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TILA-RESPA Integrated Disclosures

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Disclaimer: This document is intended to be used as an implementation resource for the TILA-RESPA Integrated Disclosure rule. It is not intended as legal advice for a particular transaction. The materials in this paper are largely excerpts from the CFPB's Small entity compliance guide accessible via http://files.consumerfinance.gov/f/201508_cfpb_tila-respa-integrated-disclosure-rule.pdf and Guide to the Loan Estimate and Closing Disclosure forms accessible via http://files.consumerfinance.gov/f/201508_cfpb_tila-respa-integrated-disclosure-guide-to-the-loan-estimate-and-closing.pdf

The Bureau of Consumer Financial Protection (CFPB) is an independent bureau within the Federal Reserve System created under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).

The Dodd-Frank Act authorized the CFPB to integrate mortgage loan disclosures under the Truth-in-Lending Act (TILA) and the Real Estate Settlement Procedures Act (RESPA) Sections 4 and 5. The CFPB has now finalized a rule for integrated disclosures that is effective October 3, 2015.

The CFPB also has enforcement authority over the implementation of these disclosures with the following penalty amounts:

> (A) First Tier. For any violation of a law, rule, or final order or condition imposed in writing by the Bureau, a civil penalty may not exceed $5,000 for each day during which such violation or failure to pay continues.
> (B) Second Tier. Notwithstanding paragraph (A), for any person that recklessly engages in a violation of a Federal consumer financial law, a civil penalty may not exceed $25,000 for each day during which such violation continues.
> (C) Third Tier. Notwithstanding subparagraphs (A) and (B), for any person that knowingly violates a Federal consumer financial law, a civil penalty may not exceed $1,000,000 for each day during which such violation continues.

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A service provider is defined in Section 1002(26) of the Dodd-Frank Act as "any person that provides a material service to a covered person in connection with the offering or provision by such covered person of a consumer financial product or service."

Service providers must be due diligenced by supervised banks and nonbanks and the CFPB has enforcement authority over supervised service providers.

Overview

The TILA-RESPA rule applies to most closed-end consumer credit transactions secured by real property. (§§ 1024.5, 1026.3, and 1026.19)

Credit extended to certain trusts for tax or estate planning purposes is not exempt from the TILA-RESPA rule. (Comment 3(a)-10).

Certain types of loans that are currently subject to TILA but not RESPA are subject to the TILA-RESPA rule's integrated disclosure requirements, including:

- Construction-only loans

  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 on a home for which a use and occupancy permit has been issued prior to the issuance of a Loan Estimate.

- Loans secured by vacant land or by 25 or more acres

There is a partial exemption for certain transactions associated with housing assistance loan programs for low- and moderate-income consumers. (§ 1026.3(h))

Creditors are exempt from the requirement to provide the RESPA settlement cost booklet, RESPA GFE, RESPA Settlement statement, and applicable servicing disclosure statement requirements. (See §§ 1024.6, 1024.7, 1024.8, 1024.10, and 1024.33)

Creditors are exempt from the requirements to provide a Loan Estimate, Closing Disclosure, and Special Information Booklet for these loans. (§ 1026.3(h))

The TILA-RESPA rule applies to most closed-end consumer credit transactions secured by real property, but does not apply to:

- HELOCs;
- Reverse Mortgages; or
- Chattel-dwelling loans, such as loans secured by a mobile home or by a dwelling that is not attached to real property (i.e., land).

Creditors originating these types of mortgages must continue to use, as applicable, the GFE, HUD-1, and Truth-in-Lending disclosures required under current law.

Definitions

Definition of a Creditor - Truth-in-Lending Act § 1602

(g) The term "creditor" refers only to a person who both

Title search: TILA-RESPA Integrated Disclosures

Also available as part of the eCourse
Residential Lending Hot Topics: POA's, Reverse Mortgages & Truth in Lending

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