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Regulations X and Z - Integrated Mortgage Disclosures – **Part 2** Closing Disclosures

The Consumer Financial Protection Bureau (CFPB) has amended Regulations X and Z, establishing new rules in connection with integrated mortgage disclosure requirements. This Alert is focused on the new “Closing Disclosure” and other amendments related to post-closing activities.

Updated Alert Date: July 23, 2015
Status: Effective October 3, 2015
Links: [Final Rule - 11/20/2013](#)
[Final Rule - 02/19/2015](#)
[Final Rule - 07/20/2015](#)

In November 2013, pursuant to the Dodd-Frank Act, the CFPB issued a final rule amending Regulations X and Z. This rule revises those regulations to establish new requirements and forms under Regulation Z for certain mortgage loans. As this rule combines certain disclosures that are currently provided under Regulation X and Regulation Z, these are referred to as Integrated Mortgage Disclosures. This Alert is largely focused on the new **Closing Disclosure**.

Since the initial rule was published, two subsequent related rules were issued. A February 2015 rule extends the timing requirement for revised Loan Estimates when a consumer locks a rate or extends a rate lock after the Loan Estimate is provided and permits certain language related to construction loans on the Loan Estimate. A July 2015 rule delays the effective date until October 3, 2015, (previously August 1, 2015) and makes other technical amendments and corrections.

What is a Closing Disclosure?

At a high level, currently-used final Truth-in-Lending Disclosures and RESPA's Settlement Statements are being combined into a new Closing Disclosure, which will be required on *most* closed-end mortgage loans when this rule takes effect. From a compliance perspective, the rule covering the Closing Disclosure will be found in Regulation Z. The purpose of the Closing Disclosure is to provide consumers with a final statement of loan terms and closing costs.

What Applications are Covered by this Rule?

The integrated mortgage disclosure rule applies to most closed-end consumer credit transactions secured by real property. However the following specific categories of loans are excluded from the rule, as follows:

- Home Equity Lines of Credit
- Reverse Mortgages
- Mortgages Secured by a Mobile Home or by a Dwelling that is not attached to real property.

NOTE: Creditors that originate HELOCs and other types of mortgages not covered by this rule will continue to use existing good faith estimates, settlement statements and Truth in Lending disclosures as covered under current rules.

A Closing Disclosure would need to be provided for covered applications that are **received on or after October 3, 2015**. A creditor is prohibited from using the new disclosures on applications received prior to October 3, 2015.

What are the Requirements for Providing Closing Disclosures?

When effective, Regulation Z requires that creditors provide a Closing Disclosure for covered loans. The Closing Disclosure must be in writing and contain specific information in a prescribed format.

The Closing Disclosure must be received by the consumer no later than **3 business days** before consummation. If the disclosure is provided in person, it is considered received the day it is provided. If it is mailed or delivered electronically, it is considered to be received 3 business days after it is delivered or placed in the mail.

Can a Closing Disclosure be Corrected?

Yes. If terms or costs of the transaction change prior to consummation, the creditor must provide a corrected disclosure. Depending on the circumstances, the changed disclosure may require a new 3 day waiting period. For example, if the annual percentage rate disclosed becomes inaccurate, the corrected disclosure must be provided and a new waiting period must be observed. If, during the 30 day period following consummation, an event causes the disclosures to become inaccurate

(consider recording fees), and the inaccuracy results in a change to an amount paid by the consumer from the amount disclosed, a corrected disclosure shall be provided.

What Information Must Be Included on the Closing Disclosure?

The Closing Disclosure is comprised of 5 pages. Regulation Z contains model form Closing Disclosures in Appendix H, in English and Spanish, as well as various samples that help illustrate disclosures in a variety of situations.

- The **1st page** of the Closing Disclosure contains general information that discloses various dates; borrower, seller and lender information; property identification; loan type; term and purpose. It also discloses loan terms, projected payments and closing costs. The Appendix provides 3 variations of this page.
- The **2nd page** of the Closing Disclosure contains more detailed information on loan costs. Loan costs are to be categorized by origination charges, services not shopped for and services the borrower did shop for. Other costs related to taxes and government fees, prepaids and initial escrow at closing will also be disclosed, as well as any lender credits.
- The **3rd page** of the Closing Disclosure includes a table that outlines the calculation of cash needed to close. The table is highlighted with a statement that it is to be used to see what has changed from the Loan Estimate. The remainder of the page provides summaries of transactions; including a column for the borrower's transaction and a column for the seller's transaction. If there is no seller involved in the transaction, such as a refinance, the Appendix provides another sample form that may be utilized.
- The **4th page** of the Closing Disclosure contains specific loan disclosures. Topics disclosed here include assumptions, demand features, late payment information, negative amortization, partial payment handling, security interest and escrow account details. The Appendix provides 4 variations of this page.
- The **5th page** of the Closing Disclosure contains specific information on loan calculations. Items disclosed here include total of payments, finance charge, amount financed, annual percentage rate and total interest percentage. This page also provides other disclosures related to appraisals, contact details, liability after foreclosure, refinances and tax deductions. The Appendix provides 4 variations of this page.
Note: The total interest percentage (TIP) represents a new calculation for disclosure. It expresses the total amount of interest that a consumer will pay over the loan term, as a percentage of the loan amount.

Are There Tolerance Limits?

Yes. There are tolerance limits that must be complied with when comparing costs disclosed on a Loan Estimate with actual costs on a Closing Disclosure. (See Compliance Alert on Integrated Mortgage Disclosures, Part 1)

What Else Should I Know?

You should be aware of some additional issues included in this rule change related to post-closing activities.

- **Escrow Account Cancellation Notices** – Regulation Z was also amended to require escrow cancellation notices for certain mortgage transactions. In closed-end consumer credit transactions, secured by a 1st lien on real property or a dwelling (other than reverse mortgages), in which an escrow account was established that will be cancelled, an escrow closing notice must be provided, even if the cancellation was done at the consumer's request. This disclosure must meet specific content and format requirements. These advance notices must be **received** by the consumer:
 - no later than **3 business days** before closure, if done at the consumer's request, or
 - no later than **30 business days** before closure, for any other reason.
- **Mortgage Transfer Disclosures** – Regulation Z already contains required disclosures when the legal ownership of a mortgage is transferred. This may occur through a purchase, transfer or assignment. This particular rule was amended to include additional content on a "partial payment policy" for closed-end consumer credit secured by a dwelling or real property, other than a reverse mortgage.

Recommendations for Next Steps

By October 3, 2015:

(NOTE: Steps to take in connection with policy adjustments are included in the Compliance Alert on Integrated Mortgage Disclosures - Part 1)

1. Review mortgage-related procedures related to loan closing disclosures and update to address the new requirements. Make certain applicable procedures ensure:
 - a. Proper identification of covered loans.
 - b. Required Closing Disclosures (or any revisions) are provided when required.
 - c. The content of a Closing Disclosure (or any revision) is compiled in accordance with requirements.
 - d. Required Escrow Account Cancellation notices are provided when required.
 - e. The content of an Escrow Account Cancellation notice is compiled in accordance with requirements.
 - f. The content of Mortgage Transfer Disclosures is amended to include partial payment policy information when required.
2. Train applicable staff on the new requirements and revised procedures. Ensure training covers required disclosures, permitted revisions, as well as changes related to escrow account cancellations and mortgage transfers.
3. As needed, work with vendors and platform providers that will be involved in this process. Ensure processes support compliance with the new requirements to produce and provide Closing Disclosures, Escrow Account Cancellation Notices and adjustments for Mortgage Transfer Disclosures.
4. As needed, update any internal documentation checklists or control points to encompass the new requirements.