

Know Before You Owe Mortgage Disclosure Rule – Construction Lending

Outlook Live Webinar – March 1, 2016

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The content of this webinar is current as of the date the webinar was originally presented. This webinar has not been updated since its original presentation date and does not reflect the changes and clarifications set forth in the final rule issued on July 7, 2017.

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Disclaimer

This presentation:

- Is current as of March 1, 2016.
- Does not contain legal interpretations, guidance, or advice.
- Is not a substitute for the Integrated Disclosure Rule. Only the Rule and its official interpretations can provide complete and definitive information regarding the Rule's requirements.
- Is not binding on the Bureau and does not create any rights, benefits, or defenses, substantive or procedural, that are enforceable by any party in any manner.



Background

- Covered construction loans under the Integrated Disclosure Rule:
 - Closed-end consumer credit transactions secured by real property (12 CFR 1026.19(e)(1)(i) and (f)(1)(i))
- Disclosure requirements, guidance, and implementation materials:
 - Generally apply to covered construction loans, even if the guidance isn't directly on construction loans
- Although there are differences between the Loan Estimate and prior early disclosures under TILA and RESPA, there are similarities that help in working through questions.

Some Basic Considerations

- Construction loans may have different loan terms and loan structures.
- There are options for the disclosure of construction loans under the Integrated Disclosure Rule.
- We cannot address all possible loan terms, loan structures, and disclosure options in this webinar.
- If a question only refers to a particular loan term, loan structure, or disclosure option, it doesn't mean that other loan terms, loan structures, or disclosure options are prohibited.
- If we only address a particular type of loan, it doesn't mean that the disclosure only applies to that type of loan.

Long-Standing Options – Still Available

- **Q1:** What options does a creditor have for disclosing construction loans?
- 12 CFR 1026.17(c)(6)(ii) – “When a multiple-advance loan to finance the construction of a dwelling may be permanently financed by the same creditor, the construction phase and the permanent phase may be treated as either one transaction or more than one transaction.”
- Appendix D – “Section 1026.17(c)(6) permits creditors to treat multiple advance loans to finance construction of a dwelling that may be permanently financed by the same creditor either as a single transaction or as more than one transaction.”
- Comment 37(a)(9)-1.iii – “For additional guidance on disclosing construction-to-permanent loans, see § 1026.17(c)(6)(ii), comments 17(c)(6)-2 and -3, and appendix D to this part.”

Loan Estimate – Page 1 – General Information

Save this Loan Estimate to compare with your Closing Disclosure.

| | |
|----------------------|--|
| Loan Estimate | LOAN TERM |
| DATE ISSUED | PURPOSE |
| APPLICANTS | PRODUCT |
| | LOAN TYPE <input type="checkbox"/> Conventional <input type="checkbox"/> FHA <input type="checkbox"/> VA <input type="checkbox"/> _____ |
| | LOAN ID # |
| PROPERTY | RATE LOCK <input type="checkbox"/> NO <input type="checkbox"/> YES, until |
| SALE PRICE | <small>Before closing, your interest rate, points, and lender credits can change unless you lock the interest rate. All other estimated closing costs expire on _____.</small> |



Sale Price and Estimated Value

- **Q2:** When does the creditor disclose a sale price or estimated value if the loan proceeds finance construction costs?
- 12 CFR 1026.37(a)(7)
 - (i) "For transactions that involve a seller, the contract sale price of the property . . . labeled 'Sale Price.'"
 - (ii) "For transactions that do not involve a seller, the estimated value of the property . . . labeled 'Prop. Value.'"
- Comment 37(a)(7)-1



Sale Price and Estimated Value

- **Q3:** What amount does a creditor disclose if the creditor has an appraisal or valuation that will be used, or may be used, during underwriting of the application?
- Comment 37(a)(7)-1
 - "If the creditor has obtained any appraisals or valuations of the property for the application at the time the disclosure is issued to the consumer, the value determined by the appraisal or valuation to be used during underwriting for the application is disclosed as the estimated property value."
 - "If the creditor has obtained multiple appraisals or valuations and has not yet determined which one will be used during underwriting, it may disclose the value from any appraisal or valuation it reasonably believes it may use in underwriting the transaction."



Purpose: Purchase, Refinance, Construction, or Home Equity

- **Q4:** What purpose is disclosed when a consumer finances the purchase of real property and construction costs?
- 12 CFR 1026.37(a)(9)
 - (i) Purchase
 - (ii) Refinance
 - (iii) Construction
 - (iv) Home equity loan
- Comment 37(a)(9)-1

Purpose: Separate Permanent Phase Disclosure

- **Q5:** If the creditor provides separate sets of disclosures for the construction phase and the permanent phase, what purpose is disclosed for the permanent phase?
- 12 CFR 1026.37(a)(9)(ii) – “If the credit is not for the purpose described in paragraph (a)(9)(i) of this section, and if the credit will be used to refinance an existing obligation, as defined in § 1026.20(a) (but without regard to whether the creditor is the original creditor or a holder or servicer of the original obligation), that is secured by the property identified in paragraph (a)(6) of this section, the creditor shall disclose that the loan is for a ‘Refinance.’”
- Comment 37(a)(9)-1

Product: Single Disclosure, Fixed Rates

- **Q6:** What does a creditor disclose as the product if a construction-to-permanent loan disclosed in a single set of disclosures has different fixed rates for the construction and permanent phases?
- 12 CFR 1026.17(c)(6)(ii) – “[T]he construction phase and the permanent phase may be treated as either one transaction or more than one transaction.”
- 12 CFR 1026.37(a)(10)(i) – (A) Adjustable rate; (B) Step rate; (C) Fixed rate
- 12 CFR 1026.37(a)(10)(i)(B) – “If the interest rate will change after consummation, and the rates that will apply and the periods for which they will apply are known at consummation, the creditor shall disclose the loan product as a ‘Step Rate.’”

Product: Single Disclosure, Fixed and Adjustable Rates

- **Q7:** What does a creditor disclose as the product if a construction-to-permanent loan disclosed in a single set of disclosures has an adjustable rate for one phase and a fixed rate for the other phase?
- 12 CFR 1026.37(a)(10)(i)(A) – “If the interest rate may increase after consummation, but the rates that will apply or the periods for which they will apply are not known at consummation, the creditor shall disclose the loan product as an ‘Adjustable Rate.’”
- Comment 37(a)(10)-1.i

Product: Interest Only and Balloon Payment Features

- **Q8:** If a construction loan is disclosed separately from the permanent loan and has both an interest-only feature and a balloon payment, what feature is disclosed for the product disclosure?
- 12 CFR 1026.37(a)(10)(ii)
 - (A) Negative Amortization
 - (B) Interest-Only Feature
 - (C) Step Payment
 - (D) Balloon Payment
 - (E) Seasonal Payment
- 12 CFR 1026.37(a)(10)(iii) – “If a transaction has more than one of the loan features described in paragraph (a)(10)(ii) of this section, the creditor shall disclose only the first applicable feature in the order the features are listed in paragraph (a)(10)(ii) of this section.”
- Comment app. D-7.i

Loan Estimate – Page 1 – Loan Terms Table

| Loan Terms | Can this amount increase after closing? |
|--|---|
| Loan Amount | |
| Interest Rate | |
| Monthly Principal & Interest <small>See Projected Payments Below for your Estimated Total Monthly Payment</small> | |
| | Does the loan have these features? |
| Prepayment Penalty | |
| Balloon Payment | |

Interest Rate

- **Q9:** In the case of separate disclosures, how does a creditor disclose the interest rate when the creditor does not know what interest rate will apply to the permanent phase?
- 12 CFR 1026.37(b)(2) – “For an adjustable rate transaction, if the interest rate at consummation is not known, the rate disclosed shall be the fully-indexed rate, which, for purposes of this paragraph, means the interest rate calculated using the index value and margin at the time of consummation.”
- Comment 37(b)(2)-1
- Comment 19(e)(1)(i)-1
- 12 CFR 1026.17(c)(2)(f)
- Comment 17(c)(2)(i)

Monthly Principal and Interest Payment

- **Q10:** What payment does the creditor disclose when using a single set of disclosures for a construction-to-permanent loan or for the construction phase of a construction-to-permanent loan when separate disclosures are used?
- 12 CFR 1026.37(b)(3) – “The initial periodic payment amount that will be due under the terms of the legal obligation”

Monthly Principal and Interest Payment Calculation

- **Q11:** How does the creditor calculate the initial payment for the construction phase?
- 12 CFR 1026.37(b)(2) – “The interest rate that will be applicable to the transaction at consummation”

Monthly Principal and Interest Payment Calculation: Appendix D

- **Q12:** What options does Appendix D provide for computing the initial payment?
- Appendix D – Part I – “Construction Period Disclosed Separately”
- Appendix D – Part II – “Construction and Permanent Financing Disclosed As One Transaction”

Monthly Principal and Interest Payment Calculation

- **Q13:** Can you provide an example of how the initial payment would be calculated under Appendix D?

Appendix D - Part I.A.1 and Part II.A.1

Interest only, payable only on amount advanced
 \$100,000, 5%, 12 mos.
 $\frac{1}{2} \times \$100,000 = \$50,000$
 $\$50,000 \times .05 = \$2,500$
 $\$2,500 / 12 = \208.33

Initial Payment = \$208.33

Appendix D - Part I.B.1 and Part II.A.2

Interest only, payable on entire commitment amount
 \$100,000, 5%, 12 mos.
 $\$100,000 \times .05 = \$5,000$
 $\$5,000 / 12 = \416.66

Initial Payment = \$416.66

Balloon Payment

- **Q14:** If the creditor is using a separate set of disclosures for the construction phase, what amount does the creditor disclose as the balloon payment in the Loan Terms table?
- 12 CFR 1026.37(b)(7)(ii) – “If an affirmative answer for a prepayment penalty or balloon payment is required to be disclosed, the following information shall be included, as applicable: . . . (ii) The maximum amount of the balloon payment and the due date of such payment.”
- Comment app. D-7.1 – “[B]ecause the construction phase is being disclosed as a separate transaction and its terms do not repay all principal, the creditor must disclose the construction phase transaction as a product with a balloon payment feature, pursuant to §§ 1026.37(a)(10)(ii)(D) and 1026.38(a)(5)(iii), in addition to reflecting the balloon payment in the projected payments table.”

Loan Estimate – Page 1 – Projected Payments Table

| Projected Payments | | | | | | | | | | | |
|---|---|-------------------------------|-------------------|---|--|--|--|---------------------------------|--|---|--|
| Payment Calculation | | | | | | | | | | | |
| Principal & Interest | | | | | | | | | | | |
| Mortgage Insurance | | | | | | | | | | | |
| Estimated Escrow <i>Amount can increase over time</i> | | | | | | | | | | | |
| Estimated Total Monthly Payment | | | | | | | | | | | |
| Estimated Taxes, Insurance & Assessments <i>Amount can increase over time</i> | <table border="0"> <tr> <td>This estimate includes</td> <td>In escrow?</td> </tr> <tr> <td><input type="checkbox"/> Property Taxes</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Homeowner's Insurance</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Other:</td> <td></td> </tr> <tr> <td colspan="2"><small>See Section G on page 2 for escrowed property costs. You must pay for other property costs separately.</small></td> </tr> </table> | This estimate includes | In escrow? | <input type="checkbox"/> Property Taxes | | <input type="checkbox"/> Homeowner's Insurance | | <input type="checkbox"/> Other: | | <small>See Section G on page 2 for escrowed property costs. You must pay for other property costs separately.</small> | |
| This estimate includes | In escrow? | | | | | | | | | | |
| <input type="checkbox"/> Property Taxes | | | | | | | | | | | |
| <input type="checkbox"/> Homeowner's Insurance | | | | | | | | | | | |
| <input type="checkbox"/> Other: | | | | | | | | | | | |
| <small>See Section G on page 2 for escrowed property costs. You must pay for other property costs separately.</small> | | | | | | | | | | | |

Projected Payments: Separate Construction Phase

- **Q15:** If the construction phase is disclosed separately from the permanent phase, what payments are disclosed in the first column of the projected payments table if the construction phase has a fixed rate?
- 12 CFR 1026.37(b)(3) – “The initial periodic payment amount that will be due under the terms of the legal obligation”
- 12 CFR 1026.37(c) – “In a separate table under the heading ‘Projected Payments,’ an itemization of each separate periodic payment or range of payments”
- 12 CFR 1026.37(c)(2)(i) – “[I]ncluding the term ‘only interest’ if the payment or range of payments includes any interest only payment”

Projected Payments: Construction Phase Fixed Rate

- **Q16:** If the construction phase is disclosed separately from the permanent phase, what payments are disclosed in the second column of the Projected Payments table if the construction phase has a fixed rate?
- 12 CFR 1026.37(b)(7)(ii) – “[M]aximum amount of the balloon payment”
- 12 CFR 1026.37(c)(1)(ii)(A) – “A balloon payment that is scheduled as a final payment under the terms of the legal obligation shall always be disclosed as a separate periodic payment or range of payments”
- 12 CFR 1026.37(c)(3)(iii) – “A balloon payment that is scheduled as a final payment under the terms of the legal obligation must be disclosed under the subheading ‘Final Payment.’”
- Comment app. D-7.i – “[R]eflecting the balloon payment in the projected payments table.”

Projected Payments: Construction Phase Adjustable Rate

- **Q17:** If the construction phase is disclosed separately from the permanent phase, what payments are disclosed in the first column of the Projected Payments table if the construction phase has an adjustable rate?
- 12 CFR 1026.37(c)(1)(iii) – “When a range of payments is required to be disclosed . . . the creditor must disclose the minimum and maximum amount”
- 12 CFR 1026.37(c)(2)(i) – “[I]ncluding the term ‘only interest’”
- 12 CFR 1026.37(c)(2)(i)(A) – “[T]he maximum possible interest rate and . . . the minimum possible interest rate”
- Appendix D, Part I.A – “Assume that one-half of the commitment amount is outstanding”
- Appendix D, Part I.B – “Assume that the entire commitment amount is outstanding”

Projected Payments: Construction Balloon Payment

- **Q18:** How would a range of payments in the first column of the Projected Payments table affect disclosure of the balloon payment?
- 12 CFR 1026.37(b)(7)(ii) – “[M]aximum amount of the balloon payment”
- 12 CFR 1026.37(c)(1)(ii)(A) – “A balloon payment that is scheduled as a final payment under the terms of the legal obligation shall always be disclosed as a separate periodic payment or range of payments”
- Comment 37(c)(2)(i)-3 – “[F]or a balloon payment amount that can change depending on previous interest rate adjustments that are based on the value of an index at the time of the adjustment, the balloon payment amounts are calculated using the assumptions for minimum and maximum interest rates . . . and should be disclosed as a range of payments.”

Projected Payments: Single, Combined Disclosure

- **Q19:** How are the disclosures in the Projected Payments table made if the creditor is using a single set of disclosures for both the construction phase and the permanent phase?
- Comment 37(a)(8)-1.i
- Comment app. D-7.ii – “If the creditor elects to disclose the construction and permanent phases as a single transaction, the repayment schedule must be disclosed pursuant to appendix D, part I.I.C.2. Under appendix D, part I.I.C.2, the projected payments table must reflect the interest-only payments during the construction phase in a first column, followed by the appropriate column(s) reflecting the amortizing payments for the permanent phase. The creditor determines the amount of the interest-only payment to be made during the construction phase using the assumption in appendix D, part I.I.A.1.”

Projected Payments: Single, Combined Disclosure; Not a Whole Number of Years

- **Q20:** Is the single, combined construction-to-permanent disclosure for projected payments different if the construction phase does not equal a whole number of years?
- 12 CFR 1026.37(c)(1)(iii)(B) – “A range of payments is required to be disclosed under this paragraph (c)(1) when: . . . (B) Multiple events described in paragraph (c)(1)(i)(A) of this section occur during a single year or an event described in paragraph (c)(1)(i)(A) of this section occurs during the same year as the initial periodic payment or range of payments, in which case the creditor discloses the range of payments that would apply during the year in which the events occur”
- 12 CFR 1026.37(c)(2)(i)
- Comment 37(c)(1)(i)(A)-3 – “In a loan that contains an interest only feature, periodic principal and interest payments may change for purposes of § 1026.37(c)(1)(i)(A) when the interest only period ends, meaning the consumer must begin making payments that do not defer repayment of principal.”
- Comment app. D-7.ii

Loan Estimate – Page 1 – Projected Payments Table

| Projected Payments | | | | | | | | | | | |
|---|---|-------------------------------|-------------------|---|--|--|--|---------------------------------|--|---|--|
| Payment Calculation | | | | | | | | | | | |
| Principal & Interest | | | | | | | | | | | |
| Mortgage Insurance | | | | | | | | | | | |
| Estimated Escrow <small>Amount can increase over time</small> | | | | | | | | | | | |
| Estimated Total Monthly Payment | | | | | | | | | | | |
| Estimated Taxes, Insurance & Assessments <small>Amount can increase over time</small> | <table border="0"> <tr> <td>This estimate includes</td> <td>In escrow?</td> </tr> <tr> <td><input type="checkbox"/> Property Taxes</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Homeowner's Insurance</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Other:</td> <td></td> </tr> <tr> <td colspan="2"><small>See Section G on page 2 for escrowed property costs. You must pay for other property costs separately.</small></td> </tr> </table> | This estimate includes | In escrow? | <input type="checkbox"/> Property Taxes | | <input type="checkbox"/> Homeowner's Insurance | | <input type="checkbox"/> Other: | | <small>See Section G on page 2 for escrowed property costs. You must pay for other property costs separately.</small> | |
| This estimate includes | In escrow? | | | | | | | | | | |
| <input type="checkbox"/> Property Taxes | | | | | | | | | | | |
| <input type="checkbox"/> Homeowner's Insurance | | | | | | | | | | | |
| <input type="checkbox"/> Other: | | | | | | | | | | | |
| <small>See Section G on page 2 for escrowed property costs. You must pay for other property costs separately.</small> | | | | | | | | | | | |

Projected Payments: Mortgage Insurance and Estimated Escrow Disclosure

- **Q21:** What does a creditor disclose for mortgage insurance and estimated escrow for a construction loan?
- Comments 37(c)(2)(ii)-1 – “If the consumer is not required to purchase mortgage insurance or any functional equivalent, the creditor discloses the mortgage insurance premium amount as ‘0.’”
- Comment 37(c)(2)(ii)-2 – “The creditor discloses mortgage insurance premiums . . . on the same periodic basis that payments for principal and interest are disclosed . . . even if mortgage insurance premiums are actually paid on some other periodic basis.”
- Comment 37(c)(2)(iii)-1 – “If no escrow account for the payment of some or all such charges will be established, the creditor discloses the escrow amount as ‘0.’”

Projected Payments: Mortgage Insurance and Estimated Escrow Disclosure Differences

- **Q22:** How can the escrow projected payments disclosure differ from the mortgage insurance disclosure?
- Comment 37(c)(2)(iii)-1 – “If an escrow account is established . . . but no escrow payment is required with a particular periodic payment . . . or range of payments, the escrow payment should be disclosed as ‘—.’”

Projected Payments: Estimated Taxes, Insurance, and Assessments – In Escrow?

- **Q23:** How does a creditor disclose whether the estimated taxes, insurance, and assessments will be in escrow?
- 12 CFR 1026.37(c)(4)(iv) – “A statement of whether the amount disclosed pursuant to paragraph (c)(4)(ii) of this section includes payments for property taxes, amounts identified in § 1026.4(b)(8), and other amounts described in paragraph (c)(4)(ii) of this section, along with a description of any such other amounts, and an indication of whether such amounts will be paid by the creditor using escrow account funds”

Projected Payments: Estimated Taxes, Insurance, and Assessments – Calculation

- **Q24:** How does a creditor calculate the amount of estimated taxes, insurance, and assessments in the Projected Payments table when those amounts may change due to the construction of a dwelling?
- 12 CFR 1026.37(c)(4)(ii) – “The sum of the charges identified in § 1026.43(b)(8), other than amounts identified in § 1026.4(b)(5), expressed as a monthly amount, even if no escrow account for the payment of some or any of such charges will be established”
- 12 CFR 1026.37(c)(5) – “[E]stimated property taxes and homeowner’s insurance shall reflect: (i) The taxable assessed value of the real property securing the transaction after consummation, including the value of any improvements on the property or to be constructed on the property, if known, whether or not such construction will be financed from the proceeds of the transaction, for property taxes; and (ii) The replacement costs of the property during the initial year after the transaction, for amounts identified in § 1026.4(b)(8).”
- Comment 17(c)(2)(i)-1
- Comment 19(e)(1)(i)-2

Loan Costs and Other Costs: Inspection and Draw Fees

- **Q25:** How does a creditor disclose inspection and draw fees when the creditor does not know how many draws there will be?
- 12 CFR 1026.37(f)
- Comment 17(c)(2)(i)-1 – “Information is unknown if it is not reasonably available to the creditor at the time the disclosures are made. The ‘reasonably available’ standard requires that the creditor, acting in good faith, exercise due diligence in obtaining information”
- Comment 19(e)(1)(i)-2 – “These disclosures must be provided in good faith. Except as otherwise provided in § 1026.19(e), a disclosure is in good faith if it is consistent with § 1026.17(c)(2)(i)”

Loan Costs and Other Costs: Construction Holdbacks

- **Q26:** How may a creditor disclose a “construction holdback” on the Loan Estimate?
- 12 CFR 1026.37(g)(4) – “[A]ny other amounts in connection with the transaction that the consumer is likely to pay or has contracted with a person other than the creditor or loan originator to pay at closing and of which the creditor is aware at the time of issuing the Loan Estimate”
- Comment 37(g)(7)-1 – Clear and conspicuous standard (see comment 37(f)(5)-1)
- Comment 37(f)(5)-1 – “[T]erminology that is clear and conspicuous . . . and describes the service or administrative function that the charge pays for in a manner that is reasonably understood by consumers”

Loan Costs and Other Costs: Construction Holdbacks – Alternative Disclosure

- **Q27:** Is there an alternative to disclosing a “construction holdback” and construction costs in the “other” category at section H of the Loan Estimate?
- 12 CFR 1026.37(h)(1)(ii) – “The amount of any closing costs to be paid out of loan proceeds, disclosed as a negative number”
- 12 CFR 1026.37(h)(1)(v) – “[D]etermined by subtracting the principal amount of the credit extended (excluding any amount disclosed pursuant to paragraph (h)(1)(ii) of this section) from the total amount of all existing debt being satisfied in the transaction (except to the extent the satisfaction of such existing debt is disclosed under paragraph (g) of this section)”
- Comment 37(h)(1)(ii)-1 – “[D]etermined by subtracting the estimated total amount of payments to third parties not otherwise disclosed pursuant to § 1026.37(f) and (g) from the total loan amount disclosed pursuant to § 1026.37(b)(1).”

AP Table: Single Combined Disclosure, Adjustable Rate

- **Q28:** How is the Adjustable Payment (AP) table completed if a construction-to-permanent loan disclosed as a single transaction with one set of disclosures includes both interest-only payments for some period and an adjustable rate?
- 12 CFR 1026.37(i)(1) – “Whether the transaction is an interest only product . . . of this section as an affirmative or negative answer to the question ‘Interest Only Payments?’ and, if an affirmative answer is disclosed, the period during which interest only periodic payments are scheduled.”
- 12 CFR 1026.37(i)(5)(i) – “The number of the payment of the first periodic principal and interest payment that may change under the terms of the legal obligation . . . counting from the first periodic payment due after consummation, and the amount or range of the periodic principal and interest payment for such payment, labeled ‘First Change/Amount’”
- 12 CFR 1026.37(i)(5)(iii) – “The maximum periodic principal and interest payment that may occur during the term of the transaction, and the first periodic principal and interest payment that can reach such maximum, counting from the first periodic payment due after consummation, labeled ‘Maximum Payment.’”
- Comment 37(i)(5)-3 – “If the frequency of adjustments to the periodic payment may change under the terms of the legal obligation, the disclosure should state the smallest period of adjustments that may occur.”



Adjustable Interest Rate (AIR) Table: Single Combined Disclosure, Different Fixed Rates

- **Q29:** Does the creditor include the Adjustable Interest Rate (AIR) table when a creditor discloses a construction-to-permanent loan with a single set of disclosures and each phase has a different fixed rate?
- 12 CFR 1026.37(j) – “If the interest rate may increase after consummation, a separate table . . . under the heading ‘Adjustable Interest Rate (AIR) Table’”
- Comment 37(j)-1 – “The disclosure described in § 1026.37(j) is required only if the interest rate may increase after consummation, either based on changes to an index or scheduled changes to the interest rate.”



AIR Table: Permanent Phase Rate Not Known

- **Q30:** What does the creditor disclose in the Adjustable Interest Rate (AIR) table if the creditor does not know the interest rate for the permanent phase of a construction-to-permanent loan?
- 12 CFR 1026.37(b)(2) – “The interest rate that will be applicable to the transaction at consummation”
- 12 CFR 1026.37(j)(3) – “The interest rate at consummation of the loan transaction”
- Comment 37(b)(2)-1 – “[I]f the index value that will be in effect at consummation is unknown at the time the disclosures are provided . . . the fully-indexed rate disclosed . . . may be based on the index in effect at the time the disclosure is delivered.”



Comparisons: Total of Payments

- **Q31:** How are the total principal, interest, mortgage insurance, and loan costs (total of payments) calculated when the construction phase is 12 months or less and is disclosed as a separate transaction?
- 12 CFR 1026.37(l)(1)
- Comment 37(l)(1)(i)-1 – “In transactions with a scheduled loan term of less than 60 months, to comply with § 1026.37(l)(1), the creditor discloses the amounts paid through the end of the loan term.”



Comparisons: Total Interest Percentage (TIP)

- **Q32:** How is the Total Interest Percentage (TIP) calculated for the construction phase?
- 12 CFR 1026.37(l)(3) – “The total amount of interest that the consumer will pay over the life of the loan, expressed as a percentage of the amount of credit extended, using the term ‘Total Interest Percentage,’ the abbreviation ‘TIP,’ and the statement ‘The total amount of interest that you will pay over the loan term as a percentage of your loan amount.’”
- Comment 37(l)(3)-2 – “For Adjustable Rate products under § 1026.37(a)(10)(i)(A), § 1026.37(l)(3) requires that the creditor compute the total interest percentage in accordance with comment 17(c)(1)-10.”
- Comment 17(c)(1)-10



Additional CFPB Resources

- **Dedicated Regulatory Implementation Website:**
 - <http://www.consumerfinance.gov/regulatory-implementation/tila-respa/>
 - If you are interested in receiving notices about regulatory implementation you may sign up for our mailing list by entering your email address in the space provided in the upper right hand corner of the dedicated regulatory implementation website.
- **eRegulations Tool:**
 - <http://www.consumerfinance.gov/eregulations>


