

Comment Period on the Integrated Mortgage Disclosure Rules Ends November 6, 2012

October 2012

[Brian Gallogly, Esq.](#)

As a component of its “Know Before You Owe” project and pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”), the Consumer Finance Protection Bureau (the “CFPB”) issued its proposed rule on July 9, 2012 to integrate the mortgage loan disclosure requirements under the Real Estate Settlement Procedures Act of 1974 (“RESPA”) and the Truth In Lending Act (“TILA”) and their regulations (Regulation X and Regulation Z, respectively). Comments on the proposed rule and the two new disclosure forms – the Loan Estimate and the Closing Disclosure – are due by November 6, 2012 to the CFPB. The Loan Estimate would replace the Good Faith Estimate under RESPA and the “early” disclosure under TILA. The Closing Disclosure would replace the HUD-1 Settlement Statement and the “final” disclosure under TILA. Please note that the proposed rule does not apply to home equity lines of credit, reverse mortgages, mortgages secured by a mobile home or a dwelling that is not attached to land, or originators that make five or fewer loans in one year. Comments may be submitted electronically at <http://www.regulations.gov> or by mail to Monica Jackson, Office of the Executive Secretary, Consumer Finance Protection Bureau, 1700 G Street, Washington DC 20552.

Because the proposed rule is over 1,000 pages, a complete summary is obviously beyond the scope of this article. Nevertheless, a few points related to the timing of certain items are worth highlighting.

- The Loan Estimate must be delivered to or placed in the mail for the consumer within three business days after the consumer applies for a mortgage loan and not later than the seventh business day before consummation. The definition of “business day” has been changed to only exclude Sundays and certain federal holidays. The definition of “application” has been changed to be defined by six elements: borrower name, income, social security number, property address, estimated value of the property and mortgage loan amount. The proposed rule eliminates an element currently in Regulation X for the term “application” which serves as a catchall provision – any other information deemed necessary for the originator. As a result of this change, there is no longer any subjective factor in determining whether or not an application has been submitted to the originator.

- The originator must reissue the Loan Estimate to the consumer when the closing costs have exceeded the estimate by 10% or more. Originators must provide this Loan Estimate to the consumer within three business days of obtaining knowledge of the event which triggered the revised cost estimate and the consumer must receive the revised Loan Estimate no later than four days before the closing. The revised Loan Estimate also cannot be provided on the same day as the Closing Disclosure.
- The Closing Disclosure must be delivered to the consumer at least three business days prior to closing. A revised Closing Disclosure must be delivered to the consumer if the cash to close the loan increased by more than \$100, subject to a new three business day waiting period to close. The consumer may waive the waiting period for a bona fide personal financial emergency. The originator may deliver a revised Closing Disclosure at or before closing due to changes caused by negotiations between the borrower and the seller, or if the cash to close has increased less than \$100.
- The originator must provide a revised Closing Disclosure to the consumer (i) within thirty days after the closing if a variation limit (formerly known as “tolerances” under RESPA) has been exceeded; (ii) within thirty days after the closing for a non-numeric clerical error; and (iii) within three business days after a post-closing event occurs causing an inaccuracy that results solely from payments to a governmental entity, provided that the consumer receives the revised disclosure no later than thirty days after the closing.

A copy of a completed Loan Estimate for a fixed rate mortgage and a completed Closing Disclosure for the same mortgage are attached. Other examples of these completed forms for different types of mortgages are set forth in Exhibit H of the proposed rule (which may be found at <http://www.consumerfinance.gov>).

[Loan Estimate](#)

[Closing Disclosure](#)