

NOVEMBER 20, 2013

# Final rule on simplified and improved mortgage disclosures

DETAILED SUMMARY OF THE RULE



Consumer Financial  
Protection Bureau

The Consumer Financial Protection Bureau (Bureau) has issued a rule that will simplify and improve disclosure forms for mortgage transactions. The mortgage disclosures: the **Loan Estimate** given three business days after application, and the **Closing Disclosure** given three business days before closing, will be required to be given to consumers for mortgage applications received on or after **August 1, 2015**. For the complete rule and other materials about the final rule, please go to [www.consumerfinance.gov/regulations](http://www.consumerfinance.gov/regulations).

## Background

For more than 30 years, federal law has required lenders to provide two different disclosure forms to consumers applying for a mortgage. The law also has generally required two different forms at or shortly before closing on the loan. Two different federal agencies developed these forms separately, under two federal statutes: the Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act of 1974 (RESPA). The information on these forms is overlapping and the language is inconsistent. Not surprisingly, consumers often find the forms confusing. It is also not surprising that lenders and settlement agents find the forms burdensome to provide and explain.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) directs the Bureau to integrate the mortgage loan disclosures under TILA and RESPA sections 4 and 5. Section 1032(f) of the Dodd-Frank Act mandated that the Bureau propose for public comment rules and model disclosures that integrate the TILA and RESPA disclosures by July 21, 2012. The Bureau issued a proposed rule and forms on July 9, 2012 (Proposal). To accomplish this, the Bureau engaged in extensive consumer and industry research, analysis of public feedback through qualitative usability testing and its Know Before You Owe public initiative, and public

outreach for more than a year. After issuing the Proposal, the Bureau conducted additional qualitative usability testing and a large-scale quantitative validation study of its integrated disclosures with 858 consumers, which concluded that the Bureau's integrated disclosures had on average statistically significant better performance than the current disclosures under TILA and RESPA. The Bureau is now finalizing a rule with new, integrated disclosures (final rule). The final rule also provides a detailed explanation of how the forms should be filled out and used.

The first new form (the **Loan Estimate**) is designed to provide disclosures that will be helpful to consumers in understanding the key features, costs, and risks of the mortgage loan for which they are applying. This form will be provided to consumers within three business days after they submit a mortgage loan application. The second form (the **Closing Disclosure**) is designed to provide disclosures that will be helpful to consumers in understanding all of the costs of the transaction. This form will be provided to consumers three business days before they close on the mortgage loan.

The forms use clear language and design to make it easier for consumers to locate key information, such as the interest rate, monthly payments, and costs to close the loan. The forms also provide more information to help consumers decide whether they can afford the loan and to compare the cost of different loan offers, including the cost of the loans over time.

In developing the new Loan Estimate and Closing Disclosure forms, the Bureau has reconciled the differences between the existing forms and combined several other mandated disclosures, such as the appraisal notice under the Equal Credit Opportunity Act and the servicing application disclosure under RESPA. The Bureau also has responded to industry complaints of uncertainty about how to fill out the existing forms by providing detailed instructions on how to complete the new forms and examples. This should reduce the burden on lenders and others in preparing the forms in the future.

## Summary of the final rule

### SCOPE OF THE FINAL RULE

The final rule applies to most closed-end consumer mortgage loans. It does not apply to home equity lines of credit, reverse mortgages, or mortgage loans secured by a mobile home or by a

dwelling that is not attached to real property. The final rule also does not apply to loans made by a creditor who makes five or fewer mortgages in a year.

## THE LOAN ESTIMATE

The Loan Estimate form replaces two current federal forms. It replaces the Good Faith Estimate designed by the Department of Housing and Urban Development (HUD) under RESPA and the “early” Truth-in-Lending disclosure designed by the Board of Governors of the Federal Reserve System (Board) under TILA. The final rule and the Official Interpretations (on which creditors and other persons can rely) contain detailed instructions as to how each line on the Loan Estimate form should be completed. There are sample forms for different types of loan products. The Loan Estimate form also incorporates new disclosures required by Congress under the Dodd-Frank Act.

*Provision by mortgage broker.* Recognizing that consumers may work more closely with a mortgage broker than with the creditor, under the final rule and similar to current rules, either a mortgage broker or creditor is required to provide the Loan Estimate form upon receipt of an application by a mortgage broker. However, even if the mortgage broker provides the Loan Estimate, the creditor remains responsible for complying with the all requirements concerning provision of the form.

*Timing.* The creditor or mortgage broker must provide the form to the consumer no later than three business days after the consumer applies for a mortgage loan. The final rule contains a definition of what constitutes an “application” for these purposes, which consists of the consumer’s name, income, social security number to obtain a credit report, the property address, an estimate of the value of the property, and the mortgage loan amount sought.

*Limitation on fees.* Consistent with current law, the creditor generally cannot charge consumers any fees until after the consumers have been given the Loan Estimate form and the consumers have communicated their intent to proceed with the transaction. There is an exception that allows creditors to charge fees to obtain consumers’ credit reports.

*Disclaimer on early estimates.* Creditors and other persons may provide consumers with written estimates prior to application. The rule requires that any such written estimates contain a disclaimer to prevent confusion with the Loan Estimate form. This disclaimer is required for advertisements.

## THE CLOSING DISCLOSURE

The Closing Disclosure form replaces the current form used to close a loan, the HUD-1, which was designed by HUD under RESPA. It also replaces the revised Truth in Lending disclosure designed by the Board under TILA. The final rule and the Official Interpretations (on which creditors and other persons can rely) contain detailed instructions as to how each line on the Closing Disclosure form should be completed. The Closing Disclosure form contains additional new disclosures required by the Dodd-Frank Act and a detailed accounting of the settlement transaction.

*Timing.* The creditor must give the Closing Disclosure form to consumers so that they receive it at least three business days before the consumer closes on the loan. If the creditor makes certain significant changes between the time the Closing Disclosure form is given and the closing – specifically, if the creditor makes changes to the APR above 1/8 of a percent for most loans (and 1/4 of a percent for loans with irregular payments or periods), changes the loan product, or adds a prepayment penalty to the loan – the consumer must be provided a new form and an additional three-business-day waiting period after receipt of the new form. Less significant changes can be disclosed on a revised Closing Disclosure form provided to the consumer at or before closing, without delaying the closing. This requirement will provide the important protection to consumers of an additional three-day waiting period for the three significant changes, but will not cause closing delays for less significant costs that may frequently change.

*Provision of disclosures.* Currently, settlement agents are required to provide the HUD-1 under RESPA, while creditors are required to provide the revised Truth in Lending disclosure under TILA. Under the final rule, the creditor is responsible for delivering the Closing Disclosure form to the consumer, but creditors may use settlement agents to provide the Closing Disclosure, provided that the settlement agents comply with the final rule's requirements for the Closing Disclosure. The final rule acknowledges settlement agents' longstanding involvement in the closing of real estate and mortgage loan transactions, as well as their preparation and delivery of the HUD-1. The final rule avoids creating uncertainty regarding the role of settlement agents and also leaves sufficient flexibility for creditors and settlement agents to arrive at the most efficient means of preparation and delivery of the Closing Disclosure to consumers.

## LIMITS ON CLOSING COST INCREASES

Similar to existing law, the final rule restricts the circumstances in which consumers can be required to pay more for settlement services – the various services required to complete a loan,

such as appraisals, inspections, etc. – than the amount stated on their Loan Estimate form. Unless an exception applies, charges for the following services cannot increase: (1) the creditor’s or mortgage broker’s charges for its own services; (2) charges for services provided by an affiliate of the creditor or mortgage broker; and (3) charges for services for which the creditor or mortgage broker does not permit the consumer to shop. Charges for other services can increase, but generally not by more than 10%, unless an exception applies.

The exceptions include, for example, situations when: (1) the consumer asks for a change; (2) the consumer chooses a service provider that was not identified by the creditor; (3) information provided at application was inaccurate or becomes inaccurate; or (4) the Loan Estimate expires. When an exception applies, the creditor generally must provide an updated Loan Estimate form within three business days.

#### **PROPOSALS NOT ADOPTED IN THE FINAL RULE**

The proposed rule would have redefined the way the Annual Percentage Rate or “APR” is calculated. Under the Proposal, the APR would have encompassed almost all of the up-front costs of the loan. The proposed rule also would have required creditors to keep records of the Loan Estimate and Closing Disclosure forms provided to consumers in an electronic, machine readable format to make it easier for regulators to monitor compliance.

Based on public comments the Bureau received raising implementation and cost concerns regarding these two proposals, the Bureau has determined not to finalize these provisions in the final rule. The Bureau continues to believe these ideas may have benefits for consumers and industry, however, and intends to continue following up on both issues. For example, the Bureau intends to work closely with industry on private data standard initiatives to promote consistency in data transmission and storage. After additional study, the Bureau may propose rules on either or both topics.

The Bureau also decided not to require in the final rule a disclosure item that had been mandated by the Dodd-Frank Act, but that caused confusion at its consumer testing. Specifically, the Dodd-Frank Act requires creditors to disclose, in the case of residential mortgage loans, “the approximate amount of the wholesale rate of funds in connection with the loan.” To implement this requirement, the proposal would have required creditors to disclose the approximate cost of funds used to make a loan on the Closing Disclosure. Based its consumer testing and the comments it received on this proposed disclosure; the Bureau has decided to exempt creditors from the cost of funds disclosure requirement. The Bureau believes

this approach will simplify the disclosure forms, making them more effective for consumers, and reduce compliance burden.

#### **EFFECTIVE DATE**

The final rule is effective on **August 1, 2015**. The final rule applies to transactions for which the creditor or mortgage broker receives an application on or after that date, except that new provisions concerning pre-disclosure activity of creditors and revisions to existing regulations concerning the rule's effect on State laws and State exemptions will be effective on that date without regard to whether an application has been received.