

Outlook Live Webinar- August 26, 2014

TILA-RESPA Integrated Disclosures

***Presented by the Consumer Financial Protection
Bureau***

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Disclaimer

- The Bureau issued the TILA-RESPA Integrated Disclosure final rule in November of 2013 to implement provisions under the Dodd Frank Wall Street Reform and Consumer Protection Act.
- The Final Rule will take effect in August 2015.
- This presentation is current as of August 26, 2014. This presentation does not represent legal interpretation, guidance or advice of the Bureau. While efforts have been made to ensure accuracy, this presentation is not a substitute for the rule. Only the rule and its Official Interpretations can provide complete and definitive information regarding requirements. This document does not bind the Bureau and does not create any rights, benefits, or defenses, substantive or procedural, that are enforceable by any party in any manner.

June 2014 Webinar – Recap

- Overview of the Final Rule, introducing:
 - Integration of TILA and RESPA disclosures into Loan Estimate and Closing Disclosure
 - New timing requirements for disclosures (1026.19(e) and (f))
 - New tolerance levels for disclosed estimates (1026.19(e) and (f))
 - New pre-disclosure requirements (1026.19(e)(2))
 - Loan Estimate form (1026.37 and Appendix H-24)
 - Closing Disclosure form (1026.38 and Appendix H-25)
- Introduced CFPB resources and webinar initiative
- Addressed basic compliance questions on definition of application
- Collected questions from attendees

Background

- Bureau finalized amendments to Regulations X and Z that integrate existing RESPA and TILA disclosures and take effect in August 2015.
 - Initial Truth-in Lending disclosure and RESPA Good Faith Estimate (GFE) combined into new Loan Estimate form (1026.37 and Appendix H-24)
 - Final Truth-in-Lending disclosure and RESPA HUD-1 combined into new Closing Disclosure (1026.38 and Appendix H-25)
 - New timing requirements for disclosures (1026.19(e) and (f))
 - New tolerance levels for disclosed estimates (1026.19(e) and (f))
 - New pre-disclosure requirements (1026.19(e)(2))
- A summary of the rule and the rule itself are available on the Bureau's website at: www.consumerfinance.gov/regulations

CFPB Resources

- **Dedicated Regulatory Implementation Website:**
<http://www.consumerfinance.gov/regulatory-implementation/tila-respa/>
 - Small Entity Compliance Guide
 - Guide to Forms
 - Sample and Annotated Forms
 - Links to Webinars
 - Additional Guidance Materials
- **eRegulations Tool:**
<http://www.consumerfinance.gov/eregulations>

August 2014 Webinar – Overview

- Address recurring issues and interpretive questions raised since the last webinar
 - Questions submitted to CFPB by industry and trade groups
 - Questions collected during last webinar
 - Questions raised through other channels
- Topics to cover
 - Application (continued from last session)
 - Scope
 - Record Retention
 - Timing for delivery and redisclosure
 - Tolerance
 - Basic form contents (more details to be covered in later sessions)

Application-related questions (1026.2(a)(3))

- An **application** consists of the submission of:
 - the consumer's name,
 - the consumer's income,
 - the consumer's social security number to obtain a credit report,
 - the property address,
 - an estimate of the value of the property, and
 - the mortgage loan amount sought.
- *See Preamble to 1026.2(a)(3) in Final Rule (78 FR 79762-68)*
- Additional details provided in June 2014 Webinar

Application-related questions (1026.2(a)(3))

- Q: The definition of application does not include loan term or product type. What if a consumer submits the six elements listed in the rule, but does not specify the type of product or term?
- Q: What if the consumer starts filling out an online application and saves it with the six pieces of information entered, but has not yet submitted it to the creditor?
- Q: What if the loan is a refinance and the creditor already has this particular information on file?
- Q: May an online application system reject applications submitted by a consumer that contain the six elements of an application because other preferred information is not included?

Scope – General Rule

- Applies to most closed-end consumer credit transactions secured by real estate, but does not apply to:
 - Reverse mortgages
 - Home-equity lines of credit (HELOCs)
 - Chattel dwelling loans
 - Loans made by a person who makes five or fewer mortgages in a year
 - Certain no-interest loans secured by subordinate liens made for the purpose of downpayment or similar home buyer assistance, property rehabilitation, energy efficiency, or foreclosure avoidance or prevention (1026.3(h))

Scope Questions

- Q: Do the new disclosure requirements apply to assumptions?
- Q: Would a successor-in-interest be considered a “subsequent purchaser” for the purpose of the assumption disclosure?
- Q: Section 1026.3(h) exempts certain downpayment assistance loans from the new rules. Do creditors still need to provide the existing TILA disclosures for those loans?

Record Retention – General Rule and Question

- Generally, creditors must retain:
 - Evidence of compliance with 1026.19(e) and (f) disclosure requirements for three years after the later of the date of consummation, the date disclosures are required to be made, or the date the action is required to be taken. (1026.25(c)(1)(i))
 - Copies of the Closing Disclosure and all documents related to such disclosures, for five years after consummation. (1026.25(c)(1)(ii))
- *See* Small Entity Compliance Guide, sections 2.3-2.5; Preamble to Final Rule 78 FR 79902-03; *see also* (1026.19(e)(2)(i)(A); 1026.19(e)(3)(iv); 1026.19(f)(3)(ii))
- Q: For seller Closing Disclosures provided on a separate document by the settlement agent pursuant to 1026.38(t)(5) and 1026.19(f)(4), are creditors required to collect and retain documents related to the seller that were provided only to the settlement agent?

Variations/Tolerances

- General Rule requirements:
 - 1026.19(e)(3)(i): General good faith requirement and “zero tolerance” baseline
 - 1026.19(e)(3)(ii): 10% Cumulative charges
 - 1026.19(e)(3)(iii): Unlimited variation or “not subject to tolerance”
- *See Small Entity Compliance Guide, sections 7.1-7.12; Preamble to Final Rule 78 FR 79816-79834; see also 1026.19(e)(3)*
- Q: Is owner’s title insurance not required by the creditor subject to the 10% cumulative tolerance?

Disclosure/Redisclosure Timing

- General Rule requirements:
 - 1026.19(e)(1)(iii): Loan Estimate timing
 - 1026.19(e)(3)(iv): Triggering events for redisclosure
 - 1026.19(e)(4): Timing for redisclosure
 - 1026.19(f)(1)(ii): Timing for Closing Disclosure
 - 1026.19(f)(2): Changes before consummation requiring revised Closing Disclosure
- *See Small Entity Compliance Guide, sections 8.1-9.6; Preamble to Final Rule 78 FR 79834-79837*

Disclosure/Redisclosure Timing

- Q: Does the 7-day waiting period before consummation that applies to Loan Estimates apply to revised disclosures?
- Q: Are creditors required to provide revised Loan Estimates on the same business day that a consumer or loan officer requests a rate lock? (1026.19(e)(3)(iv)(D))
- Q: May a Closing Disclosure be provided early and revised Closing Disclosures used in place of revised Loan Estimates for redisclosing estimates that changed due to changed circumstances?
- Q: Is an additional 3-business-day waiting period required if the APR decreases by more than 1/4 or 1/8 percentage points?

Loan Estimate – General

- Q: Where on the Loan Estimate form is the creditor supposed to provide the language described in 1026.19(e)(3)(iv)(F) for construction loans where settlement may be delayed?
- Q: For second mortgages issued simultaneously with first mortgages as part of a purchase transaction (or “simultaneous seconds”) is the creditor allowed to use the alternative Loan Estimate for transactions without a seller?
- Q: If there is more than one applicant/consumer, what needs to be disclosed on the Loan Estimate?