



## Regulation Z – Closed End Disclosure Content for Mortgage Loans

The Federal Reserve has published several rules implementing certain provisions of the Mortgage Disclosure Improvement Act (MDIA). These MDIA provisions amend Regulation Z and the closed end disclosure requirements for specific loans.

Updated Alert Date: January 18, 2011

Status: Effective July 30, 2009 - Specific Early TIL Content  
Mandatory January 30, 2011 – Summary Information Regarding Rates and Payment Changes, Statement of No Guarantee of Refinance  
Mandatory October 1, 2011 – Clarifications to the Summary Information Regarding Rates and Payment Changes

Links: [FRB - Final Rule \(Effective 7/30/2009\)](#)  
[FRB - Interim Rule – Rate and Payment Changes \(Mandatory 1/30/2011\)](#)  
[FRB - Interim Rule – Clarification of Rate and Payment Changes \(Mandatory 10/1/2011\)](#)

Regulation Z outlines specific disclosure requirements for closed end credit. The Mortgage Disclosure Improvement Act (MDIA) was enacted in 2008 and mandated changes to the content of Truth in Lending disclosures when provided for real estate or dwelling secured credit. In 2009, Regulation Z was amended to implement MDIA requirements for specific new Early TIL content. Further, MDIA added requirements for additional rate and payment information and a required disclosure indicating that there is no guarantee that the consumer will be able to refinance the loan. These disclosures were implemented by an interim rule that the Federal Reserve passed on September 24, 2010 (“September 2010 Interim Rule”) that has a mandatory compliance date of January 30, 2011. On December 22, 2010, the Federal Reserve issued an additional interim rule (“December 2010 Interim Rule”) which becomes effective on January 30, 2011 but is not mandatory until October 1, 2011. This second interim rule clarifies the requirements established by the September 2010 Interim Rule.

### What were the content changes?

At a high-level, the revisions for closed end Truth in Lending disclosures include:

- Revisions that became effective in 2009 – Early TIL disclosures must contain the following sentence: “You are not required to complete this agreement merely because you have received these disclosures or signed a loan application.” This disclosure must be grouped together with the Fed box.
- Revisions that are mandatory on January 30, 2011 – TIL disclosures must contain:
  - Certain summary information about interest rates and payment changes; and
  - A statement that consumers are not guaranteed to be able to refinance their transactions in the future.
- Revisions that are mandatory on October 1, 2011 – TIL disclosures must be amended to reflect clarifications to summary information about interest rates and payment changes

### What are the requirements for the disclosure of rate and payment information?

As mentioned, this rule affects consumer loans secured by real property or a dwelling. For such loans, the new interest rate and payment change information will replace the payment schedule that was previously required. The rate and payment disclosures must be in a tabular format, have specific headers, meet font size and formatting requirements, and cannot contain anything other than the information that is required to be disclosed. The new disclosure requirements effectively fit into four categories:

- Interest rate and payment disclosures for amortizing loans
- Interest rate and payment disclosures for loans that may result in negative amortization
- Disclosure of a balloon payment
- Statement that consumers are not guaranteed to be able to refinance their transaction

Certain provisions of the September 2010 Interim Rule have been clarified based on public comments to the rule. The clarifications were announced in the December 2010 Interim Rule, which becomes mandatory on October 1, 2011. Among its requirements, the December 2010 Interim Rule clarifies or corrects:

- The disclosure content for interest-only loans to reflect the date of the first interest rate change rather than the date the first payment is due under the new rate.
- The definition of “negative amortization loans” to ensure that loans with amortizing payments resulting in negative amortization, such as where amortizing payments are made seasonally, are not covered by the rules that apply to negative amortization loans since such loans are not the types of loans that are the focus of concerns about negative amortization.
- The disclosure of the maximum interest rate and payment for interest-only or step-rate loans to base the disclosures on the first five years after the date of the first periodic payment rather than the first five years after consummation, to ensure that rate adjustments for 5/1 ARMs are disclosed.
- That construction-only loans must disclose rate and payment information about the construction period in the closing TIL, whereas construction/permanent loans that are disclosed as one transaction will disclose rate and payment information about the permanent financing in the table and contain a statement about the construction period outside of the table.

## Are there model forms?

Yes, the rule contains various closed-end model forms and clauses. Any disclosure provided must be “substantially similar” to the models, with very little allowable modification. Models are contained within Appendix H to Regulation Z and include the following:

- Fixed-rate mortgage interest rate and payment summary model clause
- Adjustable-rate mortgage or step-rate mortgage interest rate and payment summary model clause
- Mortgage with negative amortization interest rate and payment summary model clause
- Fixed-rate mortgage with interest-only interest rate and payment summary model clause
- Adjustable-rate mortgage introductory rate disclosure model clause
- Balloon payment disclosure model clause
- No guarantee to refinance statement model clause

## Recommendations for Next Steps

1. Ensure appropriate software changes are implemented to support any content, font size and formatting requirements for required disclosures. Ensure this process includes:

A. For 2009 change - Verify that Early TIL disclosures have been amended to include the following language: “You are not required to complete this agreement merely because you have received these disclosures or signed a loan application.” The language must be grouped together with the Fed box.

B. For January 2011 change – Ensure that early and closing TIL disclosures contain:

- Appropriate interest rate and payment information, based on the terms of the loan
- Balloon payment information
- Statement informing the consumer that there is no guarantee that their transaction may be refinanced

C. For October 2011 change – Ensure that early and closing TIL disclosures are revised to reflect the clarifications to interest rate and payment information.

2. Train appropriate staff on these changes, ensuring that they can properly explain the disclosures as questions arise.

3. Ensure any quality control processes are enhanced to review for these new disclosures.