



## TILA-RESPA Integrated Disclosure FAQs

The questions and answers below pertain to compliance with the TILA-RESPA Integrated Disclosure Rule (TRID or TRID Rule). Reviewing these questions and answers is not a substitute for reviewing TILA, RESPA, Regulation Z, or its official interpretations (also known as the commentary). The statutes, Regulation Z, and its official interpretations are the definitive sources of information regarding the requirements.

### **Corrected Closing Disclosures and the Three Business-Day Waiting Period before Consummation**

#### **QUESTION 1:**

If there is a change to the disclosed terms after the creditor provides the initial Closing Disclosure, is the creditor required to ensure the consumer receives a corrected Closing Disclosure at least three business days before consummation?

#### **ANSWER** (UPDATED 1/25/2019):

It depends on the type of change. As discussed below, there are three types of changes that require a creditor to ensure that the consumer receives a corrected Closing Disclosure at least three business days before consummation. For other types of changes, a creditor is not required to ensure that the consumer receives a corrected Closing Disclosure at least three business days before consummation, but is required to ensure that the consumer receives a corrected Closing Disclosure at or before consummation.

A creditor must ensure that a consumer receives an initial Closing Disclosure no later than three business days before consummation. 12 CFR § 1026.19(f)(1)(ii)(A). If the disclosed terms change after the creditor has provided the initial Closing Disclosure to the consumer, the creditor must provide a corrected Closing Disclosure to the consumer. Unless the change is

one of the three types of changes discussed below, it is sufficient if the consumer receives the corrected Closing Disclosure at or before consummation. 12 CFR § 1026.19(f)(2)(i). This means that, for most types of changes, the creditor can consummate the loan without waiting three business days after the consumer receives the corrected Closing Disclosure.

However, the creditor must ensure that a consumer receives the corrected Closing Disclosure at least three business days before consummation of the transaction if: (1) the change results in the APR becoming inaccurate; (2) if the loan product information required to be disclosed under the TRID Rule has become inaccurate; or (3) if a prepayment penalty has been added to the loan. 12 CFR § 1026.19(f)(2)(ii). Any of these three types of changes triggers a new three business-day waiting period, and the creditor must wait three business days after the consumer receives the corrected Closing Disclosure to consummate the loan.

More information on the timing requirements for providing initial Closing Disclosures and corrected Closing Disclosures is available in Sections 11 and 12 of the [TILA-RESPA Rule Small Entity Compliance Guide](#).

**QUESTION 2:**

Is a creditor required to ensure that a consumer receives a corrected Closing Disclosure at least three business days before consummation if the APR decreases (i.e., the previously disclosed APR is overstated)?

**ANSWER** (UPDATED 1/25/2019):

The answer depends on whether the overstated APR that was previously disclosed on the Closing Disclosure is accurate or inaccurate under Regulation Z. If the overstated APR is accurate under Regulation Z, the creditor must provide a corrected Closing Disclosure, but the creditor is permitted to provide it at or before consummation without a new three business-day waiting period. 12 CFR § 1026.19(f)(2)(i). If the overstated APR is inaccurate under Regulation Z, the creditor must ensure that a consumer receives a corrected Closing Disclosure at least three business days before the loan's consummation (i.e., the inaccurate APR triggers a new three-business day waiting period). 12 CFR § 1026.19(f)(2)(ii).

A disclosed APR is accurate under Regulation Z if the difference between the disclosed APR and the actual APR for the loan is within an applicable tolerance in Regulation Z, 12 CFR § 1026.22(a). For transactions secured by real property or a dwelling, Regulation Z includes several tolerances that might apply, including a tolerance whereby the disclosed APR is considered accurate if it results from the disclosed finance charge being overstated. See 12

CFR § 1026.22(a)(4). For example, if the APR and finance charge are overstated because the interest rate has decreased, the APR is considered accurate. Thus, the creditor may provide the corrected Closing Disclosure to the consumer at consummation, and is not required to ensure that the consumer receives the corrected Closing Disclosure at least three business days before consummation.

Additional information related to APR accuracy is available in the Federal Reserve's Consumer Compliance Outlook, First Quarter 2011 available at:

[www.consumercomplianceoutlook.org/2011/first-quarter/mortgage-disclosure-improvement-act/](http://www.consumercomplianceoutlook.org/2011/first-quarter/mortgage-disclosure-improvement-act/).

**QUESTION 3:**

Does Section 109(a) of the Economic Growth, Regulatory Relief, and Consumer Protection Act affect the timing for consummating a transaction if a creditor is required to provide a corrected Closing Disclosure under the TRID Rule?

**ANSWER** (UPDATED 1/25/2019):

No. Section 109(a) of the Economic Growth, Regulatory Relief, and Consumer Protection Act (2018 Act) did not change the timing for consummating transactions if a creditor is required to provide a corrected Closing Disclosure under the TRID Rule.

Section 109(a) of the 2018 Act, which is titled "No Wait for Lower Mortgage Rates," amends Section 129(b) of the Truth in Lending Act (TILA). TILA Section 129(b) governs when certain disclosures must be provided for high cost mortgages and the waiting periods for consummating a transaction after the creditor has provided those high cost mortgage disclosures. 15 U.S.C. § 1639. For more information on high cost mortgages, see Regulation Z, 12 CFR §§ 1026.31, .32, and .34.

As discussed in the FAQs above, if the APR disclosed pursuant to the TRID Rule becomes inaccurate, the creditor must ensure that a consumer receives the corrected Closing Disclosure at least three business days before consummation of the transaction. 12 CFR § 1026.19(f)(2)(ii). This requirement arises from TILA Section 128, 15 U.S.C. § 1638, and is separate and distinct from the waiting period requirement in TILA Section 129(b). Therefore, Section 109(a) of the 2018 Act did not create an exception to the waiting period requirement under TILA Section 128, and does not affect the timing for consummating transactions after a creditor provides a corrected Closing Disclosure under the TRID Rule.

However, as noted in the FAQ above, an overstated APR is not inaccurate if it results from the disclosed finance charge being overstated, and a creditor is not required to provide a new three-business day waiting period in these circumstances. Thus, if the disclosed APR decreases due to a decrease in the disclosed interest rate, a creditor is not required to provide a new three-business day waiting period under the TRID Rule.

## Model Forms

### QUESTION 1:

Does a creditor's use of a model form provide a safe harbor if the model form does not reflect a TRID Rule change finalized in 2017?

### ANSWER (UPDATED 1/25/2019):

Yes. As the Bureau noted in finalizing the 2017 changes to the TRID Rule, a creditor is deemed to be in compliance with the disclosure requirements associated with the Loan Estimate and Closing Disclosure if the creditor uses the appropriate model form and properly completes it with accurate content. 82 Federal Register 37,761-62. See also 15 U.S.C. § 1604(b).

Appendix H to Regulation Z includes blank model forms illustrating the master headings, headings, subheadings, etc., that are required by Regulation Z, 12 CFR §§ 1026.37 and 1026.38. These blank model forms for the Loan Estimate are H-24(A) and (G) and H-28(A) and (I). For the Closing Disclosure, they are H-25(A) and (H) through (J), and H-28 (F) and (J).

Appendix H to Regulation Z also includes non-blank model forms. These non-blank model forms for the Loan Estimate are H-24(B) through (F) and H-28(B) through (E). For the Closing Disclosure, they are H-25(B) through (G) and H-28(G) and (H).

To the extent that the appropriate model form is properly completed with accurate content, the safe harbor is met. The safe harbor applies even if the model form does not reflect the changes to the regulatory text and commentary that were finalized in 2017.

For example, the regulatory text provides that the percentage amount required to be disclosed on the Loan Estimate line labeled "Prepaid Interest ( \_\_\_ per day for \_\_ days @\_\_ %)" is disclosed by rounding the exact amount to three decimal places and then dropping any trailing zeros that occur to the right of the decimal point. 12 CFR § 1026.37(g)(2)(iii) and (o)(4)(ii). However, on page 2 of model form H-24(C), section F, the interest rate disclosed on the line for

prepaid interest includes two trailing zeros that occur to the right of the decimal point. Thus, a creditor could claim the safe harbor by disclosing the interest rate on the “Prepaid Interest” line by including two trailing zeros, or otherwise could comply with § 1026.37(o)(4)(ii) by rounding the exact amount to three decimal places and dropping any trailing zeros that occur to the right of decimal point. For example, assuming that the interest rate for the transaction being disclosed is four percent, the creditor could claim the safe harbor by disclosing “4.00%” (consistent with the model form) although it also could disclose “4%” (consistent with the regulatory text and commentary).

## Construction Loans

### QUESTION 1:

Are construction-only loans or construction-permanent loans covered by the TRID Rule?

### ANSWER (UPDATED 5/31/2019):

Yes, most closed-end consumer mortgage loans to finance home construction that are secured by real property are covered by the TRID Rule. 12 CFR 12 CFR § 1026.19(e)(1)(i).

Both construction-only loans (i.e., usually shorter term loans with several fund disbursements where the consumer pays only accrued interest until construction is completed) and also construction-permanent loans (i.e., construction loans that convert to permanent financing once construction is completed in which the loan amount is amortized just as in a standard mortgage transaction) can be covered by the TRID rule if the coverage requirements are met. Comment 17(c)(6)-2. Additionally, both initial construction and subsequent construction can be covered by the TRID Rule. Comment 17(c)(6)-2.

Generally, a loan, including a construction-only and construction-permanent loan, is covered by the TRID Rule if it meets the following coverage requirements:

- is made by a creditor as defined in § 1026.2(a)(17);
- is secured in full or in part by real property (a construction loan may be secured by both real and personal property) or a cooperative unit;
- is a closed-end, consumer credit (as defined in § 1026.2(a)(12)) transaction;
- is not exempt for any reason listed in § 1026.3; and
- is not a reverse mortgage subject to § 1026.33.

More information on the coverage of the TRID Rule and disclosing Construction Loans is available in Section 4 and Section 14, respectively, of the [TILA-RESPA Rule Small Entity Compliance Guide](#).

**QUESTION 2:**

Are there special disclosure provisions for construction-only or construction-permanent loans under the TRID Rule?

**ANSWER** (UPDATED 5/31/2019):

Yes. Among others, special disclosure provisions in Regulation Z are contained in:

- § 1026.17(c)(6);
- Appendix D; and
- § 1026.19(e)(3)(iv)(F) (for new construction only).

Note that § 1026.17(c)(6) and Appendix D existed prior to the TRID Rule. The TRID Rule amended the text of Appendix D and the commentary to both pre-existing provisions.

The three special provisions listed above for construction-only or construction-permanent loans work in conjunction with the other generally applicable disclosure provisions of the TRID Rule. They are available to any creditor, regardless of whether or not the creditor typically considers themselves a construction loan lender. Further, these provisions apply even if the creditor does not necessarily label the product as construction-only or construction-permanent, so long as the product meets the requirements discussed in each provision.

**Section 1026.17(c)(6): Separate or Combined Disclosures for Construction Loans**

Section 1026.17(c)(6) permits a creditor to treat a construction-permanent loan as either one transaction, combining the construction and permanent phases, or multiple transactions, where each phase is a separate transaction. For purposes of complying with the TRID Rule, § 1026.17(c)(6) means the creditor may provide separate construction phase and permanent phase financing Loan Estimates and Closing Disclosures or may disclose a construction-permanent loan on one, combined Loan Estimate and Closing Disclosure.

**Appendix D to Part 1026: Methods of Estimating Disclosures for Construction Loans**

Appendix D provides methods that may be used for estimating the construction phase financing disclosures, whether disclosed separately or combined with the permanent phase financing. Because many disclosure items for the construction financing would otherwise be based on the

best information reasonably available at the time of disclosure, Appendix D provides special procedures and assumptions creditors may use to provide consistent and compliant disclosures. For example, in cases where the timing of advances or the amount of advances in the construction phase is unknown at or before consummation, Appendix D provides methods to estimate the amounts used for the disclosure of periodic payments for the loan, which typically are interest-only payments for the construction phase, or the disclosure of amounts based on the periodic payment.

### **Section 1026.19(e)(3)(iv)(F): Optional Disclosure for New Construction Loans**

Section 1026.19(e)(3)(iv)(F) permits creditors, in certain instances involving new construction, to use a revised estimate of a charge for good faith tolerance purposes. A new construction loan is a loan for the purchase of a home that is not yet constructed or the purchase of a new home where construction is currently underway, not a loan for financing home improvement, remodeling, or adding to an existing structure. Nor is it a loan involving a home for which a use and occupancy permit has been issued prior to the issuance of a Loan Estimate. 12 CFR § 1026.19(e)(3)(iv)(F), Comment 19(e)(3)(iv)(F)-1.

In transactions involving new construction where the creditor reasonably expects that settlement will occur more than 60 days after the original Loan Estimate is provided, the creditor may provide revised disclosures at any time prior to 60 days before consummation *if* the creditor states that possibility clearly and conspicuously on the original Loan Estimate. The statement, “You may receive a revised Loan Estimate at any time prior to 60 days before consummation” under the master heading “Additional Information About This Loan” and the heading “Other Considerations” pursuant to § 1026.37(m)(8) satisfies these statement requirements. Comment 37(m)(8)-1. If no such statement is provided, the creditor may not issue revised disclosures, except as otherwise provided in § 1026.19(e)(3)(iv).

More information on good faith tolerances, § 1026.17(c)(6) and Appendix D for Construction Loans is available in Section 7 and Section 14 of the [TILA-RESPA Rule Small Entity Compliance Guide](#).