

CFPB – NEW RULE CHANGES
TILA-RESPA : ~~AUGUST 1, 2015~~
now OCTOBER 1, 2015



Overview



Disclaimer



American Title Inc has prepared this presentation as an overview only of the upcoming CFPB changes specifically for this conference. This is not a complete summary of the Rule Change nor is it intended as a training document. This presentation does not represent legal interpretation, guidance or advice of ATI or CFPB. 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 ATI and does not create any rights, benefits or defenses, substantive or procedural, that are enforceable by any party in any manner.

For a full review and complete information on the upcoming CFPB rule change please refer to the CFPB (Consumer Financial Protection Bureau) website:

www.consumercomplianceoutlook.org



Background



- 1974 : TILA & RESPA Act
- 7-9-2012 : CFPB issues proposed rules and model forms – Regs Z, X, B
- 7-21- 2012 :
 - Public comment due on proposed rules & model consolidated TILA + RESPA disclosures as mandated by Dodd-Frank Act requiring CFPB to integrate mortgage loan disclosures under TILA & RESPA sections 4 & 5
- 12-31-2013 :
 - CFPB finalized rule with new, integrated disclosures (TILA-RESPA Rule)
 - Rule change applies to most closed-end consumer mortgages (Purchase/Refinance/HELOANS)
 - Rule change does NOT apply to HELOCs, reverse mortgages, lot loans, mortgages secured by mobile homes
- Effective with loan applications (for applicable loan types) dated August 1, 2015 forward *recently moved by CFPB to OCTOBER 1, 2015*



Vocabulary



- ❖ **TRID**
 - ▣ **T**IL - **R**ESPA **I**ntegrated **D**isclosures = LE and CDF
- ❖ **LE**

 - ▣ **L**oan **E**stimate – replaces upfront TIL & GFE disclosures on affected transactions

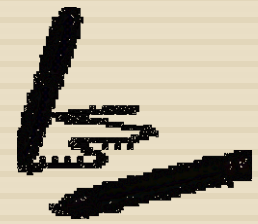
- ❖ **CDF**

 - ▣ **C**onsolidated **D**isclosure **F**orm – combines TIL & HUD1 (formerly provided at closing) for affected transactions



High Level OVERVIEW

- new final Rule



- **Applicable Loans** – most closed-end consumer mortgage loans
- **Exempt Transactions** – HELOCs; Reverse Mortgages; Mortgage loans secured by mobile home or dwelling not attached to real property; loans made by creditor who makes $<$ or $=$ 5 mortgages/yr
- **Preparation & Delivery of CDF** – Creditor responsible for delivery of CDF but may use settlement agent to provide CDF ...IF settlement agent complies with the final rule requirements for the CDF. *Final Rule allows lender(creditor) to either create the CDF form or share responsibility with the settlement agent. Regardless of which creates the CDF, the lender is still legally responsible for the accuracy of the form.*

Operational Considerations: Settlement Agents must work with lenders individually as to how the lender will handle preparation & delivery of the CDF to the consumer. Special consideration should be given to compliance with the required delivery 3-Day Rule.



High Level OVERVIEW

-new final Rule *(continued)*



➤ 3 DAY RULE –

- Creditor (lender) must give the CDF to consumers at least THREE (3) BUSINESS DAYS *before the consumer closes the loan.*
- If the Creditor makes any of the following changes* between the time the CDF form is given to the consumer & the loan closing, the *consumer MUST be provided a NEW CDF & given a new 3 business day waiting period:*
 - * **TRIGGERS - If the creditor**
 - ✓ *makes changes to the APR above 1/8 of a percent for most loans or 1/4 of a percent for loans with irregular payment periods)*
 - ✓ *Changes the loan product*
 - ✓ *Adds a prepayment penalty to the loan*
- *Less significant changes can be disclosed on a revised CDF without delaying closing.*

Operational Considerations: Settlement Agents must determine how they will handle situations where any of the 3 above triggers occur that kick-start a new 3 day waiting period for the consumer. Workflow may vary based on the lender, who prepared the CDF, who is delivering the CDF to the consumer, etc.



High Level OVERVIEW

-new final Rule (continued)



➤ 3 DAY RULE (continued) -

- Creditor (lender) is responsible for delivery of the CDF to consumers but may use the settlement agent to provide the form.
 - Acceptable forms of delivery:
 - Provide IN PERSON
 - MAILING or by other delivery methods such as email. (Lenders using electronic delivery methods are subject to provisions of the Electronic Signatures in Global and National Commerce Act)
 - IN PERSON Delivery – *considered received by the consumer on the day it is provided*
 - MAILING or Electronic Delivery - *considered received by the consumer six (6) business days* AFTER the CDF is placed in the mail or electronically delivered unless the consumer provides a confirmation of receipt.*
- ***Business Days** means calendar days except Sundays and legal holidays
- There is no time stamp like there is with the Loan Estimate (LE) form given upfront
- Waiver of waiting period for a **bona fide personal financial emergency** only:
 - ✓ *Consumer must hand write and date the waiver request*
 - ✓ *Example provided by CFPB as an acceptable bona fide personal financial emergency: imminent sale of consumer's home at foreclosure where foreclosure sale will proceed unless loan proceeds are made available to the consumer during the waiting period*
 - ✓ *Creditor (lender) is prohibited from using a pre-printed waiver form*

Operational Considerations: settlement agents must determine how they will handle timing of delivery and calculation of the first date the consumer may sign. Workflow may vary based on the lender, who prepared the CDF, who is delivering the CDF to the consumer, etc.



High Level OVERVIEW

-new final Rule *(continued)*



- **LIMITS ON CLOSING COST INCREASES (Tolerance Changes)**
 - The Final Rule restricts circumstances in which consumers can be required to pay more for settlement services – required services such as appraisals, inspections, etc – than the amount stated on their Loan Estimate (LE) form.
 - Charges for the following services ***CANNOT INCREASE***:
 - Creditor 's(lender) or Mortgage Broker's charges for its own services
 - Charges for services provided by an affiliate of the Creditor or Mortgage Broker
 - Charges for services for which the Creditor or Mortgage Broker does not permit the consumer to shop

Operational Considerations: If an organization is an affiliate of a creditor(lender) they will need to work closely with the creditor on their fees to ensure accuracy of the information on the Loan Estimate (LE) form and the CDF. A procedure of how and who will cure the tolerance violation will need to be put in place.



High Level OVERVIEW

-new final Rule *(continued)*



➤ **POST-CLOSING CHANGES**

- If within thirty (30) days post-closing, events change that result in a change to the borrower-paid charge on the final CDF, the creditor must provide a corrected CDF within thirty (30) days of receiving the information on the event change
- A “Non-Numeric” clerical error must be corrected within sixty (60) days of closing
- Seller Paid Item change: Settlement Agent must correct within thirty (30) days of receipt of information
- Tolerance violation cure:
 - *A corrected CDF that reflects the refund must be mailed no later than sixty (60) calendar days after consummation.*

Operational Considerations: A procedure of how and who will cure the tolerance violation will need to be put in place.



CDF Form Details



➤ Line Number Changes

- The final CDF does not retain the current line numbers on the HUD-1 form.
- The CDF is broken out by Loan Costs and Other Costs with sub-sections within each
- The numbering system is completely different from the current HUD-1

Operational Considerations: Removal of the current HUD-1 numbering system on the CDF may require extensive recoding or additional coding of documents, reports, invoices, etc. The current HUD-1 will also need to be retained for the exempt transactions.



CDF Form Details



➤ Line Terminology

- The description of line items on the CDF must match the description used by the lender/broker on the LE form
- The CFPB feels this will allow consumers to more easily identify fees and compare the two forms – the LE and the CDF

Operational Considerations: Organizations will need to ensure templates contain the same verbiage as the LE and CDF and consider a step in the workflow to review the LE to the CDF on each transaction for conformity.



CDF Form Details



➤ **Alphabetizing of Fees**

- The description of line items on the CDF must be alphabetized within each sub-section
 - All title fees must start with the word “Title”
 - Example : “Title – Search Fee”; “Title – Lender’s Policy”
- The only exception to this rule is for fees that the CFPB has allocated pre-determined lines
 - Example : “Loan Origination Charge”

Operational Considerations: The CDF will require per transaction review to ensure proper placement of fees.



“Path” Procedures



➤ Path One

➤ **AFFECTED** transaction that falls under the new CFPB Rule....
IF:

- Application taken on or after October 1, 2015
- And generally mortgage product is a Closed-End product
- *Must use the new LE and CDF forms and processes*

➤ Path Two

➤ **EXEMPT** transaction that is exempt under the new CFPB Rule.... IF:

- Mortgage product is an Open-End product regardless of date of application
 - HELOCs; Reverse Mortgages; Mortgage loans secured by mobile home or dwelling not attached to real property; loans made by creditor who makes < or = 5 mortgages/yr
- *Must follow current disclosure requirements under Regulations X, Z and use existing TIL, GFE and HUD-1 forms*



Some thoughts...



- ? What type of transactions are you handling today ? Will they be exempt from OR subject to the new CFPB Rule 10-1-15?
- ? *Have your clients advised you of how they intend to handle the LE and CDF forms ?*
- ? Are you comfortable that you and your client are in sync on recording fees and other title charges?
- ? *Are employees familiar with the LE and CDF, understand the delivery timing requirements and comfortable with preparation of the CDF?*
- ? Has your system support area or technical provider delivered the new software changes for the upcoming 10-1-15 changes & have they been tested?
- ? *Has training been developed for employees on the upcoming changes, as well as any signing agents who will be covering the documents with borrowers?*

Questions/Discussions

