

TILA-RESPA Integrated Disclosures Part 5 – Common Questions

Outlook Live Webinar - May 26, 2015

Presented by the Consumer Financial Protection Bureau

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Disclaimer

- The Bureau issued the TILA-RESPA Integrated Disclosure final rule in November of 2013 to implement provisions under the Dodd-Frank Wall Street Reform and Consumer Protection Act.
- The Bureau issued amendments to the TILA-RESPA Integrated Disclosure final rule in January of 2015.
- The Final Rule will take effect in August 2015.
- This presentation is current as of May 26, 2015.
- This presentation does not represent legal interpretation, guidance or advice of the Bureau. While efforts have been made to ensure accuracy, this presentation is not a substitute for the rule. Only the rule and its Official Interpretations can provide complete and definitive information regarding requirements.
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CFPB Resources

- **Dedicated Regulatory Implementation Website:**
<http://www.consumerfinance.gov/regulatory-implementation/tila-respa/>
 - [Small Entity Compliance Guide](#)
 - [Guide to Forms](#)
 - [Disclosure Timeline Illustration](#)
 - [Sample and Annotated Forms](#)
 - [Readiness Guide](#)
 - [Links to Webinars](#)
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 - [Additional Guidance Materials](#)

- **eRegulations Tool:**
<http://www.consumerfinance.gov/eregulations>

Events and Publications

■ Webinars

- [Rule overview](#): 6/17/2014
- [Frequently asked questions](#): 8/26/2014
- [Loan Estimate contents](#): 10/1/2014
- [Closing Disclosure contents](#): 11/18/2014

■ Publications

- [Disclosure Timeline Illustration](#)
- [Readiness Guide](#)
- [Your Home Loan Toolkit](#)
- [Amendments to the 2013 Integrated Mortgage Disclosures Rule Under the Real Estate Settlement Procedures Act \(Regulation X\) and Truth In Lending Act \(Regulation Z\) and the 2013 Loan Originator Rule Under the Truth in Lending Act \(Regulation Z\)](#)
 - Redisclosure for rate locks and new construction loans
 - Technical changes

Common Questions – Pre-application Activity

- **Q:** Can a creditor review detailed written documentation of income and assets prior to delivering a Loan Estimate?
- *See 1026.19(e)(2)(iii) and comment 19(e)(2)(iii)-1.*

Common Questions – Pre-application Activity

- 1026.19(e)(2)(iii):

VERIFICATION OF INFORMATION. The creditor or other person shall not require a consumer to submit documents verifying information related to the consumer's application before providing the disclosures required by paragraph (e)(1)(i) of this section.

- Comment 19(e)(2)(iii)-1:

REQUIREMENTS. The creditor or other person may collect from the consumer any information that it requires prior to providing the early disclosures before or at the same time as collecting the information listed in § 1026.2(a)(3)(ii). However, the creditor or other person is not permitted to require, before providing the disclosures required by § 1026.19(e)(1)(i), that the consumer submit documentation to verify the information collected from the consumer. See also § 1026.2(a)(3) and the related commentary regarding the definition of application. * * *

Common Questions – Application

- **Q:** Does the new definition of “application” under the rule apply to home equity lines of credit (HELOCs)? Will the previous definition of “application” still apply to HELOCs and other products?
- *See 1026.19(g).*

Common Questions – Formatting

- **Q:** Can the disclosures be completed by hand printing?
- *See Comments 37(o)(5)-2 and 38(t)(5)-2.*

Common Questions – Formatting

- Comment 37(o)(5)-2:

Section 1026.37(o) does not require the creditor to use a computer, typewriter, or other word processor to complete the disclosure form. The information and amounts required to be disclosed by § 1026.37 on form H-24 of appendix H to this part may be filled in by hand printing or using any other method, provided the information is clear and legible and complies with the formatting required by form H-24, including replicating bold font where required.

- Comment 38(t)(5)-2:

The creditor, or settlement agent preparing the form, under § 1026.19(f)(1)(v) is not required to use a computer, typewriter, or other word processor to complete the disclosure required by § 1026.38. The creditor or settlement agent may fill in information and amounts required to be disclosed by § 1026.38 on form H-25 of appendix H to this part by hand printing or using any other method, provided the person produces clear and legible text and uses the formatting required by § 1026.38, including replicating bold font where required.

Common Questions – Calculating Cash to Close

- **Q:** Comment 1 to Section 1026.37(h)(1)(ii) indicates that the amount disclosed is determined by subtracting the estimated total amount of payments to third parties not otherwise disclosed as Loan Costs or Other Costs. Some fees that are considered to be financed are already disclosed as Loan Costs. However, if these amounts are not considered financed, then the total Cash to Close would be too high because the financed fees are not subtracted. Can you please clarify?
- *See* 1026.37(h)(1)(ii), comment 37(h)(1)(ii)-1, 1026.19(e)(3), 1026.17(c).

Common Questions – Calculating Cash to Close

- Comment 37(h)(1)(ii)-1:

The amount of closing costs financed disclosed under § 1026.37(h)(1)(ii) is determined by subtracting the estimated total amount of payments to third parties not otherwise disclosed pursuant to § 1026.37(f) and § 1026.37(g) from the total loan amount disclosed pursuant to § 1026.37(b)(1). If the result of the calculation is a positive number, that amount is disclosed as a negative number under § 1026.37(h)(1)(ii), but only to the extent that it does not exceed the total amount of lender credits disclosed under § 1026.37(g)(6)(ii). If the result of the calculation is zero or negative, the amount of \$0 is disclosed under § 1026.37(h)(1)(ii).

Common Questions - Construction

- **Q:** Construction-to-permanent loans can be structured to have a single closing at the beginning of the process, or to have two closings, one at the beginning and then another at the end of the construction phase before the loan converts into permanent financing. How should a creditor disclose terms in a single-close construction-to-permanent loan transaction?

- *See* 1026.17(c)(6)(ii), comment 17(c)(6)-2.

- 1026.17(c)(6)(ii):

When a multiple-advance loan to finance the construction of a dwelling may be permanently financed by the same creditor, the construction phase and the permanent phase may be treated as either one transaction or more than one transaction.

Common Questions - Construction

- Comment 17(c)(6)-2:

CONSTRUCTION LOANS. Section 1026.17(c)(6)(ii) provides a flexible rule for disclosure of construction loans that may be permanently financed. These transactions have 2 distinct phases, similar to 2 separate transactions. The construction loan may be for initial construction or subsequent construction, such as rehabilitation or remodeling. The construction period usually involves several disbursements of funds at times and in amounts that are unknown at the beginning of that period, with the consumer paying only accrued interest until construction is completed. Unless the obligation is paid at that time, the loan then converts to permanent financing in which the loan amount is amortized just as in a standard mortgage transaction. Section 1026.17(c)(6)(ii) permits the creditor to give either one combined disclosure for both the construction financing and the permanent financing, or a separate set of disclosures for the 2 phases. This rule is available whether the consumer is initially obligated to accept construction financing only or is obligated to accept both construction and permanent financing from the outset. If the consumer is obligated on both phases and the creditor chooses to give 2 sets of disclosures, both sets must be given to the consumer initially, because both transactions would be consummated at that time. (Appendix D provides a method of calculating the annual percentage rate and other disclosures for construction loans, which may be used, at the creditor's option, in disclosing construction financing.)

Common Questions – Written Service Provider List

- **Q:** If there is a valid changed circumstance or a borrower requested change that triggers another third-party service that the creditor permits the consumer to shop for, should the list of service providers be updated and re-disclosed, or is the written list of service providers required to be provided only once upon providing the initial Loan Estimate?
- *See 1026.19(e)(1)(vi)(C), 1026.19(e)(3), 1026.19(e)(3)(iii)(D).*

Common Questions – Written Service Provider List

- 1026.19(e)(1)(vi)(C):

WRITTEN LIST OF PROVIDERS. If the consumer is permitted to shop for a settlement service, the creditor shall provide the consumer with a written list identifying available providers of that settlement service and stating that the consumer may choose a different provider for that service. The creditor must identify at least one available provider for each settlement service for which the consumer is permitted to shop. The creditor shall provide this written list of settlement service providers separately from the disclosures required by paragraph (e)(1)(i) of this section but in accordance with the timing requirements in paragraph (e)(1)(iii) of this section.

Common Questions – Revised Disclosures

- **Q:** In a scenario where the creditor’s estimate of closing costs changes, but the prior estimate remains “in good faith” for purposes of Section 1026.19(e)(3), is the creditor prohibited from providing the consumer with a revised disclosure?
- *See Comment 19(e)(3)(iv)(A)-1.ii.*

Common Questions – Revised Disclosures

- Comment 19(e)(3)(iv)(A)-1.ii (emphasis added):

Assume a creditor provides a \$400 estimate of title fees, which are included in the category of fees which may not increase by more than 10 percent for the purposes of determining good faith under § 1026.19(e)(3)(ii), except as provided in § 1026.19(e)(3)(iv). An unreleased lien is discovered and the title company must perform additional work to release the lien. However, the additional costs amount to only a five percent increase over the sum of all fees included in the category of fees which may not increase by more than 10 percent. A changed circumstance has occurred (*i.e.*, new information), but the sum of all costs subject to the 10 percent tolerance category has not increased by more than 10 percent. **Section 1026.19(e)(3)(iv) does not prohibit the creditor from issuing revised disclosures**, but if the creditor issues revised disclosures in this scenario, when the disclosures required by § 1026.19(f)(1)(i) are delivered, the actual title fees of \$500 may not be compared to the revised title fees of \$500; they must be compared to the originally estimated title fees of \$400 because the changed circumstance did not cause the sum of all costs subject to the 10 percent tolerance category to increase by more than 10 percent.

Common Questions – Closing Disclosure

- **Q:** The current HUD-1 has a comparison chart to show the applicable tolerance levels and how the charges compare. Where is the equivalent chart on the Closing Disclosure?
- See Form H-25(F) from appendix H.

J. TOTAL CLOSING COSTS (Borrower-Paid)	\$5,977.57	
Closing Costs Subtotals (D + I)	\$5,822.57	\$655.00
Lender Credits (Includes \$200 credit for increase in Closing Costs above legal limit)	– \$500.00	

Calculating Cash to Close		Use this table to see what has changed from your Loan Estimate.	
	Loan Estimate	Final	Did this change?
Loan Amount	\$150,000.00	\$150,000.00	NO
Total Closing Costs (J)	– \$5,099.00	– \$5,977.57	YES • See Total Loan Costs (D) and Total Other Costs (I) • Increase exceeds legal limits by \$200. See Lender Credits on page 2 for credit of excess amount.
Closing Costs Paid Before Closing	\$0	\$655.00	YES • You paid these Closing Costs before closing
Total Payoffs and Payments (K)	– \$120,000.00	– \$115,000.00	YES • See Payoffs and Payments (K)
Cash to Close	\$24,901.00	\$29,677.43	
	<input type="checkbox"/> From <input checked="" type="checkbox"/> To Borrower	<input type="checkbox"/> From <input checked="" type="checkbox"/> To Borrower	Closing Costs Financed (Paid from your Loan Amount) \$5,322.57

Common Questions – Owner’s Title Policy

- **Q:** If the owner’s title policy disclosed on the Closing Disclosure is not the same amount of the premium quoted by the title underwriter, how does a creditor show that a seller has agreed to pay for the owner’s title insurance?
- *See 1026.38(f) and (g), 1026.38(k)(2)(vii) and (viii), comments 37(f)(2)-4, 37(f)(3)-3, and 37(g)(4)-2.*

Common Questions – Owner’s Title Policy

- Comment 37(g)(4)-2:

SIMULTANEOUS TITLE INSURANCE PREMIUM RATE IN PURCHASE TRANSACTIONS. The premium for an owner's title insurance policy for which a special rate may be available based on the simultaneous issuance of a lender's and an owner's policy is calculated and disclosed pursuant to § 1026.37(g)(4) as follows:

- i. The title insurance premium for a lender's title policy is based on the full premium rate, consistent with § 1026.37(f)(2) or (f)(3).
- ii. The owner's title insurance premium is calculated by taking the full owner's title insurance premium, adding the simultaneous issuance premium for the lender's coverage, and then deducting the full premium for lender's coverage.

Your home loan toolkit: A step-by-step guide

- The Special Information Booklet described in section 1026.19(g), now called “Your Home Loan Toolkit,” was [finalized](#) and made available on 4/1/2015.
- All market participants (e.g. real estate, title, escrow, and mortgage professionals) are encouraged to provide the Toolkit to potential homebuyers as early in the home buying process as possible. Integrating the Toolkit with consumer marketing materials is also encouraged.
- Creditors “shall deliver or place the toolkit in the mail not later than three business days after the consumer’s application is received.”
- Creditors do not need to provide the toolkit to consumers when the purpose of the application is not for the purchase of a one-to-four family residential property, including:
 - Refinance transactions
 - Closed-end loans secured by a subordinate lien
 - Reverse mortgages

How to Get the Toolkit

- The electronic version of the toolkit is available at:
<http://www.consumerfinance.gov/learnmore/#respa>
- Copies can also be ordered from the GPO website:
 - Large: <http://bookstore.gpo.gov/products/sku/048-013-00009-1>
 - Small: <http://bookstore.gpo.gov/products/sku/048-013-00010-4>
- The Bureau is currently developing a Spanish-language version of the Toolkit and will publish a Notice of Availability in the Federal Register when it is released.
- The updated Toolkit must be given to consumers for applications received on or after August 1, 2015.

Delivery of the Toolkit to Consumers

- **Q:** Can market participants place their logo on the Toolkit cover?
- *See 1026.19(g)(2)(iv).*

The cover of the booklet may be in any form and may contain any drawings, pictures or artwork, provided that the title appearing on the cover shall not be changed. Names, addresses, and telephone numbers of the creditor or others and similar information may appear on the cover, but no discussion of the matters covered in the booklet shall appear on the cover. References to HUD on the cover of the booklet may be changed to references to the Bureau.

Delivery of the Toolkit to Consumers

- **Q:** If a creditor makes the Toolkit available on its website, does that satisfy the rule's delivery requirement?
- *See 1026.19(g)(1)(i).*

The creditor shall deliver or place in the mail the special information booklet not later than three business days after the consumer's application is received. However, if the creditor denies the consumer's application before the end of the three-business-day period, the creditor need not provide the booklet. If a consumer uses a mortgage broker, the mortgage broker shall provide the special information booklet and the creditor need not do so.

Questions?

<http://www.consumerfinance.gov/regulatory-implementation/tila-respa/>



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RESOURCES TO HELP YOU COMPLY [TILA-RESPA Integrated Disclosure rule](#)

Compliance guide : A plain-language guide to the new rules in a FAQ format which makes the content more accessible for industry constituents, especially smaller businesses with limited legal and compliance staff.

Guide to forms : Provides detailed, illustrated instructions on completing the Loan Estimate and Closing Disclosure.

Disclosure timeline : Illustrates the process and timing of disclosures for a sample real estate purchase transaction.

Email updates about mortgage rule implementation

NEWS

New consumer guide
booklet

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