

Truth-In-Lending - RESPA: The New Rules

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TILA – RESPA

One of the Most Expensive
Changes in Decades

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Overview

- The final rule
- Loan Estimate
 - Application
 - “Business Day”
 - Timing
- Implementation Considerations
 - Safe Harbor
- Best Practices

Overview of Integrated Mortgage Disclosures

Issued by CFPB November 20, 2013

Total Pages 1,888

Purpose

To make understanding of content easier

Combines TILA Early Disclosures & RESPA GFE

Combines HUD-1 & TILA Closing Disclosure

Effective Date – August 1, 2015

Use of CFPB's forms is **mandatory** for most transactions – only limited modifications permitted

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Scope/Coverage

Applies to nearly all closed-end mortgage loans except

- HELOCs
- Reverse mortgages

Final Rule better than Proposal

- No All-in APR
 - The proposal would have included almost a much more expansive definition of finance charge
- Long implementation period – initially 21 months
- More favorable definitions – ex: business day
- Electronic, machine readable forms requirement not included
 - But CFPB still investigating

Basic Overview

Loan Estimate --

- 3 business days after application
 - “Business day” does not include Saturday
 - Application
- **7 business days between Loan Estimate and Closing**
 - Business day includes Saturdays
 - Borrower can waive – bona fide personal emergency

Basic Overview (cont.)

Closing Disclosures --

- 3 business days before consummation
 - Business day includes Saturdays
 - Clock restarts if the APR is inaccurate and must be changed; the loan product changes or a prepayment penalty is added
 - Borrower can waive – bona fide emergency

Loan Estimate

- Provided to consumers within 3 business days after submission of loan application
- Replaces early TIL statement and GFE
- Provides summary of key loan terms and estimates of loan and closing costs
- Purpose is to promote comparison shopping, alleviate confusion of consumers – consumer friendly
- Potential liability to credit unions

An Alternative Loan Estimate

- May be used if the transaction does not have a seller
- Checkboxes are used to indicate if cash to close is being paid by or to the consumer
- An Alternative Calculating Cash to Close table is used with fewer entries



Application Deposit/Loan Estimate

When member provides:

- His or her name
- Income
- Social Security number with permission to obtain a credit report
- Property address
- Estimate of the value of the property

AND

- Proposed mortgage loan amount

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Application Deposit/Loan Estimate (cont.)

Applies to nearly all closed-end mortgage loans except

- HELOC's
- Reverse mortgages

Limitation on Fees

Can not charge or assess member any fees until after member communicates intent to proceed

Exception – Fees to obtain member's credit reports

Loan Estimate Form (cont.)

A mortgage broker may provide the Loan Estimate BUT the credit union is still liable

Loan Estimate Form (cont.)

Prior to loan application, written estimates OK BUT disclaimer is required

Liability

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Advertisements

All advertisements require a disclaimer warning that there is no substitute for Loan Estimate Form –

["This is not an official Loan Estimate"]

BUT – Stay tuned, CFPB might modify

Business Day – Loan Estimate

- “Business day” has two different meanings for purposes of the Loan Estimate
- Requirement 1: Loan Estimate be provided within 3 business days of application
 - Definition: “A day on which the creditor’s offices are open to the public for carrying on substantially all of its business functions.”
 - For many credit unions this will NOT include Saturdays

Business Day – L.E. (cont.)

- Requirement 2: Loan Estimate provided 7 business days prior to consummation
 - Definition: means all calendar days except Sundays and the legal public holidays. Business days includes Saturdays for the waiting period



| January | | | | | | |
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| 11 | 12 | 13 | 14 | 15 | 16 | 17 |
| 18 | 19 | 20 | 21 | 22 | 23 | 24 |
| 25 | 26 | 27 | 28 | 29 | 30 | 31 |

[It is all about Saturdays]

Timing – Loan Estimate

- Must provide L.E. 3 days after application:
 - Example 1: If application is received on Monday, the requirement is satisfied by either hand delivering the disclosures on or before Thursday, or placing them in the mail on or before Thursday, assuming each weekday is a business day
 - Example 2: Application received on Thursday, Loan Estimate must be delivered on or before Tuesday – because Saturday is not a business day

Timing – Loan Estimate (cont.)

- **7 business day waiting period before consummation** - begins when the creditor delivers the disclosures or places them in the mail, not when the consumer receives or is considered to have received the disclosures (Mailbox Rule)
 - Example: if a creditor delivers the early disclosures to the consumer in person or places them in the mail on Monday, June 1, consummation may occur on or after Tuesday, June 9, the seventh business day following delivery or mailing of the early disclosures - for the purposes this req. Saturday is a business day

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Closing Disclosure

(Replaces HUD-1 form and the final TILA disclosures
and adds additional disclosures)

Safe Harbor - Early Compliance?

- CFPB is considering establishing safe harbor from current TILA and RESPA requirements for compliance prior to August 1, 2015 effective date
 - Meaning, provide the Loan Estimate and Closing Disclosure, don't have to provide TIL, GFE, HUD-1
- CFPB is uncertain if it has legal authority to do this, continuing to evaluate

Implementation Issues

- Implementation will require substantial changes in technology
- Disclosure technology recently overhauled for GFE and HUD-1
- Employee training
- Costs of implementation will be substantial
- Long timeline – but most CUs will need every day

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Resources

- [Final Rule on Integrated Mortgage Disclosures](#)
- [CFPB Fact Sheet on Integrated Mortgage Disclosures](#)
- [CFPB Fact Sheet on Testing the Forms](#)
- [Loan Estimate and Closing Disclosure Forms](#)
- [CFPB's Know Before You Owe](#)
- [CFPB's Brief Compliance Summary](#)

Best Practices

- Draft and complete procedures by December 1, 2014
- Meet monthly with data processor
- Interview and Select a vendor for the forms/disclosures
- Educate your Board – Prepare to budget
- Alert your staff and your members
- Meet monthly with the Marketing Department
- Recognize the rules apply to all and members will use this “User-Friendly” home shopping experience
- Monitor the CFPB website at www.consumerfinance.gov

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