TRID AMENDMENT FACT SHEET | YOUR MAP TO REGULATORY CHANGE

The timeline above shows the evolution of the TILA-RESPA Integrated Disclosure (TRID) Rule, bringing us to the amendment for which mandatory compliance is required by October 1, 2018. This Fact Sheet has been designed to walk you through the amended rule.

CONSTRUCTION LOANS

Under current standard operating procedure, unless you do not offer permanent financing, or the borrower had expressly stated that he/she was obtaining permanent financing elsewhere, you were required to disclose both phases on the Loan Estimate within three business days of application. Under the amendment, you are only required to disclose financing for which the consumer applied (e.g. construction only).

Additionally, a clarification was made regarding the allocation of fees based on the "but for" principle, which states that in a construction-permanent transaction disclosed as more than one transaction, you must allocate to the construction phase all amounts that would not be imposed **but for** the construction financing. All other amounts would be allocated to the permanent financing. The **"but for"** test **only** applies to the finance charges and the points and fees (i.e. the amounts that are most relevant in determining whether the loan is a higher priced or higher cost loan, or a qualified mortgage).

"BUT FOR" EXAMPLE

Origination Fee for Construction-Only financing = $750
Origination Fee for Construction-Permanent financing = $1,000

$750 is allocated to the construction-only financing and $250 is allocated to the permanent financing

The amendment also provides clarification for transactions **without** a seller. Specifically, the amendment provides flexibility to **include** the value of improvements in the Estimated Property Value on the Loan Estimate to be consistent with the appraised value disclosed on the Closing Disclosure. The Closing Disclosure still requires property value disclosure to be based on the appraisal or valuation **used in determining approval** of the credit transaction. If the value of improvements is not considered in approval, do not include that amount on the Closing Disclosure.

In transactions **with** a seller, the contract sales price of the property would be the price of the **lot only**, not including the improvements to be constructed.

RESETTING GOOD FAITH TOLERANCE

The amendment, finalized in April 2018, permits more flexibility in resetting good faith tolerance when a changed circumstance occurs **after** a Closing Disclosure has been issued, thus eliminating the "black hole" created by the original "4-business day limit." Under this amendment, you can **reset tolerances with a revised Closing Disclosure** for a valid changed circumstance. The revised Closing Disclosure must be issued **within three (3) business days** of the changed circumstance that required the revision. The same rules still apply for a new 3-day waiting period when the APR becomes inaccurate, the product changes or a prepayment penalty is added.

ISSUING EARLY COULD GET YOU INTO TROUBLE

The Bureau cautioned that the practice of providing very early Closing Disclosures with terms that are nearly certain to be revised would be contrary to the underlying purpose of the Closing Disclosure.

OTHER SUBSTANTIVE CHANGES UNDER THE AMENDMENT

- **Created tolerances for the Total of Payments:** The amendment applies the same tolerances for accuracy to the Total of Payments for purposes of the Closing Disclosure that already apply to the finance charge and other disclosures affected by the finance charge. The Total of Payments[1] is considered to be accurate if: The amount is understated by no more than ½ of 1% of the face amount of the Note, or $100, whichever is greater, OR greater than the amount required to be disclosed. For a refinance with a new creditor, the Total of Payments is considered to be accurate if: The amount is understated by no more than 1% of the face amount of the Note or $100, whichever is greater, OR greater than the amount required to be disclosed.

- **Adjusted a partial exemption that mainly affects housing finance agencies and nonprofits:** The existing rule provided a partial exemption from TRID requirements for certain non-interest-bearing subordinate lien transactions that provide down payment and other homeowner assistance (i.e. housing assistance loans), as the Bureau learned that the exemption may not be operating as intended. As such, the final rule includes two amendments to expand the scope of the partial exemption and provide additional flexibility when loans satisfy the partial exemption.

- **Provided a uniform rule regarding application of the integrated disclosure requirements to cooperative units:** TRID was amended to cover closed-end consumer credit transactions secured by cooperative units, regardless of whether State or other applicable law considers cooperative units to be real or personal property.

- **Provided guidance on sharing disclosures with various parties involved in the mortgage origination process:** The Bureau noted that it understands that it is usual, accepted and appropriate for creditors and settlement agents to provide a Closing Disclosure to consumers, sellers and their real estate brokers or agents. As such, the Bureau has worked to finalize commentary to clarify how you may provide separate disclosure forms to the consumer and the seller.

[1] The Bureau revised comment 38(o)(1)-1 to clarify that the Total of Payments calculation on the CLOSING DISCLOSURE excludes any component of the Total of Payments that is not paid by the consumer and offset by the seller or other party through a specific credit.