

15-RA-03 Preparing to Comply with TILA-RESPA Changes on August 1

Summary

Prepared by NASCUS Legislative & Regulatory Affairs Department
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NCUA issued [Regulatory Alert 15-RA-02](#) to remind credit unions of the approaching effective date of August 1, 2015 for new disclosure rules implemented by the Consumer Financial Protection Bureau (CFPB) for most closed-end consumer mortgages. The new rules, amending Regulation Z (implementing the Truth in Lending Act (TILA)) and Regulation X (implementing the Real Estate Settlement Procedures Act (RESPA)) combines existing mortgage disclosure requirements, implements new mortgage disclosure requirements, and refines existing disclosure requirements for both mortgage and non-mortgage loans.

Lenders must provide the new integrated disclosures for covered mortgage applications received on or after August 1, 2015. If an application is *received* before August 1, 2015, disclosures should be provided based on the pre August 31, 2015 requirements as they stood *before* August 1, 2015, even if those disclosures are due *after* August 1, 2015.

Covered Loans

The Final Rule applies to most closed-end consumer mortgage transactions secured by real property as well as to construction loans and loans secured by interests in timeshare plans (although special rules apply).

Disclosure Requirements

Currently, under TILA and RESPA, creditors provide different sets of disclosure forms to mortgage applicants:

- Good Faith Estimate (GFE) and HUD-1 or HUD-1A settlement statement (HUD-1) under RESPA and Regulation X; and
- Initial TILA disclosures and final TILA disclosures under TILA and Regulation Z.

CFPB has combined the GFE and initial TILA disclosure into a new form: the Loan Estimate disclosure (Loan Estimate). The new Loan Estimate must be provided to borrowers within **3 business days** after they submit a mortgage loan application and at least **7 business days** before consummation.

CFPB also combined the HUD-1 and final TILA disclosure into a new Closing Disclosure. The Closing Disclosure must be provided to borrowers at least **three business days** before loan consummation.

Lenders must continue to provide the special information booklet within **three business days** after receiving the loan application. If borrowers are allowed to shop for a settlement service, they must be provided a written list identifying available service providers, and a statement that they are free to choose another provider, within **3 business days** after receiving an application.

The Final Rule also amends the requirement to provide mortgage transfer notices when transferring ownership of a mortgage loan. Lenders must now include information related to the policy on making partial payments.

New requirement - before cancelling an escrow account for a closed-end consumer credit transaction secured by a first lien on real property or a dwelling the borrower must be provided an Escrow Closing Notice. The Escrow Closing Notice must be provided in either **3 business days** (if the member requests cancellation) before cancellation, or no later than **30 business days** before cancellation (if cancelled for other than member request).

The Loan Estimate

For “[federally related mortgage loans](#)” subject to RESPA, lenders must use a CFPB developed standard Loan Estimate form (**Form H-24** in Appendix H to Regulation Z). The form provides the following information:

- Page 1: date issued, borrower’s name, loan type, rate lock information; tables for loan terms; projected payments; closing costs; and a link CFPB’s website
- Page 2: details about closing costs, a table calculating cash needed to close; and, as applicable, information about adjustments to payments and to the interest rate
- Page 3: contact information for the lender, loan officer, and mortgage broker, if any, loan costs comparison information

Business days are counted two different ways under the rule:

- One uses the days the creditor’s offices are open to the public for carrying out substantially all of its business functions: the key term is “days open for business”
- The other definition of a “business day” is “every day except Sundays and federal legal public holidays”: the key phrase used is “days other than Sundays and holidays.”

NCUA’s Regulatory Alert also summarizes the rule’s provisions on the various means of delivery of the notice and discusses the fees allowed by the final rule. In addition, the Regulatory Alert contains detailed information about the CFPB’s requirements for the “good faith” accuracy of the Loan Estimate, including a discussion of the narrow exceptions to CFPB’s zero tolerance for deviations from the good faith estimate that result in a higher charges to the borrower:

- if the **Final Rule expressly allows a variation** for the particular charge
- if the variation falls within a 10% “tolerance” threshold permitted for certain charges
- if specified “changed circumstances” have occurred

Special Information Booklet

RESPA requires the applicant be provided the [Special Information Booklet](#) within three business days of receipt of the loan application for a covered loan (based on days the creditor’s offices are open for business). However, a special information booklet is *not* required if:

- The application is for a HELOC subject to 12 CFR § 1026.40. (However a different brochure, “When Your Home is On the Line: What You Should Know About Home Equity Lines of Credit” must be provided)
- The application is for a real property-secured consumer credit transaction that does not have the purpose of purchasing a one-to-four family residential property
- The application is denied or withdrawn before the end of three business days

Written List of Service Providers

If the borrower is allowed to “shop” for a settlement service, a written list of services for which the borrower can shop must be provided. The list:

- Must identify at least one available settlement services provider for each service
- Must state that different service providers may be chosen
- Must correspond to the Loan Estimate disclosure with respect to service for which the borrower may shop
- Must be provided separately from the Loan Estimate but within the same time frame

The Closing Disclosure

The Closing Disclosure showing the final loan terms, integrates and replaces the final TILA disclosure and the RESPA HUD-1, and must be provided at least three business days (counting days other than Sundays and holidays) before the loan is consummated.

CFPB has created standardized forms for the disclosure that provide the following information:

- Page 1: date issued, borrower, the loan type & terms; projected payments; closing costs
- Page 2: loan costs, taxes and government fees; prepaid costs; initial escrow payments
- Page 3: calculations of cash to close and summaries of borrower’s/seller’s transactions
- Page 4: additional loan disclosures, including escrow account description and adjustable payment and interest tables
- Page 5: loan payment calculations for total loan amount, finance charge, amount financed, APR, and total interest as a percentage of the loan amount; and contact information for the lender, mortgage broker, real estate broker, and settlement agent

In general, a loan may not be consummated fewer than three business days after the member receives the Closing Disclosure (counting days other than Sundays and holidays). In addition, the Regulatory Alert contains detailed discussions of the nuances of the timing of the Closing Disclosure with respect to closing as well as rules related to modifications/changes to the Closing Disclosure.

NCUA’s Regulatory Alert recommends that credit unions offering mortgage loans familiarize themselves with the final rule and consider taking the following steps:

- Identify the business and processes changes needed to comply with the final rule
- Develop an implementation plan for the new requirements including budget consideration
- Review implementation plan with executive management
- Identify third parties affected by the Final Rule, including vendors and real estate agents
- Contact vendors to make sure they can implement the necessary changes
- Work with settlement service providers to ensure the accuracy of disclosures
- Develop and provide training for staff and management
- Test and implement technology changes

The full text of the Final Rule and CFPB resources related to implementation of the Final Rule are available [here](#).