

<sup>64</sup> Woodward, *op. cit.* (footnote 23 *supra.*), at Chapter X.

<sup>65</sup> However, Woodward appears to have restricted her attention to the 1100 series on the HUD-1 form, ignoring any title-related expenses that may have been entered in the 1300 series.

census tract level statistics (describing, for example, racial composition and educational achievement) that more precisely characterized the immediate neighborhood of each home.<sup>66</sup>

In her discussion of the differences among states in the average title charges, Woodward observes:

“In sum, without state indicators, just under 40% of the variation in charges for title services relates to loan and borrower characteristics, including how much borrowers paid to lender/brokers and real estate agents. While median area income may reflect local wage levels (and thus relate to the cost of providing title services), and the true insurance aspect of title services may weakly relate to loan amount, it appears that much of the variation in title charges is simple price discrimination related to race, education, and ability to pay. Adding the states in which the borrowers live as categorical variables raises the fraction of variance related to loan and borrower characteristics to just over 60% . . . (A)verage title charges by state range from \$668 to \$2,090. Twelve states average title charges of less than \$900, while five average over \$1,700.”<sup>67</sup>

Woodward estimated the magnitude of individual state effects by examining the coefficients for state-specific dummy variables in a model including all of her other characterizations of loan and borrower characteristics. She compared each of the other states to North Carolina, the one judged to have the lowest title charges after normalizing for the differences ascribable to variations in the loan and borrower influences:

“In the highest cost states, New York, Texas, California, and New Jersey, title fees are, other things equal (especially property value), more than \$1,000 above the charges for the least expensive state, North Carolina . . . The four most populous states in the United States are California, Texas, New York, and Florida. Why competition is especially ineffective in the largest states is a topic for further research.”<sup>68</sup>

We examined Woodward’s estimates of state-specific title charge “premiums” to see whether our own descriptors of state regulatory posture might possibly account for some of the variation in this statistic. The results of this analysis are summarized in Exhibit 9.

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<sup>66</sup> Insofar as the two studies appear to overlap, we have found no serious inconsistencies between the two that cannot reasonably be ascribed to the differences in approach. Woodward’s only explicit examination of regulatory-related influences is in certain estimations (at Table 16, model 3) that differentiated states by their approaches to regulating title insurance premiums (“file and use,” “use and file,” and “state bureau”), a consideration that was not relevant to our own analysis.

<sup>67</sup> Woodward (*op. cit.*), at 90.

<sup>68</sup> Woodward (*op. cit.*), at 90, 94, and Table 10-2. Woodward also compared her measures of state-specific title charge “premiums” (Table 10-2) from the FHA sample with those she derived by estimating a similar model using an independent data set that was available to her (a total of 2,700 loans made by a single national lender, originated between 1996 and 2001). The correlation between the measures of state-specific effects for the two different data sets was 0.7, “suggesting that the findings on state differences are systematic.”

**Exhibit 9: “Regulatory posture” as a possible explanation of title charge variations by state**

	Number of states	Woodward’s state premium in title charges (including title insurance)	
		Mean	Standard deviation
All states	51	\$489	\$247
<i>A priori</i> regulatory classification:			
“Attorney-closing states”	11	\$468	\$297
“Non-attorney states”	18	\$545	\$263
“Other states”	22	\$454	\$192
Proportion of lawyer closings:			
Less than 25%	32	\$506	\$247
25% to less than 50%	6	\$590	\$246
50% to less than 75%	8	\$391	\$258
75% or more	4	\$443	\$136

The exhibit shows that, on average, the states that we classified as “attorney-closing states” had a lower Woodward premium than did “non-attorney states,”<sup>69</sup> and the states where a half or more of our sample transactions were settled by attorneys had a lower average premium than did the states where lawyers acted as the settlement agent for fewer than 50% of transactions. But none of these differences are statistically significant. Not surprisingly given these comparisons of mean values, regressions of Woodward’s state premiums on our regulatory posture dummy variables (and on the actual state-specific proportions of attorney closings found in our sample) revealed no statistically significant relationships.<sup>70</sup>

We conclude that the strong variations in closing costs across states, observed by Woodward after adjusting her data for the identified influences of loan size and other loan-specific and borrower-specific variables, cannot be ascribed to differences between the states in their regulations (or local conventions) regarding who is permitted to provide settlement services.

<sup>69</sup> Note that, of the four states with the highest Woodward premiums, California and Texas are “non-attorney states,” New York is an “attorney-closing state” (although in practice we found that our sample of closings there had fewer than one half settled by lawyers), and New Jersey is an “other state.”

<sup>70</sup> This analysis treats each state as of equal weight, regardless of differences in state “size.” A more thorough analysis, were the data available, would shift the unit of observation from the state level to the transaction level by weighting each state by some measure of the relative volumes of residential mortgage closings for the state. We have not attempted this, but “eyeballing” Woodward’s list of state premiums suggests to us that such a refinement would strengthen rather than weaken our conclusion that regulatory posture is not a significant influence on their magnitude.

## 4. CONCLUSIONS

We have undertaken a major survey of mortgage borrowers involved in residential loans that closed during 2005 and 2006. We have compiled a nationally-representative database of information, based primarily on the transcription of relevant information from the borrowers' standardized settlement statements, and taken considerable care in the development and design of the data collection instrument, the conduct of the survey, and the detailed editing of the data. We have augmented the information culled from the settlement forms with copious information about the borrower's personal characteristics and data (from the *Bureau of the Census* and other sources) describing the area in which the settlement took place.

We have used this new database in multivariate regression analyses designed to explore, in particular, how our estimates of closing costs vary (if at all) with state policies or conventions regarding who may or may not be authorized to provide conveyancing services, and with the types of entities that provided such services for our sample of transactions. Most specifically, we sought to find empirical evidence to confirm or refute the frequently-expressed hypothesis of the Federal Trade Commission and the US Department of Justice that policies allowing more competition in the provision of settlement services lead to lower costs to consumers.

For some of the individual sample segments that we identified as warranting separate analysis, we did indeed detect that some types of settlement agent or some regulatory aspect appeared to have had an effect on costs, either positively or negatively. However, we found that

- High or low closing costs appear to be at least equally – and frequently more strongly – associated with a wide range of other factors (such as details of the loan, the characteristics of the state or local area, and the characteristics of the borrowers);
- In the list of influencing factors, it is rare for regulatory considerations to be the most important influence on costs; *and*
- Across all of the market segments that we examined, we see no consistent patterns that allow us to identify a clear, unambiguous ascription of higher costs to consumers in those situations in which the licensing of conveyancing is (at least nominally, if not necessarily in practice) most limited to attorneys.

Almost thirty years after the PMM report – the most comprehensive and defensible of the prior attempts to assemble relevant empirical evidence – our new evidence suggests that the authors of that report appear to have got it right. Yes, there may well be some places, times, circumstances, or market segments for which attorney settlements (or restrictions prescribing that only attorneys may provide settlement services) are associated with higher costs. But equally, there appear to be other situations where the reverse is true. And our comprehensive sifting of the new database has provided no clear evidence of a consistent effect one way or the other.

## APPENDIX A: METHODOLOGICAL DETAILS OF THE SURVEY

### The *Knowledge Networks* panel

Beginning recruitment in 1999, *Knowledge Networks* (KN) has assembled the first online research panel – *KnowledgePanel*<sup>SM</sup> – that is fully representative of the entire U.S. population, regardless of Internet access status. The panel members are randomly recruited by telephone, and qualifying households are provided with access to the Internet and hardware if needed, at no cost to the participants. Unlike other Internet research which covers only those individuals with Internet access who volunteer for research, *Knowledge Networks*' surveys are based on a sampling frame that includes both listed and unlisted phone numbers and is not limited to current Web users or computer owners.

*Knowledge Networks* selects households using random digit dialing ("RDD"). Once a person is recruited to the panel, he or she can be contacted by email (instead of by phone or mail). This permits surveys to be fielded very quickly and economically. In addition, because email notification is less obtrusive than telephone calls this approach reduces the burden placed on respondents, and most respondents find answering Web questionnaires to be more interesting and engaging than being questioned by a telephone interviewer.

### Recruitment to the *KnowledgePanel*<sup>SM</sup>

*Knowledge Networks*' panel recruitment methods employ quality standards established by selected RDD surveys conducted for the Federal Government (such as the Centers for Disease Control-sponsored *National Immunization Survey*). KN uses list-assisted RDD sampling techniques drawing from a sample frame that comprises the entire United States' residential telephone population. *Knowledge Networks* excludes only those banks of telephone numbers (each consisting of 100 telephone numbers) that have zero directory-listed phone numbers. Using 2000 decennial *Census of Population* data for all telephone exchange areas, two strata are defined. The first stratum has a higher concentration of Black and Hispanic households, while the second stratum has a lower concentration relative to the national estimates. Within each of the two strata, KN's telephone numbers are selected with equal probability from those banks with one or more listed numbers; however, the Black and Hispanic stratum is sampled at a higher rate than the other stratum. The sampling is done without replacement to ensure that numbers already fielded by *Knowledge Networks* are not fielded again.

The proportion of telephone numbers for which KN is able to recover a valid postal address before contact is about 60% to 70%. The telephone numbers for which an address is recovered are selected with certainty, while between a third and a half of the remaining numbers are subsampled randomly (varying with the recruitment period). The resulting increased cost efficiency more than offsets the small decrease in precision caused by the need for sample weights. The address-matched telephone numbers are sent an advance

mailing informing them that they have been selected as potential participants in *KnowledgePanel*<sup>SM</sup>.<sup>71</sup>

Following the mailing, the telephone recruitment process begins for all sampled phone numbers. Cases sent to telephone interviewers are dialed for up to 90 days, with at least ten contact attempts being made where necessary.<sup>72</sup> Experienced interviewers conduct all recruitment interviews. The recruitment interview, which typically requires about 10 minutes, begins with the interviewer informing the household member that they have been selected to join *KnowledgePanel*<sup>SM</sup>. If the household does not have a microcomputer and access to the Internet, the respondent is told that in return for completing a short survey weekly, the household will be given a *MSN*<sup>®</sup> TV set-top box and free monthly Internet access. All members in the household are then enumerated, and some initial demographic variables and background information of prior computer and Internet usage are collected. Extensive refusal conversion is also performed.

While the *MSN*<sup>®</sup> TV unit was initially distributed to all panel participants, since August 2002 those RDD households that indicate that they have a home computer and Internet access have been recruited to the panel and asked to take their surveys using their own equipment and Internet connections. Points, which can be redeemed for cash at regular intervals, are given to respondents for completing their surveys and take the place of the free *MSN*<sup>®</sup> TV and monthly Internet access provided to other panel households. Additional incentive points may be added to specific surveys to improve response rates or to compensate for longer surveys.

Prior to shipment, each *MSN*<sup>®</sup> TV unit is custom configured with individual email accounts, so that it is ready for immediate use by the household. Most households are able to install the hardware without additional assistance, although *Knowledge Networks* maintains a telephone technical support line and will, when needed, provide on-site installation. The KN Call Center also contacts household members who do not respond to email and attempts to restore contact and cooperation. Panel members recruited with existing online access provide their email address and their weekly surveys are sent to that email account.

All new *MSN*<sup>®</sup> TV panel members are sent an initial survey to confirm equipment installation and familiarize them with the *MSN*<sup>®</sup> TV unit. For all new panel members, demographic and socioeconomic information such as age, sex, race, income, and education are collected in a follow-up survey for each panel member, thereby creating a member profile. This information can be used to determine eligibility for specific studies and need not be gathered with each survey. Once this survey is completed, the panel member is regarded as active and ready to be sampled for other surveys. With teenagers aged 13-17, the general consent of a parent or legal guardian is requested for conducting surveys prior to the teenager's first survey.

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<sup>71</sup> From July 2005 onwards, KN has no longer subsampled "no address" households in recruiting new households to the panel.

<sup>72</sup> Contact attempts are discontinued, however, if it becomes apparent that the number is not a household line (such as a recorded message identifying a business or institution).

## Sampling from the *KnowledgePanel*<sup>SM</sup>

Once panel members are recruited and profiled, they become eligible for selection for specific surveys. In most cases, the specific survey sample represents a simple random sample from the panel. The sample is drawn from eligible members using an implicitly stratified systematic sample design. Customized stratified random sampling based on profile data is also conducted if required by specific studies.

A primary sampling rule is not to assign more than one survey to members each week. When a survey requires screening for eligibility – based either on information recorded in the participant's profile or on answers to some initial screening questions – care is taken to ensure that all survey sample drawn subsequently that week is selected in such a way as to be properly representative of the panel distributions.

The *KnowledgePanel*<sup>SM</sup> frame has eight sources of deviation from an equal probability sample design, which may or may not have relevance in the case of any specific KN survey:

- The subsampling of telephone numbers for which an address could not be found in advance of contact;<sup>73</sup>
- Random Digit Dial sampling probabilities proportional to the number of phone lines in the household;<sup>74</sup>
- Minor oversampling of Chicago and Los Angeles due to early pilot surveys conducted in those two cities;<sup>75</sup>
- Short-term double-sampling for the four largest states (CA, FL, NY, and TX) and central region states;<sup>76</sup>
- Undersampling of households unable to receive *MSN*<sup>®</sup> TV service;<sup>77</sup>
- Oversampling of Black and Hispanic households;<sup>78</sup>
- Oversampling of households with personal computers and access to the Internet;<sup>79</sup> and

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<sup>73</sup> Once the selected telephone numbers have been purged and screened, KN seeks addresses for as many of the numbers as possible, with a success rate so far in the 60-70% range. Effective July 2005, KN no longer subsamples unmatched numbers, but households recruited before that date under-represent the “no address” households.

<sup>74</sup> As part of the field data collection operation, KN collects information on the number of separate phone lines for each selected household. Those households with multiple phone lines are down-weighted accordingly in the analysis of the survey data.

<sup>75</sup> The impact of this deviation has declined considerably as the panel has grown, but KN still corrects for it in computing survey weights.

<sup>76</sup> Since KN anticipates a higher rate of surveying in the four largest states, those states were double-sampled for recruitment during January-October 2000. For similar reasons, the Central region states were oversampled for a brief period.

<sup>77</sup> Certain areas of the United States are not serviced by *MSN*<sup>®</sup> TV. KN selects a smaller sample of phone numbers in those areas and uses other Internet Service Providers for households recruited in those areas.

<sup>78</sup> To increase the panel capacity for surveys of Black and Hispanic households, oversampling of those subgroups commenced in October 2001.

- The selection of one adult per household.<sup>80</sup>

To reduce the effects of noncoverage bias deriving from any of these eight sources, in the sample selection phase of a survey *Knowledge Networks* draws “issued sample” from the panel to align with demographic distributions from the Census Bureau’s most recent *Current Population Survey*. The variables most frequently used in this context include age, race, sex, Hispanic ethnicity, and education.

Different subgroups of the survey sample may have different propensities to respond, such that the demographic composition of the “achieved sample” differs from that of the issued sample. This requires further adjustment in the analysis phase of the survey. “Base starting weights” are computed, typically again aligning the achieved sample with *Current Population Survey* distributions at an appropriate geographic scale. In addition to these base weights, any necessary weighting adjustments will be made to take account of the sample design idiosyncrasies of the specific survey.

### Survey administration using the *KnowledgePanel*<sup>SM</sup>

Once selected for a specific KN survey, each participant receives a notification email on his or her *MSN*<sup>®</sup> TV or personal computer indicating that there is a new survey available. The email notification contains a hot link to start the survey. No login name or password is required. The field period depends on the client’s needs, and can range anywhere from a few minutes to several weeks.

Email reminders are sent to uncooperative panel members. If email does not generate a response, a phone reminder is initiated. The usual protocol is to wait at least three days and to permit a weekend to pass before calling. *Knowledge Networks* also operates an incentive program to encourage participation and reinforce member loyalty. To assist panel members with their survey taking, each individual has a personalized “home page” that lists all the surveys that were assigned to the member that have yet to be completed.

### Development of the mortgage closing costs survey

Key aspects of the proposed design for the survey of mortgage closing costs were (i) to identify qualified borrowers from among the *Knowledge Networks* panel members, and (ii) to persuade them to transcribe relevant information from their copies of the HUD-1 form(s) provided to them at settlement. To qualify, respondents would need to have taken out a mortgage loan (in connection with a home purchase or a refinancing) within an acceptable period prior to the interview, and to have the HUD-1 form(s) to hand to be able to transcribe the detailed information.

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<sup>79</sup> To reduce the costs associated with the distribution, set-up, and maintenance of *MSN*<sup>®</sup> TV units, since August 2002 KN has been oversampling households with personal computers and access to the Internet.

<sup>80</sup> For most KN surveys, panel members are sampled regardless of household affiliation. The sample design for some surveys, however, requires members to be selected in two stages: households in the first stage and one or more adults within the household in the second stage. At the analysis stage, weighting corrects for the differential selection probabilities.

At CRA's request, in February 2005 KN undertook a small-scale incidence check to ascertain what proportion of panel members could be expected to qualify on these criteria and to cooperate in the survey. Out of a total of 343 respondents representing the US general adult population (aged 18 or over), 24 indicated that they had taken out a mortgage loan or refinanced in the past twelve months and could find their loan papers if necessary.<sup>81</sup> This suggested an incidence level for a general population sample of 7.0% ± 2.7%.

A larger pilot survey was conducted in May 2006. Here the main focus was less on questionnaire content so much as on ascertaining the feasibility of persuading panel members to find the relevant forms and be prepared to transcribe information from them into an online survey. Accordingly, the pilot questionnaire comprised approximately half of the substantive questions from the planned production interview, but did include in full the "front end" screening questions and verification procedures used to ensure that the respondent had found the correct form. An incentive valued at \$10 was provided to respondents to find the forms and complete the pilot survey.

The May 2006 pilot survey was fielded to KN panel members aged 18 or over who were identified in their on-file profiles as "home owners," since the February 2005 incidence check had shown a very low qualification among respondents identified as "renters." Out of the 687 respondents to the survey, 21 (3%) qualified and located their HUD-1 forms in order to complete the survey. From these 21 (plus a small number of other panel members who had reported qualifying loans but who had been unable or unwilling to locate the form or continue with the survey), CRA and KN staff jointly conducted debriefing telephone calls with 8 of the respondents in order to hear first hand feedback about the survey and any parts of the interview that they had found confusing or difficult. The debriefing interviews also included some validation questions to verify that a sample of the reported information matched the details on the mortgage forms of the respondents. An additional \$10 incentive was given to respondents in the phone interviews.

Based on the information from the pilot survey, CRA made a small number of revisions to the final survey instrument to improve the clarity of the language and instructions. In conjunction with CRA, KN revised and programmed the instrument so that it met the design requirements of the *MSN*<sup>®</sup> TV platform. For the production survey the incentive value was changed: respondents indicating that they kept the HUD-1 form at home continued to be offered a \$10 value, while those who indicated that the form was not at home (such as in a safe deposit box) were offered a \$20 value. As in the May 2006 pilot survey, the production survey was fielded only to adult respondents who had been previously identified as "home owners."

### Sample design for the mortgage closing costs survey

As discussed in Section 2.2.2 of this report, the target achieved sample size for the survey was 1,000 mortgage transactions that closed within twelve months of the survey participation.

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<sup>81</sup> This initial screener asked only whether respondents *could* find the forms, not whether they *would* find them and agree to participate in a survey for which the forms would be necessary.

Sampling rates varied by state, so as to (i) sample from those states with more clearly characterized regulatory postures at a higher rate than those with less clear regulatory situations, and (ii) to sample from five “focus states” at a higher rate than the other states. Accordingly, the issued sample was of panel participants profiled as “home owners” drawn with the following relative probabilities by state:

- Residents of “focus states” (CT, FL, IL, MA, NY): relative sampling rate of **2.0**;
- Residents of other “attorney-closing states” and all “non-attorney states” (AK, AL, AZ, CA, CO, DE, GA, HI, ID, KS, LA, MI, MT, NC, NE, NM, NV, OK, OR, SC, TX, UT, VT, WA, WV, WY): relative sampling rate of **1.0**;
- Residents of all other states (AR, DC, IA, IN, KY, MD, ME, MN, MO, MS, ND, NH, NJ, OH, PA, RI, SD, TN, VA, WI): relative sampling rate of **0.5**.

Between the initial incidence check in February 2005 and the planned production survey in the Fall of 2006, the home purchase and refinancing markets cooled considerably, and it was no longer certain that the *KnowledgePanel*<sup>SM</sup> would yield the target number of qualified respondents. Based on the pilot survey response rate, *Knowledge Networks* estimated that the *KnowledgePanel*<sup>SM</sup> could provide approximately 500 to 600 completed interviews, with the remainder being drawn from one or more opt-in internet panel sources (as described in Section 2.2.2). However, because of higher-than-anticipated incidence and cooperation rates in the production survey, the KN panel provided 904 interviews. An additional 356 interviews were collected from a single opt-in sample source.

## Survey achievement

Exhibit 10 shows the incidence, cooperation, and completion rates for all phases of the survey.

**Exhibit 10: Analysis of the survey response**

	<i>Incidence check</i>		<i>Pilot survey</i>		<i>Production survey</i>					
					<i>In total</i>		<i>KN panel</i>		<i>Opt-in panel</i>	
	no.	%	no.	%	no.	%	no.	%	no.	%
Fieldwork started	02/23/2005		06/08/2006		09/21/2006		09/21/2006		10/01/2006	
Fieldwork ended	03/01/2005		06/18/2006		10/24/2006		10/09/2006		10/24/2006	
Total issued sample	499	100	1,070	100	65,212	100	25,212	100	40,000	100
Non-response	156	31	383	36	43,348	66	5,379	21	37,969	95
Number responding	343	69	687	64	21,864	34	19,833	79	2,031	5
Total achieved sample	343	100	687	100	21,864	100	19,833	100	2,031	100
Mortgage in past year	28	8	42	6	2,055	9	1,589	8	466	23
Completed survey			21	3	1,260	6	904	5	356	18
Total qualified sample			42	100	2,055	100	1,589	100	466	100
Completed survey			21	50	1,260	61	904	57	356	76

## Data weighting

Once the survey was closed out to any further responses, *Knowledge Networks* computed the respondent weights necessary to adjust for noncoverage and for variable nonresponse. The demographic and geographic distributions of home owners aged 18 or over from the *KnowledgePanel*<sup>SM</sup> were used as weighting benchmarks in this adjustment.

As always, there were two primary purposes of the respondent weights:

- To restore the three different geographical strata, sampled at different rates, to their correct proportions in characterizing the country as a whole; *and*
- To reduce the sampling variance for characteristics highly correlated with known demographic and geographic totals. This adjustment also helps reduce any bias due to differential nonresponse.

The following benchmark distributions were used in computing the weights:

- Sex (male, female);
- Age (18-29, 30-44, 45-59, 60 and older);
- Race/ethnicity (Hispanic, white/non-Hispanic, black/non-Hispanic, other/non-Hispanic, two or more races/non-Hispanic);
- Education (high school or less, some college, bachelor's degree and beyond);
- Internet access absent KN (yes, no);
- Metropolitan area residence (yes, no); *and*
- State or Census region<sup>82</sup> (NY, other Northeast region; IL, other Midwest region; FL, NC, TX, other South region; CA, other West region).

Comparable distributions were calculated using all 19,833 *KnowledgePanel*<sup>SM</sup> completed cases from the survey. Since the sample sizes are typically too small to accommodate a complete crosstabulation of all the survey variables with the benchmark variables,<sup>83</sup> KN computes the weights using an approach called "iterative proportional fitting." This procedure calculates the minimum variance weights that will (within a specified tolerance) match the *marginal* distributions of all of the benchmark variables, by iteratively fitting the weighted sample data until the sample distributions converge to the benchmark distributions.

Then, the qualified respondents from the combined *KnowledgePanel*<sup>SM</sup> sample and the opt-in sample were weighted to replicate the benchmark characteristics of the qualified respondents from just the *Knowledge Networks* panel sample. The opt-in sample was assumed to be

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<sup>82</sup> The six states with the largest achieved sample sizes were identified individually, and all other states were grouped by Census region.

<sup>83</sup> There are 4,800 different combinations of the benchmark variables, implying an average of only about four observations per cell and (more importantly) a large proportion of empty cells.

representative of the qualified home owners *with Internet access* from the states that were selected for augmentation from the opt-in panel.

Finally, the distribution of the weights calculated for each qualified respondent, using the methods just described, was examined to identify and truncate outliers to the upper and lower tails of the weight distribution. The weights of all qualified respondents were then scaled to sum to the qualified sample size, 1,260.

As CRA edited the data and made further exclusions of observations not meeting various screening criteria (see Section 3.1.1), KN recomputed the weights for the cases used in the multiple regression analysis.

## APPENDIX B: SURVEY INSTRUMENT

### Survey concerning mortgage closing costs

Version of 09/07/2006

This survey will be administered on-line to a sample drawn from the randomly-recruited panel maintained by *Knowledge Networks*, possibly augmented by participants in other opt-in panels.

This questionnaire format follows the convention that any skip patterns are indicated immediately to the right of the code for each response. When no question number is indicated to the right of a code, the interview proceeds to the next-numbered question. Instructions *in italics* are shown to the respondent, while **subheads like this** and **instructions in bold italics** are intended for the programmer alone; like the question numbers, they do not appear on the screen.

#### Screening of eligible respondents

##### Ask all:

- 1) This survey is about the experience of people like you when they buy or refinance a home. We're trying to see how the various costs of taking out a home mortgage loan vary by location and by the details of the loan. As in all our surveys, your answers will be kept strictly confidential and used only to produce statistical summaries.

First, do you rent or own a home?

A home can be a single-family house, a town home, a condominium, or apartment that you either live in yourself or own as an investment.

*[Select all that apply.]*

Rent	1	[below]
Own	2	[below]
Neither rent nor own	3	[below]

***Unless code 2 is chosen, skip to Q.5.***

##### Ask all who own a home [Q.1:2]:

- 2) When did you acquire the home?  
If you own more than one home, please answer for the one acquired most recently.

*[Select one only.]*

In the past six months	1	[Q.3]
Between six and twelve months ago	2	[Q.3]
Between one and two years ago	3	[Q.5]
Longer than two years ago	4	[Q.5]

##### Ask all who have acquired a home in the past twelve months [Q.2:1-2]:

- 3) Do you . . . *[select one only]*

. . . currently live in this home, or	1
. . . intend to move into the home within the next year, or	2
. . . have no intentions of living there yourself within the next year, or	3
something else? <i>[Please explain: _____]</i>	4

**Ask all who have acquired a home in the past twelve months [Q.2:1–2]:**

- 4) Did you obtain a mortgage to finance your purchase of this home?
- [Select one only.]*

Yes	1	[Q.6]
No	2	[Q.5]

**Ask all who have not purchased a home with a mortgage in the past twelve months [Q.2:3–4 or Q.4:2 or Q.1:1,3]:**

- 5) Have you ever
- refinanced*
- the mortgage on a home that you
- [Q.1:2: own now or]**
- have owned in the past? (Do
- not*
- include the negotiation of what is called a “reverse mortgage” or a “home equity loan,” both of which generate cash that can be used for purposes other than housing, secured by an interest in the value of your home.)
- [Select one only.]*

Yes, I refinanced within the past six months	1	[Q.6]
Yes, I refinanced between six and twelve months ago	2	[Q.6]
Yes, I refinanced between one and two years ago	3	[Q.9]
Yes, I refinanced more than two years ago	4	[Q.9]
No	5	[Q.9]

**Ask all who have mortgaged or remortgaged a home within the past twelve months [Q.4:1 or Q.5:1–2]:**

- 6) Are you able to find the paperwork that you were given in connection with the mortgage? Specifically, by federal law you should have been given a copy of a “Settlement Statement” (form
- HUD-1 [Q.5:1–2: or HUD-1A]**
- ) that summarized the financial arrangements between you
- [Q.5:1–2: and /Q.4:1:]**
- the mortgage lender
- [Q.5:1–2: . /Q.4:1:, and the seller of the home.]**
- Do you know where your copy of that Settlement Statement currently is? For the remaining questions it is essential to have your Settlement Statement with you when you answer them because they ask for cost details that you are very unlikely to know except from the form. Please remember all responses you provide in the survey will be kept confidential. In appreciation of your time we will offer an additional incentive for locating the form and completing this survey. Please continue to learn more.
- [Select one only.]*

Yes, the Settlement Statement is in my home and I can find it quickly.	1	[Q.7]
Yes, the Settlement Statement is in my home but it may take me some time to find it.	2	[Q.7]
Yes, the Settlement Statement is not in my home, but I do know where it is.	3	[Q.7]
I’m not sure whether I still have or can find the Settlement Statement.	4	[Q.7]
No, I’m confident that I no longer have a copy of the Settlement Statement for the mortgage.	5	[Q.9]

**Ask all who have mortgaged or remortgaged a home within the past twelve months and who have a possibility of locating their Settlement Statement [Q.6:1–4]:**

- 7) For the remaining questions in this survey it is essential to have your Settlement Statement with you when you answer them because they ask for details about your mortgage that you are very unlikely to know except from the form. These details are unlikely to be about aspects of the mortgage that you would find too personal to share, and as always, we will keep the information confidential and use it only for statistical analysis.

**[Q.6:1:** Will you please locate your copy of the Settlement Statement now, before continuing with the survey? Because some of the information on the form is so important to us, in appreciation of your time you will receive 10,000 bonus points for locating the form and completing the survey. / **Q.6:2:** Would you please try hard to find your copy of the Settlement Statement, so that you can then continue with the survey? Because some of the information on the form is so important to us, in appreciation of your time you will receive 10,000 bonus points for locating the form and completing the survey. Please locate your Settlement Statement and return to the survey by either clicking on the survey link in the invitation email or selecting “Home Mortgages” from your member page. You have until **Sunday October 8th** to be able to come back and finish this survey. / **Q.6:3:** Would you please obtain your copy of

the Settlement Statement from wherever it is kept, so that you can then continue with the survey? Because some of the information on the form is so important to us, in appreciation of your time you will receive 20,000 bonus points for locating the form and completing the survey. Please locate your Settlement Statement and return to the survey by either clicking on the survey link in the invitation email or selecting "Home Mortgages" from your member page. You have until **Sunday October 8th** to be able to come back and finish this survey. / **Q.6:4:** Would you please search thoroughly for your copy of the Settlement Statement, so that you can then finish the survey? Because some of the information on the form is so important to us, in appreciation of your time you will receive 20,000 bonus points for locating the form and completing the survey. Please locate your Settlement Statement and return to the survey by either clicking on the survey link in the invitation email or selecting "Home Mortgages" from your member page. You have until **Sunday October 8th** to be able to come back and complete this survey.]

[Select one only.]

- [Q.6:1 only:]** I have found the Settlement Statement and I'm ready to continue with the survey. **1 [Q.11]**
- [Q.6:1 only:]** I have not yet found the Settlement Statement, but I will continue to look for it and resume the survey when I have it. **2 [Q.8]**
- [Q.6:2,4 only:]** Yes, I will look for the Settlement Statement and continue the survey later when I have it with me. **2 [Q.8]**
- [Q.6:3 only:]** Yes, I will try to get my copy of the Settlement Statement and continue the survey later when I have it with me. **2 [Q.8]**
- [Q.6:1-4:]** No, I will not be able to locate my copy of the Settlement Statement for the mortgage. **3 [Q.9]**

**Display to all who need time to locate the Settlement Statement [Q.7:2]:**

- 8) Please do look for your copy of the Settlement Statement (form **HUD-1 [Q.5:1-2: or HUD-1A]**) for your most recent mortgage. The rest of the interview requires you to be able to copy a few details directly from the statement itself. Please locate your Settlement Statement and return to the survey by either clicking on the survey link in the invitation email or selecting "Home Mortgages" from your member page.]

**Display to all who do not qualify for interview [Q.5:3-5, or Q.6:5 or Q.7:3]:**

- 9) Thank you for your answers. That's all we need to ask for this survey. **[Terminate.]**

**Reconfirmation of availability of the settlement statement**

**Ask all returning to the interview after a break-off: [Q.7:2]**

- 10) At this stage, do you have with you a copy of the "Settlement Statement" (form **HUD-1 or HUD-1A**) for the mortgage loan that you took out on a home approximately within the last twelve months?

[Select one only.]

- Yes, I have the form with me now. **1 [Q.11]**
- I have some of the mortgage paperwork with me, but I'm not sure whether I have the form that you need. **2 [Q.11]**
- No, I haven't yet got the form but I'm still looking for it. **3 [Q.11]**
- No, I have not been able to locate the form and do not expect to do so. **4 [Q.17]**

**Ask all who have the form or still have some prospect of locating the form [Q.7:1 or Q.10:1–3]:**

11) Did you obtain this mortgage . . . [select one only]

- |                                                          |          |
|----------------------------------------------------------|----------|
| . . . to <i>buy</i> the home, or                         | 1 [Q.12] |
| . . . to <i>refinance</i> a home that you already owned? | 2 [Q.15] |

**Ask all needing to identify the precise form(s) from a home purchase [Q.11:1]:**

12) The form that you will need usually occupies two sides of a “letter size” or “legal size” sheet. It will often have the title “**Settlement Statement**” at the top of the first side, and somewhere – probably in small print at the bottom of the first or second page – it is likely to make reference to the federal government form number, **HUD-1**.

The form has a large number of numbered lines, into which the money amounts connected with your own mortgage loan will be entered at various places. At the top of the first page, there will be some basic information about the loan, the lender, the borrower (you), and the seller. The money amounts beneath this initial section are usually entered into two columns: “Summary of Borrower’s Transaction” and “Summary of Seller’s Transaction.”

Do you appear to have the correct form with you?

[Select one only.]

- |                                                                       |          |
|-----------------------------------------------------------------------|----------|
| Yes, I have the correct form.                                         | 1 [Q.13] |
| No, I do not have the correct form, but I’ll search for it some more. | 2 [Q.16] |
| No, I do not have the correct form, and do not expect to find it.     | 3 [Q.17] |

**Ask all with a correct form from a home purchase [Q.12:1]:**

13) Sometimes – particularly if you are making a down payment of less than 20% of the total purchase price or if the loan amount is large – the total funds that you borrow to purchase a home may be structured as *two* separate loans – a “first mortgage” and a “second mortgage” – rather than the more usual situation where you have just one loan.

To the best of your knowledge and understanding, was your loan for the purchase of this home structured as . . .

[select one only]

- |                                                |          |
|------------------------------------------------|----------|
| . . . just one mortgage loan, or               | 1 [Q.18] |
| . . . two loans (a first and second mortgage)? | 2 [Q.14] |
| I’m not sure                                   | Y [Q.14] |

**Ask all who possibly have two loans in connection with a home purchase [Q.13:2,Y]:**

14) When two loans are used to purchase a home, the Settlement Agent will sometimes provide you with two separate copies of the Settlement Statement (form **HUD-1**), one for each of the loans. Alternatively, there may be just one Settlement Statement that includes the details for both loans.

In your case, were you given two separate Settlement Statements or just one? Please be aware that Settlement Statements sometimes have “continuation pages” on separate sheets of paper. If you have two separate Settlement Statements, you are likely to have two separate “front pages,” with different amounts entered on the line labeled “202. Principal amount of new loan(s).”

[Select one only.]

- |                                           |          |
|-------------------------------------------|----------|
| I have just one Settlement Statement      | 1 [Q.18] |
| I have two separate Settlement Statements | 2 [Q.18] |

**Ask all needing to identify the precise form from a refinancing [Q.11:2]:**

15) The form that you will need is usually on a “letter size” or “legal size” sheet. It will often have the title “**Settlement Statement**” at the top, and somewhere – probably in small print at the bottom of the form – it is likely to make reference to the federal government form number, **HUD-1A** or **HUD-1**. For a refinancing, the simplest type of form that is used is **HUD-1A**, which may say “Optional Form for Transactions without Sellers” just beneath the title. However, settlement agents may sometimes use the longer form **HUD-1**, intended for when you are buying or selling

a home, and just leave the sections about the seller blank.

The form has a large number of numbered lines, into which the money amounts connected with your own mortgage loan will be entered at various places. At the top, there will be some basic information about the loan, the lender, and the borrower (you). The money amounts beneath this initial section are usually entered into two columns: on form **HUD-1A** they are labeled "Settlement Charges" and "Disbursement to others," and on form **HUD-1** they are labeled "Summary of Borrower's Transaction" and "Summary of Seller's Transaction."

Do you appear to have the correct form with you?

[Select one only.]

- Yes, I have a version of form **HUD-1A**. 1 [Q.18]
- Yes, I have a version of form **HUD-1**. 2 [Q.18]
- Yes, I appear to have the correct form, but I'm not sure whether it is form **HUD-1A** or **HUD-1**. 3 [Q.18]
- No, I do not have the correct form, but I'll search for it some more. 4 [Q.16]
- No, I do not have the correct form, and do not expect to find it. 5 [Q.17]

**Display to all who will continue to search [Q.12:2 or Q.15:4]:**

16) Please do continue to look for it, but bear in mind that this survey will end after **Sunday October 8th**. You may return to complete the survey up until that date. In appreciation of your time you will receive [Q.6:1–2: 10,000 / Q.6:3–4: 20,000] bonus points for locating your Settlement Statement and answering the remaining questions in the survey. Remember all responses you provide in the survey will be kept confidential. Please locate your Settlement Statement and return to the survey by either clicking on the survey link in the invitation email or selecting "Home Mortgages" from your member page.

**Display to all who no longer think that they can find the form [Q.10:4 or Q.12:3 or Q.15:5]:**

17) Thank you for looking for your Settlement Statement. Unfortunately, since you have not been able to find it, we cannot include you in this survey. [Terminate.]

**Transcription of data items from the form**

For respondents with separate forms for each of two loans [Q.14:2], the interview should cycle through this section twice, covering each of the two forms in turn. All others will answer these questions only once.

**Ask all passing the screener and presenting themselves for interview with the form [Q.12:1 or Q.15:1–3]:**

18) [Q.14:2, first iteration: Please take the Settlement Statement that relates to the larger of your two loans. We will ask you about that form first, and then later we will ask you about the Settlement Statement for your second loan. /Q.14:2, second iteration: That is all we need to know about your first loan. Now please take the Settlement Statement for your second loan, and use it to answer the following questions. **Second iteration respondents now skip Qs.18–21, and show Q.22 on the screen beneath the above introduction (second iteration will start at Q.22).**]

From the first section of the form, please enter . . . [Note that the "Item" identifications below should only be shown if Q.11:1 or Q.15:2. Use drop-down lists for state and date data entry, with state names spelled in full and all months in 2005 and 2006 listed.]

- . . . the state in which the property is located (Item G) \_\_\_\_\_
- City, Town, or County in which the property is located (Item G) \_\_\_\_\_
- . . . the state in which the settlement took place (beneath Item H) \_\_\_\_\_
- . . . the settlement date (Item I) \_\_\_\_\_

**Showing Qs.19–20 on the same screen, continue for all respondents asked Q.18:**

19) In that same first section [**Q.11:1 or Q.15:2: (Item H)**] there should be entered the name of the “Settlement Agent.” In the box below, please type exactly what is entered on your form as the name of the settlement agent, and then check that you have copied it exactly:

---

20) To the best of your knowledge and understanding, what is the person or company named as the “Settlement Agent”? Is it . . . [*select one only*]

- . . . a lawyer or law firm, or **1 [Q.21]**
- . . . the mortgage lender, or **2 [Q.22]**
- . . . a real estate broker or brokerage firm, or **3 [Q.21]**
- . . . a “title insurance company” or “title insurance agent”, or **4 [Q.21]**
- . . . an “escrow agent,” “escrow company,” or “closing company”, or **5 [Q.21]**
- something else? [*Please explain: \_\_\_\_\_*] **9 [Q.21]**
- I don't know **Y [Q.21]**

**Ask all for whom the Settlement Agent was not the lender [Q.20:not 2]:**

21) And to the best of your knowledge and understanding, was the person or firm who served as the “Settlement Agent” chosen by . . . [*select one only*]

- . . . you (the borrower) **1**
- . . . or the mortgage lender **2**
- [Include only if Q.11:1:]** . . . or the seller of the home **3**
- someone else? [*Please explain: \_\_\_\_\_*] **9**
- I don't know **Y**

**Ask all:**

22) Please look now for a line labeled either “202. Principal amount of new loan(s)” (form **HUD-1**) or “1600. Loan amount” (near the bottom of form **HUD-1A**) on the form. In the box below, please type the amount given on that line of the form, and then check that you have copied it exactly:

“Principal amount of new loan(s)” or “Loan amount” \$ \_\_\_\_\_ **Error! Bookmark not defined.**

**Refinancers [Q.11:2] now skip to Q.29. All home purchasers [Q.11:1] now skip to Q.24 unless Q.14:1, in which case continue with Q.23.**

**Ask all home purchasers with two loans but one statement [Q.11:1 and Q.14:1]:**

23) Please look on the first page of the form at the section headed “**200. Amounts Paid By Or In Behalf Of Borrower.**” Enter everything that you find on any of the numbered lines listed below, and then check that you have copied each entry *exactly*. Click here to see an example of this part of the form. [**Link to section of form.**]

**Fields for data entry in the table are highlighted. Include a place to check if nothing is found on any of the numbered lines [e.g., “There are no entries in that section for any lines numbered 204 or higher”].**

**State regulation of home mortgage settlements: Some empirical evidence about costs**

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CRA International

200. Amounts paid By Or In Behalf Of Borrower	Description entered for that line number	Amount paid
204.		
205.		
206.		
207 or higher.		

**Ask all obtaining a mortgage in connection with a home purchase [Q.11:1]:**

24) Please find the line labeled “101. Contract sales price” on the form. In the box below, please type the amount given on that line of the form, and then check that you have copied it exactly:

101. Contract sales price \$ \_\_\_\_\_

**Ask all obtaining a mortgage in connection with a home purchase [Q.11:1]:**

25) The remaining items that we need are usually to be found on the second page of form HUD-1. Please look now for the section of the form headed “1100. Title Charges.” In this section, there are usually up to *three* items entered on any line: the name of the person or firm to which an amount was paid, any amount paid from the *borrower’s* funds, and any amount paid from the *seller’s* funds. In the table below, please enter everything that you find on any of the numbered lines that we have listed, and then check that you have copied each entry *exactly*.

Sometimes, Section 1100 may be continued on a separate sheet attached to the main form. Please be sure that you find all of the Section 1100 amounts for any of the line numbers listed below, whether on the form itself or on a separate page, and enter them all. Click here to see an example of this part of the form. [\[Link to section of form.\]](#)

1100. Title Charges	Paid to	Paid From Borrower’s Funds at Settlement	Paid From Seller’s Funds at Settlement
1101. Settlement or closing fee			
1102. Abstract or title search			
1103. Title examination			
1104. Title insurance binder			
1105. Document preparation			
1106. Notary fees			
1107. Attorney’s fees			
(includes above item numbers: _____ )			
1108. Title insurance			
(includes above item numbers: _____ )			

**Ask for each “Paid to” entry at Q.25:**

26) On line **[Provide associated line number]**, the amount was paid to **[Provide subject “to” entry].** To the best of your knowledge and understanding, who or what is that person or company?

Is it . . . *[select one only]*

- . . . a lawyer or law firm, or **1**
- . . . the mortgage lender, or **2**
- . . . a real estate broker or brokerage firm, or **3**
- . . . a “title insurance company” or “title insurance agent”, or **4**
- . . . an “escrow agent,” “escrow company,” or “closing company”, or **5**
- something else? *[Please explain: \_\_\_\_\_]* **9**
- I don’t know **Y**

**Resume the interview for all home purchasers [Q.11:1]:**

27) Still looking at the section headed “**1100. Title Charges**,” please enter everything that you find on any of the numbered lines that we have listed in the table below, and then check that you have copied each entry *exactly*. If Section 1100 has been continued on a separate sheet, please be sure that you find all of the remaining Section 1100 amounts for any of the line numbers listed below, whether on the form itself or on a separate page, and enter them all. Click here to see an example of this part of the form. [\[Link to section of form.\]](#)

1100. Title Charges	Description entered for that line number	Paid From Borrower's Funds at Settlement	Paid From Seller's Funds at Settlement
1111.			
1112.			
1113.			
1114 or higher.			

**Include a place to check if nothing is found on any of the numbered lines [e.g., “There are no entries in that section for any lines numbered 1111 or higher”].**

**Ask all home purchasers [Q.11:1]:**

28) Finally, please look at the bottom of the form, at the section headed “**1300. Additional Settlement Charges**.” Ignore any entries on lines listing “Survey” or “Pest inspection” (those are usually numbered 1301 and 1302), but please tell us about all other entries in this section of the form. Enter everything that you find in this section that is *not* for “Survey” or “Pest inspection”, and then check that you have copied each entry *exactly*. If Section 1300 has been continued on a separate sheet, please be sure that you find all of the remaining Section 1300 amounts, whether on the form itself or on a separate page, and enter them all. Click here to see an example of this part of the form. [\[Link to section of form.\]](#)

1300. Additional Settlement Charges Enter line number	Description entered for that line number	Paid From Borrower's Funds at Settlement	Paid From Seller's Funds at Settlement
13__.			
13__.			
13__.			
13__.			

**Include a place to check if nothing is found on any of those lines [e.g., “There are no entries in that section for any items other than survey or pest inspection”].**

**If Q.14:2 and this is the first iteration, now commence the second iteration at Q.18. For all other home purchasers [Q.11:1], skip to Q.32.**

**Ask all obtaining a mortgage in connection with a refinancing [Q.11:2]:**

29) Please look now for the section of the form headed “**1100. Title Charges**.” In this section, there are usually *two* items entered on any line: the name of the person or firm to which an amount was paid, and the amount you paid. In the table below, please enter everything that you find on any of the numbered lines that we have listed, and then check that you have copied each entry *exactly*. Sometimes, Section 1100 may be continued on a separate sheet attached to the main form. Please be sure that you

find all of the Section 1100 amounts for any of the line numbers listed below, whether on the form itself or on a separate page, and enter them all. Click here to see an example of this part of the form. [\[Link to section of form.\]](#)

1100. Title Charges	Paid to	Amount paid
1101. Settlement or closing fee		
1102. Abstract or title search		
1103. Title examination		
1104. Title insurance binder		
1105. Document preparation		
1106. Notary fees		
1107. Attorney's fees		
(includes above item numbers: _____)		
1108. Title insurance		
(includes above item numbers: _____)		

**Ask for each "Paid to" entry at Q.29:**

30) On line **[Provide associated line number]**, the amount was paid to **[Provide subject "to" entry]**. To the best of your knowledge and understanding, who or what is that person or company?  
 Is it . . . *[select one only]*

- . . . a lawyer or law firm, or **1**
- . . . the mortgage lender, or **2**
- . . . a real estate broker or brokerage firm, or **3**
- . . . a "title insurance company" or "title insurance agent", or **4**
- . . . an "escrow agent," "escrow company," or "closing company", or **5**
- something else? *[Please explain: \_\_\_\_\_]* **9**
- I don't know **Y**

**Resume the interview for all refinancers [Q.11:2]:**

31) Still looking at the section headed **"1100. Title Charges,"** please enter everything that you find on any of the numbered lines that we have listed in the table below, and then check that you have copied each entry *exactly*. If Section 1100 has been continued on a separate sheet, please be sure that you find all of the remaining Section 1100 amounts for any of the line numbers listed below, whether on the form itself or on a separate page, and enter them all. Click here to see an example of this part of the form. [\[Link to section of form.\]](#)

1100. Title Charges	Description entered for that line number	Amount paid
1111.		
1112.		
1113.		
1114 or higher.		

**Include a place to check if nothing is found on any of the numbered lines [e.g., "There are no entries in that section for any lines numbered 1111 or higher"].**

**Ask all refinancers [Q.11:2]:**

32) Please look for the section headed **"1300. Additional Settlement Charges."** Ignore any entries on lines listing "Survey" or "Pest inspection" (those are usually numbered 1301 and 1302), but please tell us about all other entries in this section of the form. Enter everything that you find in this section that is *not* for "Survey" or "Pest inspection", and then check that you have copied each entry *exactly*.

If Section 1300 has been continued on a separate sheet, please be sure that you find all of the remaining Section 1300 amounts, whether on the form itself or on a separate page, and enter them all. Click here to see an example of this part of the form. [\[Link to section of form.\]](#)

1300. Additional Settlement Charges <i>Enter line number</i>	<i>Description entered for that line number</i>	Amount paid
13__.		
13__.		
13__.		
13__.		

**Include a place to check if nothing is found on any of those lines [e.g., “There are no entries in that section for any items other than survey or pest inspection”].**

**Ask all respondents passing the screener [Q.12:1 or Q.15:1–3]:**

33) Finally, during or before the closing did anyone personally explain to you the terms and conditions of each or most of the documents you were signing? If so, who did most of the explaining? *[Select one only.] [Randomize the order of codes 1–3.]*

- yes, the settlement agent or **1**
- yes, my own attorney, or **2**
- yes, a representative of the mortgage company, or **3**
- yes, but I’m not sure who did the most explaining, or **4**
- no, I can’t remember anyone explaining the terms and conditions to me **5**

**Interview close**

**Show to all**

34) That’s all. Thank you very much for taking part in this survey. Your answers have been very helpful. Your account will be credited 10,000 bonus points right after you finish this survey. **[Q.6:3–4: The additional 10,000 bonus points will be added to your account within the next few weeks.]**

Append to each respondent record a copious set of general classification variables drawn from the standard record for each respondent: demographic, socioeconomic, and geographical. We need to ensure that any possible question wording differences in these classification data between the KN panel members and the members of augmenting panels are resolved (most likely, by asking augmenting panel members to respond to the KN-worded questions at the end of this interview).