

# Lender/Settlement Agent Regulatory Alert: Nov. 6 Deadline to Prevent Proposed CFPB Disclosure Rule From Delaying Closings



## **Mandatory 3 Business Day Waiting Period Will Delay Closings**

### **Action Needed: Comment On Proposed Rule**

While our attention has been diverted from more important issues such as Hurricane Sandy and the election, please be advised that **November 6, 2012** is the last day for lenders, settlement agents, Realtors and the public to comment on the controversial new combined Truth and Lending/HUD-1 Disclosure rules proposed by the new Consumer Financial Protection Bureau (CFPB). For those who don't know, the CFPB has proposed a major overhaul to closing disclosures, combining the Truth In Lending and the HUD-1 Settlement Statement into [a single 5 page disclosure form](#).

Of paramount concern to the real estate community is the proposed **Three Business Day Rule, which would require that lenders provide the final Closing Disclosure (the new HUD-1) at least 3 business days prior to the closing.** The major problem with this rule is that if there are changes in settlement and closing figures between the time of disclosure and the closing, the consumer must be provided a new form, and the closing must be delayed for at least 3 business days.<sup>1</sup>

In today's lending environment, last minute changes to settlement numbers are common, and given the crush of underwriting tasks, final

closing figures are typically provided 24-48 hours prior to the closing, or even the day of closing. Moreover, there are often delays getting information from outside sources — real estate tax information from municipalities, insurance information from independent agents, final water/sewer readings, oil bills and 6d condo fees from Realtors, and payoffs from sellers — all of which are out of the control of the lender and the closing attorney.

If there are last minute changes to settlement numbers, the proposed rule will delay closings for at least 3 business days, which could be catastrophic. This will have an unintended ripple effect on both the borrower and other parties, especially where the borrower is doing a “sell-buy” on the same day.

The CFPB is out of touch with the real estate industry on this rule. Indeed, at a recent symposium on the new rules, the CFPB’s new general counsel was reported as being very surprised that last-minute changes in settlement figures were relatively common. Delaying closings for 3 business days through delays of no fault of the lender or settlement agent hurts all the parties to the transaction. The rule is regulatory overkill.

[CLICK THIS LINK TO COMMENT ON THE NEW CFPB RULE \(CLICK SUBMIT A FORMAL COMMENT\)](#)

Tell the CFPB that the 3 Business Day Rule is a bad idea, and give anecdotal stories about how delays in closings will affect your business. And please share this post with fellow lenders, mortgage bankers, closing attorneys and Realtors.

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