

**BUREAU OF CONSUMER FINANCIAL PROTECTION**

**Request for Information Regarding the Integrated Mortgage Disclosures Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth In Lending Act (Regulation Z) Rule Assessment**

**[Docket No. CFPB-2019-0055]**

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Notice of assessment and request for public comment.

**SUMMARY:** The Bureau of Consumer Financial Protection (Bureau) is conducting an assessment of the Integrated Mortgage Disclosures Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth In Lending Act (Regulation Z) Rule and certain amendments in accordance with section 1022(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The Bureau is requesting public comment on its plans for assessing this rule as well as certain recommendations and information that may be useful in conducting the planned assessment.

**DATES:** Comments must be received on or before: **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments, identified by Docket No. CFPB-2019-0055, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Email:* [2019-RFI-TRID@cfpb.gov](mailto:2019-RFI-TRID@cfpb.gov). Include Docket No. CFPB-2019-0055 in the subject line of the email.

- *Mail/Hand Delivery/Courier:* Comment Intake – TRID Assessment, Consumer Financial Protection Bureau, 1700 G Street, NW, Washington, DC 20552.

*Instructions:* The Bureau encourages the early submission of comments. All submissions must include the document title and docket number. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to <http://www.regulations.gov>. In addition, comments will be available for public inspection and copying at 1700 G Street, NW, Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning 202-435-9169.

All submissions in response to this request for information, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Proprietary information or sensitive personal information, such as account numbers or Social Security numbers, or names of other individuals, should not be included. Submissions will not be edited to remove any identifying or contact information.

**FOR FURTHER INFORMATION CONTACT:** Dustin Beckett, Economist; Pedro De Oliveira, Senior Counsel; Alan Ellison, Small Business Program Manager; Division of Research, Markets, and Regulations at 202-435-7700. If you require this document in an alternative electronic format, please contact [CFPB\\_Accessibility@cfpb.gov](mailto:CFPB_Accessibility@cfpb.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 1022(d) of the Dodd-Frank Act requires the Bureau to conduct an assessment of each significant rule or order adopted by the Bureau under Federal consumer financial law. The

Bureau must publish a report of the assessment not later than five years after the effective date of such rule or order. The assessment must address, among other relevant factors, the rule or order's effectiveness in meeting the purposes and objectives of title X of the Dodd-Frank Act and the specific goals stated by the Bureau. The assessment also must reflect available evidence and any data that the Bureau reasonably may collect. Before publishing a report of its assessment, the Bureau must invite public comment on recommendations for modifying, expanding, or eliminating the rule or order.<sup>1</sup>

In November 2013, the Bureau issued a final rule titled “Integrated Mortgage Disclosures under the Real Estate Settlement Procedures Act (Regulation X) and the Truth In Lending Act (Regulation Z)” to implement sections 1098 and 1100A of the Dodd-Frank Act and, as amended, the rule took effect on October 3, 2015.<sup>2</sup> This document refers to this rule as the “2013 TILA-RESPA Final Rule.” The Bureau amended the 2013 TILA-RESPA Final Rule on two occasions before its effective date.<sup>3</sup> This document refers to the rule as amended when it took effect on October 3, 2015 as “the TRID Rule” or “the Rule.” As discussed below, the Bureau has determined that the TRID Rule is a significant rule and it will conduct an assessment of the Rule.

The Bureau also amended the TRID Rule after the October 3, 2015 effective date, in amendments issued in July 2017 and April 2018.<sup>4</sup> While such amendments are not intended to be the subject of this assessment, the Bureau may consider certain of the amendments to the extent that doing so will facilitate a more meaningful assessment of the TRID Rule and data is

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<sup>1</sup> 12 U.S.C. 5512(d).

<sup>2</sup> 78 FR 79730 (Dec. 31, 2013), 80 FR 43911 (July 24, 2015).

<sup>3</sup> See 80 FR 8767 (Feb. 19, 2015) (January 2015 Amendments); 80 FR 43911 (July 24, 2015) (July 2015 Amendments).

<sup>4</sup> See 82 FR 37656 (Aug. 11, 2017) (July 2017 Amendments); 83 FR 19159 (May 2, 2018) (April 2018 Amendments).

available. Furthermore, the Bureau acknowledges that certain information, such as data focused on current mortgage practices, may reflect these 2017 and 2018 amendments and therefore it may be difficult to isolate the effects of the TRID Rule during this assessment. This assessment will treat and discuss the challenge of distinguishing between the effects of the TRID Rule and the effects of the 2017 and 2018 amendments to it as a factor that makes it difficult to evaluate the effectiveness of the TRID Rule. In this document, the Bureau is requesting public comment on the issues identified below as part of the planned assessment.

### **Assessment Process**

Assessments pursuant to section 1022(d) of the Dodd-Frank Act are for informational purposes only and are not part of any formal or informal rulemaking proceedings under the Administrative Procedure Act. The Bureau plans to consider relevant comments and other information received as it conducts the assessment and prepares an assessment report. The Bureau does not, however, expect that it will respond to each comment received pursuant to this document in the assessment report. Furthermore, the Bureau does not anticipate that the assessment report will include specific proposals by the Bureau to modify any rules, although the findings made in the assessment will help to inform the Bureau's general understanding of implementation costs and regulatory benefits for future rulemakings.<sup>5</sup> Upon completion of the assessment, the Bureau anticipates that it will issue an assessment report not later than October 3, 2020.<sup>6</sup>

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<sup>5</sup> The Bureau announces its rulemaking plans in semiannual updates of its rulemaking agenda, which are posted as part of the Federal government's Unified Agenda of Regulatory and Deregulatory Actions. The current Unified Agenda can be found here: <http://www.reginfo.gov/public/do/eAgendaMain>.

<sup>6</sup> Section 1022(d)(2) of the Dodd-Frank Act requires the Bureau to publish a report of assessment of a significant rule or order not later than five years after the rule or order's effective date.

## The TILA-RESPA Integrated Disclosure Rule

For more than 30 years, Federal law required creditors and settlement agents to provide two different sets of disclosure forms to consumers applying for and consummating consumer mortgage transactions. Two different Federal agencies, the Department of Housing and Urban Development and the Board of Governors of the Federal Reserve System, developed these disclosure forms separately, under two distinct Federal statutes: the Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act of 1974 (RESPA). In 2010, under the Dodd-Frank Act sections 1032(f), 1098, and 1100A, Congress directed the Bureau to integrate TILA and RESPA mortgage loan disclosures.<sup>7</sup> At the same time, Congress also enacted a number of other new provisions governing disclosures related to origination and servicing of consumer mortgages, including several new disclosure requirements added to TILA. Many of these requirements were implemented by the Bureau in the TRID Rule.<sup>8</sup> The major provisions of the TRID Rule are summarized below.

### *A. Major Provisions of the TRID Rule*

The TRID Rule contains six major elements.

#### *1. Integration of certain mortgage disclosures*

The TRID Rule implemented the Dodd-Frank Act's directive to combine certain disclosures that consumers received under TILA and RESPA in connection with applying for and closing on a mortgage loan. Specifically, the TRID Rule's Loan Estimate form integrated RESPA's Good Faith Estimate (GFE) and TILA's initial disclosure, while the TRID Rule's

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<sup>7</sup> Public Law 111-203, 124 Stat. 1376, 2007, 2103-04, 2107-09 (2010).

<sup>8</sup> See 78 FR at 79750-53.

Closing Disclosure form integrated RESPA's HUD-1 settlement statement and TILA's final disclosure.

## 2. *Disclosure redesign*

The TRID Rule not only combined previous TILA and RESPA disclosures but also required that all creditors use standardized forms (*i.e.*, the Loan Estimate and the Closing Disclosure) for most transactions, so that consumers get information in the same way across multiple applications, including applications to different creditors or for different loan products, thereby making it easier for consumers to comparison shop.<sup>9</sup> While Regulation X already required a standard form for RESPA disclosures,<sup>10</sup> TILA section 105(b) explicitly provides that nothing in TILA may be construed to require a creditor to use any model form or clause prescribed by the Bureau under that section.<sup>11</sup> Section 1100A (5) of the Dodd-Frank Act amended TILA section 105(b) to require that the Bureau publish a single, integrated disclosure for mortgage loan transactions (including real estate settlement cost statements) which includes the disclosure requirements of TILA in conjunction with the disclosure requirements of RESPA that, taken together, may apply to a transaction that is subject to both or either provisions of law.<sup>12</sup> Unlike prior TILA mortgage disclosure requirements, the TRID Rule generally does not permit creditors to make changes to the standardized forms.<sup>13</sup> The redesigned and standardized disclosures display key loan features in a manner intended to enable consumers to locate the features quickly through headings and labels. Moreover, the TRID Rule requires that creditors use a standardized format for most consumer mortgage transactions, so that consumers are

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<sup>9</sup> 78 FR at 80079.

<sup>10</sup> 12 CFR 1024.8.

<sup>11</sup> 15 U.S.C 1604(b).

<sup>12</sup> *Id.*

<sup>13</sup> 12 CFR 1026.37(o); 12 CFR 1026.38(t)(3).

presented information in the same manner across multiple loan types and multiple creditors.<sup>14</sup>

The TRID Rule also requires consistent formatting in the Loan Estimate and Closing Disclosure forms, to facilitate consumer understanding to aid in consumers' ability to identify discrepancies or changes that occurred in loan terms or costs after a Loan Estimate is provided.<sup>15</sup>

### *3. Disclosure Provision Responsibility*

The TRID Rule changed how certain required information was disclosed. For example, the TRID Rule changed who was responsible for disclosing title insurance premiums for federally related mortgage loans.<sup>16</sup> Whereas TILA required the creditor to provide the Truth in Lending disclosures and RESPA required settlement agents to provide the final HUD-1 settlement statement, the TRID Rule reconciled these statutory differences by making the creditor, rather than the settlement agent, ultimately responsible for providing the integrated Closing Disclosure.<sup>17</sup> While creditors were coordinating with settlement agents to provide existing TILA and RESPA disclosures before the TRID Rule, by reallocating legal responsibility to creditors to provide disclosures, the TRID Rule also reallocated to them some of the risks of liability for regulatory violations.

### *4. Definition of an application*

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<sup>14</sup> 78 FR at 80079.

<sup>15</sup> 78 FR at 80074.

<sup>16</sup> 78 FR at 79964. Previously, the simultaneous title insurance premiums would be disclosed in accordance with State law allocations. The TRID Rule mandated disclosure of the full cost of the creditor's title insurance policy when such insurance is required by the creditor and of the incremental cost of the optional owner's title insurance policy. The Bureau decided that benefit of clearly disclosing a required cost outweighed the benefit of disclosing the lender's and owner's nominal title insurance premiums since such a nominal disclosure may result in confusion about what the consumer would actually pay if the consumer did not obtain an owner's title insurance policy.

<sup>17</sup> 78 FR at 79731.

The TRID Rule revised the regulatory definition of a consumer mortgage loan “application.”<sup>18</sup> Under the Rule, an “application” consists of six specific items: the consumer’s name, income, social security number, property address, estimated property value, and the mortgage loan amount.<sup>19</sup>

#### 5. *Timing requirements*

The TRID Rule changed the timing of when consumers receive certain information. The TRID Rule requires that within three business days of receiving an application, as defined by the Rule, a creditor must provide a Loan Estimate to a consumer.<sup>20</sup> The Rule also integrated the timing requirements of the TILA final disclosure and RESPA HUD-1 by generally requiring that consumers receive Closing Disclosures no later than three business days before consummation.<sup>21</sup>

For applications submitted to a mortgage broker, prior to the TRID Rule, Regulation X had already permitted a mortgage broker on a creditor’s behalf to provide a RESPA GFE not later than three business days after a mortgage broker received information from a consumer sufficient to complete an application. Regulation X also assigned creditors the responsibility for ascertaining whether mortgage brokers had provided GFEs to consumers.<sup>22</sup> However, the TILA disclosure requirements under Regulation Z did not apply to mortgage brokers.<sup>23</sup> The TRID Rule reconciled these differences by making creditors responsible for ensuring that mortgage brokers provide Loan Estimates to consumers within three business days of mortgage brokers

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<sup>18</sup> 78 FR at 80083-84.

<sup>19</sup> 12 CFR 1026.2(a)(3)(ii).

<sup>20</sup> 12 CFR 1026.19(e)(1).

<sup>21</sup> 78 FR at 80086. TILA, as implemented by Regulation Z, generally provides that, if the early TILA disclosures contain an APR that becomes inaccurate, the creditor shall furnish corrected TILA disclosures so that they are received by the consumer not later than three business days before consummation. On the other hand, RESPA and Regulation X generally require that the RESPA settlement statement be provided to the borrower at or before settlement.

<sup>22</sup> 78 FR at 79799-801.

<sup>23</sup> *Id.*



receiving the six specific application items (*i.e.*, the three-business-day period begins even if creditors have not yet received the six specific application items from mortgage brokers).

The three-business-day period may facilitate consumers identifying whether and how the terms of their loans or of their transactions may have changed from what creditors or mortgage brokers previously disclosed to them.<sup>24</sup> To prevent closing delays, the TRID Rule allows creditors to update Closing Disclosures in certain circumstances without triggering an additional three-business-day waiting period.<sup>25</sup>

#### 6. *Tolerance rules*

The TRID Rule also tightened the tolerance rules that limit creditors and third party service providers charging consumers settlement costs that exceed the estimates that had been previously disclosed.<sup>26</sup> Absent timely revised disclosures from the creditor based on certain valid justifications such as a borrower-requested change, the TRID Rule subjects a larger category of charges to a “zero tolerance” prohibition on cost increases than was the case under RESPA. Specifically, the TRID Rule expands that “zero tolerance” category to also include fees charged by affiliates of creditors and fees charged by service providers selected by the creditor and fees for services for which the Rule does not permit consumers to shop.<sup>27</sup>

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<sup>24</sup> 78 FR at 80086.

<sup>25</sup> 12 CFR 1026.19(f)(2)(i); *see also* 78 FR at 80086. If, between the time the Closing Disclosure is first provided and consummation, the loan’s APR becomes inaccurate (over and above the specified tolerance level), the loan product changes, or a prepayment penalty is added, a corrected Closing Disclosure must be issued with an additional three-business-day period to review the transaction. All other changes to the Closing Disclosure may be made without an additional three-business-day waiting period, but a corrected Closing Disclosure must be provided at or before consummation. *See* 12 CFR 1026.19(f)(2)(ii).

<sup>26</sup> 78 FR at 80084. The preexisting RESPA GFE tolerance rules generally place charges into three categories: the creditor's charges for its own services, which cannot exceed the creditor's estimates unless an exception applies (“zero tolerance”); charges for settlement services provided by third parties, which cannot exceed estimated amounts by more than ten percent unless an exception applies (“ten percent tolerance”); and other charges that are not subject to any limitation on increases (“no tolerance limit”).

<sup>27</sup> *Id.*

### *B. Significant Rule Determination*

The Bureau has determined that the TRID Rule is a significant rule for purposes of Dodd-Frank Act section 1022(d).<sup>28</sup> The Bureau made this determination based on a number of factors, including the following. First, the Bureau considered the TRID Rule's effect on the features of consumer financial products and services, that is, mortgages, and the scale of operation changes caused by the Rule. The major elements of the TRID Rule described in the preceding section have caused significant changes in business operations.

Second, while generally creditors were already responsible for the GFE, by reallocating responsibility for completing and providing settlement disclosures to the consumer, the TRID Rule reallocated from settlement agents to creditors some of the risks of liability for regulatory violations. Such legal risk in turn may increase the risk to creditors that those who purchase their loans in the secondary market will demand that creditors repurchase the loans if they were not originated in compliance with the TRID Rule. To avoid or mitigate this risk, creditors may have increased the resources they devote to quality control to eliminate or reduce such defects in the disclosures they provide to consumers during origination.

Third, the TRID Rule may have also affected quality control operations because, as described above, the Rule requires that all creditors use standardized forms for most consumer transactions,<sup>29</sup> which can alter the risk of formatting-related regulatory violations whether that is risk increasing due to the change from model forms under TILA to prescribed, standard forms consistent with RESPA, or risk decreasing associated with providing fewer number of forms per

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<sup>28</sup> For more information on how the Bureau determines a rule's significance for purposes of section 1022(d) of the Dodd-Frank Act, *see* U.S. Gov't Accountability Office, *Dodd-Frank Regulations: Consumer Financial Protection Bureau Needs a Systematic Process to Prioritize Consumer Risks*, December 2018, <https://www.gao.gov/assets/700/696200.pdf>.

<sup>29</sup> 78 FR at 79993-94.

mortgage transaction under TRID. Moreover, quality control operations are affected because the TRID Rule subjects a larger category of charges to a “zero tolerance” prohibition on cost increases,<sup>30</sup> and implemented several new disclosure requirements added to TILA by the Dodd-Frank Act, including some disclosures that, if creditors did not give accurate ones, can give consumers private rights of action against creditors.<sup>31</sup>

Finally, the Bureau considered the costs of the TRID Rule. In the 1022(b)(2) cost-benefit analysis that accompanied the 2013 TILA-RESPA Final Rule, the Bureau estimated that the major costs of the Rule would be one-time implementation costs, primarily labor costs, which creditors, settlement agents or third-party providers would incur to update systems and procedures to comply with the Rule. Specifically, the Bureau estimated that the Rule would impose one-time costs of approximately \$1 billion on creditors and approximately \$340 million on settlement agents. In its analysis, the Bureau amortized all costs over five years, using a simple straight-line amortization, resulting in an estimate of approximately \$275 million per year of cost for each of the five years. The Bureau also stated that the ongoing costs of the Rule would be “negligible” relative to the baseline of existing regulatory requirements.<sup>32</sup>

Taking these factors and others into consideration, the Bureau concluded that the TRID Rule is “significant” for purposes of section 1022(d) of the Dodd-Frank Act. Section 1022(d) therefore requires the Bureau to conduct an assessment of the TRID Rule.

### **The Assessment Plan**

Pursuant to section 1022(d) of the Dodd Frank Act, this assessment must address, among other relevant factors, the Rule’s effectiveness in meeting the purposes and objectives of title X

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<sup>30</sup> See *supra* note 23.

<sup>31</sup> See *supra* note 8.

<sup>32</sup> 78 FR at 80076.

of the Dodd-Frank Act and the specific goals of the TRID Rule as stated by the Bureau.

**Purposes and Objectives of Title X.** Section 1021 of the Dodd-Frank Act states that the Bureau shall seek to implement and, where applicable, enforce Federal consumer financial law consistently for the purpose of ensuring that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive.<sup>33</sup> Section 1021 also sets forth the Bureau’s objectives, which are to exercise its authorities under Federal consumer financial law for the purposes of ensuring that, with respect to consumer financial products and services:

- a) Consumers are provided with timely and understandable information to make responsible decisions about financial transactions;
- b) Consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination;
- c) Outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burdens;
- d) Federal consumer financial law is enforced consistently, without regard to the status of a person as a depository institution, in order to promote fair competition; and
- e) Markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.<sup>34</sup>

**Specific goals of the TRID Rule.**

Sections 1098 and 1100A of the Dodd-Frank Act set forth two goals for the TRID Rule: “to facilitate compliance with the disclosure requirements of [TILA and RESPA]” and “to aid the

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<sup>33</sup> 12 U.S.C. 5511(a)

<sup>34</sup> 12 U.S.C. 5511(b)(1)-(5).

borrower or lessee in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures.”<sup>35</sup>

The Bureau stated a number of goals in the final TRID Rule, the preamble to the final TRID Rule, and in public statements surrounding the release of the Rule. Generally, these goals reflect the goals set forth in the Dodd-Frank Act. In promulgating the Rule, the Bureau sought to: aid consumers in understanding their mortgage loan transactions, facilitate cost comparisons, and assist consumers in making decisions regarding their mortgage loans, including helping consumers decide whether they can afford a loan as offered.<sup>36</sup>

By combining the TILA and RESPA disclosures, the TRID Rule also sought to identify and reconcile inconsistencies between TILA and RESPA requirements to reduce regulatory burdens.<sup>37</sup>

**Scope and approach.** To assess the effectiveness of the TRID Rule in meeting these goals and the purposes and objectives of the Dodd-Frank Act, the Bureau’s current assessment plan is informed by a cost-benefit perspective. While section 1022(d) of the Dodd-Frank Act does not expressly require cost-benefit analysis, the Bureau believes such a cost-benefit perspective could be helpful in conducting this assessment, as a consideration of benefits and costs will assist the Bureau in evaluating the effectiveness of the TRID Rule. In particular, such an approach to evaluating the TRID Rule is consistent with the fact that the Bureau issued the TRID Rule after conducting a benefit cost analysis under section 1022(b)(2) of the Dodd-Frank Act. Research questions under the Bureau’s assessment plan seek to quantify the costs and benefits of the TRID Rule as implemented, to the extent that available data and resources allow,

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<sup>35</sup> 12 U.S.C. 2603(a), 15 U.S.C. 1604(b).

<sup>36</sup> 78 FR at 79730.

<sup>37</sup> 78 FR at 79730.

with a focus on the: (i) effects on consumers; (ii) effects on firms, particularly creditors, settlement service providers (including title agents), mortgage brokers, consumers, and others; and (iii) effects on markets related to mortgage origination. The Bureau believes that studying this set of effects will provide the most useful information for stakeholders, including potential future policymakers.

To the extent possible, the assessment will associate Rule requirements with observed outcomes of interest. In certain cases, data may be available that will allow the Bureau to identify effects caused by the Rule. However, more generally, the presence of multiple other factors that affect the mortgage market independently of the Rule may make it challenging to identify exact measures of the effects of the Rule. In general, any association between observed outcomes and requirements of the Rule, while informative as to the effectiveness of the Rule, does not necessarily prove the Rule caused that outcome. In conducting this assessment, the Bureau will consider existing mortgage data and data that the Bureau may reasonably collect, including third-party sources (see more detail below regarding the Bureau's research activities, data sources, and comment requests).

The Bureau has been conducting, and will continue to conduct, external outreach meetings with industry (including trade associations), other government agencies, and consumer groups (including housing counselors). The primary goal of this outreach is for the Bureau to become better informed of the potential effects of the Rule on various market segments.

Other research activities in addition to those described in the remainder of this section may also be considered as appropriate, and the Bureau is interested in suggestions from stakeholders regarding additional research activities that the Bureau could conduct to better assess the Rule.

### *1. Assessing consumer effects*

The approach to examining the TRID Rule's effect on consumers is shaped by four broad research questions based on the aforementioned goals of the Rule, namely, how the TRID Rule affected consumers': (i) understanding of their mortgage disclosures; (ii) mortgage and settlement service shopping behaviors; (iii) satisfaction with their mortgage disclosures, mortgage products, and settlement services; and (iv) ability to compare and choose among mortgages and settlement services. Internal Bureau data can provide insight on many of these research questions. The TRID disclosure testing, conducted during the process that resulted in the 2015 TRID Rule, can provide causal estimates of the effect of the new disclosures on consumer understanding and on consumers' ability to compare mortgage terms across different mortgage products. In addition, analysis of the National Survey of Mortgage Originations (NSMO) can provide correlational estimates of how much consumers' knowledge, shopping, and satisfaction changed after the Rule took effect.

### *2. Assessing firm effects*

The approach to assessing the TRID Rule's effect on firms is shaped by four broad research questions: (i) what were the TRID Rule's implementation costs to firms; (ii) what are the TRID Rule's ongoing costs and cost savings to firms; (iii) how did the TRID Rule affect creditor's ability to sell mortgages to others on the secondary market; and (iv) how did the TRID Rule affect the way creditors disclose information to consumers?<sup>38</sup>

To address these questions, the Bureau envisions conducting structured interviews and surveys with industry participants as well as using relevant data the Bureau already possesses

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<sup>38</sup> In assessing the effects of the Rule on firms, the Bureau will also strive to identify outdated, unnecessary, or unduly burdensome aspects of the TRID Rule. *See* 12 U.S.C. 5511(b)(3).

and third-party information that may be useful. Surveying and interviewing creditors and settlement agents will help the Bureau to assess firms' implementation costs, ongoing costs, and cost savings, and allow the assessment to assess how the accuracy and timing of disclosures changed as a result of the TRID Rule and where creditors faced particular difficulties, if any, with respect to disclosures creditors provided.

The Bureau anticipates that interviewing creditors and quality control providers will provide insight on potential difficulties the TRID Rule may cause for creditors seeking to sell mortgage loans in the secondary market. In addition, the Bureau may use loan-level securities data from the Bloomberg Terminal and aggregate secondary market data from Inside Mortgage Finance (IMF) to assess the TRID Rule's effect on creditors selling loans on the secondary market.

Additional data that would be informative to the Bureau in understanding the effects of the Rule on creditors providing disclosures to consumers include a consumer-level dataset. Such a dataset would be most informative if it covered a period before and after the effective date of the TRID Rule and if it included all or most TILA and RESPA related mortgage loan disclosures that creditors provided to consumers in the process of obtaining a mortgage loan. The ideal fields contained in this dataset would include the type of disclosure, the date it was disclosed, if the creditor re-disclosed forms, the reason for the creditor's re-disclosure, and fields for information contained on the forms (*i.e.*, loan terms, loan structure, loan fees, closing costs, etc.). This dataset would help the Bureau understand how the Rule affected the information consumers received from creditors (*e.g.*, have initial disclosures become more accurate? Or timelier?).

### *3. Assessing the effects on markets related to mortgage origination*



Consumer demand and firm supply interact in markets. This interaction can be measured in transaction prices, transaction volume, and market structure, among other ways. The assessment's approach to market effects is thus reflected by three broad questions: (i) did the TRID Rule affect the price of mortgages or the volume of mortgage originations in the aggregate or for particular market segments or mortgage product types (e.g., construction loans, subordinate liens, manufactured housing, etc.)?, (ii) did the TRID Rule affect entry, exit, or consolidation in any parts of the mortgage market?, and (iii) did the TRID Rule's specific provisions affect market structure by changing the relationship between various providers (e.g., creditors and settlement agents or creditors and their affiliates)?

To assess market effects, the assessment will rely first on data the Bureau already possess, such as Home Mortgage Disclosure Act (HMDA) data and the National Mortgage Database (NMDB) and stress testing data from the Federal Reserve (Y-14 data). These datasets may be used to identify changes in overall loan volumes, mortgage prices, price dispersions, and the availability of mortgage products. In addition, the assessment will rely on the same survey and structured interviews with industry participants that would be used to consider costs on the firm side. The industry survey will allow the Bureau to assess specific areas of the market or mortgage product types (e.g. construction loans, subordinate liens, manufactured housing, etc.). Surveying creditors and settlement agents will allow us to assess changes in the relationship between creditors and settlement agents as a result of their changing roles under the TRID Rule. Surveying creditors will also allow the Bureau to assess changes in the relationships between creditors and other entities involved in mortgage transactions as a result of the TRID Rule's changed disclosure tolerances.

**Comments from the 2018 Call for Evidence.** The Bureau is considering in its TRID Rule assessment plan the comments received in relation to the TRID Rule during the 2018 Call for Evidence Requests for Information (RFIs).<sup>39</sup> The Bureau received approximately 63 comments related to the TRID Rule. Most TRID-related comments were submitted to the Adopted Regulations and New Rulemaking Authorities RFI and to the Inherited Regulations and Inherited Rulemaking Authorities RFI (Rulemaking RFIs).<sup>40</sup> Trade associations, consumer advocacy groups, and others from industry provided comments relevant to the TRID Rule. The assessment plan and research questions reflect the information provided to the Bureau in response to the Calls for Evidence, to the extent the comments highlighted topics concerning the TRID Rule.

Comments to the Rulemaking RFIs generally centered on topics and issues pertaining to TRID including curing violations, secondary market issues, applicability to specific products, disclosure redesign, legal liability, and title insurance. For example, with regard to secondary market issues, two trade groups expressed concerns that creditors will need to either retain in portfolio or sell on the “scratch and dent” secondary market at a steep discount loans containing TRID errors. Commenters indicated that this treatment of loans results in lack of liquidity or losses for the lender. Commenters also indicated that lenders can face higher risk of receiving buyback requests, which are demands from investors (most often GSEs) that lenders buy back

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<sup>39</sup> In January 2018, the Bureau commenced a “Call for Evidence” to ensure that the Bureau is fulfilling its proper and appropriate functions to best protect consumers. Over a number of weeks, the Bureau published in the *Federal Register* a series of Requests for Information (RFIs) seeking comment on enforcement, supervision, rulemaking, market monitoring, complaint handling, and education activities. These RFIs provided an opportunity for the public to submit feedback and suggest ways to improve outcomes for both consumers and covered entities. Altogether, over 88,000 comments were received across 12 dockets.

<sup>40</sup> For comments on the Adopted Regulations and New Rulemaking Authorities Request for Information, see <https://www.regulations.gov/docket?D=CFPB-2018-0011>. For comments on the Bureau’s Inherited Regulations and Inherited Rulemaking Authorities Request for Information, see <https://www.regulations.gov/docket?D=CFPB-2018-0012>.

the loan from the creditor due to documentation errors or other irregularities. As another example, a trade group commented that many creditors have been hesitant to offer more complex mortgage products, including, among others, construction loans, for fear of misinterpreting TRID requirements. Four commenters provided comments relating to the construction loan market specifically. Most of these commenters requested additional guidance or simpler disclosures for construction loans.

In March of 2018, as part of the 2018 Call for Evidence series, the Bureau also issued the Bureau Guidance and Implementation Support Request for Information (Guidance RFI), a request for comment and information to assist the Bureau in assessing the overall effectiveness and accessibility of its guidance materials and activities (including implementation support) to members of the general public and regulated entities.<sup>41</sup> The comments the Bureau received in response to the Guidance RFI highlight the importance of guidance and compliance aids for regulatory implementation, specifically for implementing highly technical rules such as the TRID Rule.<sup>42</sup> They also highlighted certain aspects of guidance that were not addressed or guidance styles that did not work well such as providing more guidance on what requirements of the TRID Rule apply to different segments of the market and providing specific examples to facilitate compliance. For assessment purposes of the TRID Rule, the Bureau is interested in learning more about any aspects of the Rule that were confusing or on which more guidance was needed, whether at the time the Rule took effect or afterwards, and the effects of this confusion

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<sup>41</sup> For the full electronic docket, see <https://www.regulations.gov/docket?D=CFPB-2018-0013>. The Bureau received approximately 49 comments on this RFI (42 that addressed the substance of the RFI). The Bureau received a number of comments related to guidance but for the purpose of the TRID assessment, only comments received related to TRID guidance are mentioned.

<sup>42</sup> The Bureau continues to update and improve its regulatory guidance and implementation aids. Several materials were, and will be, published after the implementation of the TRID Rule to provide more guidance and clarity, and the Bureau continues to work to identify and address additional guidance needs.

or lack of guidance (including any unintended effects on market liquidity in any sectors of the housing finance system).

### **Request for Comment**

The Bureau hereby invites members of the public to submit information and other comments relevant to the issues identified above and below, information relevant to enumerating costs and benefits of the TRID Rule to inform the assessment's cost-benefit perspective, and any other information relevant to assessing the effectiveness of the TRID Rule in meeting the purposes and objectives of title X of the Dodd-Frank Act (section 1021) and the specific goals of the Bureau. In particular, the Bureau invites the public, including consumers and their advocates, housing counselors, mortgage creditors, settlement agents, and other industry participant, industry analysts, and other interested persons to submit comments on any or all of the following:

- (1) Comments on the feasibility and effectiveness of the assessment plan, the objectives of the TRID Rule that the Bureau intends to use in the assessment, and the outcomes, metrics, baselines, and analytical methods for assessing the effectiveness of the Rule as described in part IV above;
- (2) Data and other factual information that the Bureau may find useful in executing its assessment plan and answering related research questions, particularly research questions that may be difficult to address with the data currently available to the Bureau, as described in part IV above;
- (3) Recommendations to improve the assessment plan, as well as data, other factual information, and sources of data that would be useful and available to the Bureau to execute any recommended improvements to the assessment plan;

- (4) Data and other factual information about the benefits and costs of the TRID Rule for consumers, creditors, or other stakeholders;
- (5) Data and other factual information about the effects of the Rule on transparency, efficiency, access, and innovation in the mortgage market;
- (6) Data and other factual information about the Rule's effectiveness in meeting the purposes and objectives of title X of the Dodd-Frank Act (section 1021), which are listed in part IV above;
- (7) Data and other factual information on the disclosure dataset specified in the Assessing Firm Effects section above under part IV;
- (8) Comments on any aspects of the TRID Rule that were or are confusing or on which more guidance was or is needed during implementation including whether the issues have been resolved or remain unresolved; and
- (9) Recommendations for modifying, expanding, or eliminating the TRID Rule.

**[THIS SIGNATURE PAGE PERTAINS TO THE DOCUMENT TITLED “REQUEST  
FOR INFORMATION REGARDING TILA-RESPA INTEGRATED DISCLOSURE  
RULE ASSESSMENT.”]**

Dated: November 13, 2019.

A handwritten signature in blue ink, reading "Kathleen L. Kraninger", written over a solid black horizontal line.

**Kathleen L. Kraninger,**

*Director, Bureau of Consumer Financial Protection.*