Top 15 Action Items To Prepare For TRID Implementation

A Lender's Reference Guide

The TILA-RESPA Integrated Disclosures (TRID) rule requires that new Loan Estimate and Closing Disclosure forms replace the Good Faith Estimate, Truth-in-Lending and HUD-1 Settlement Statement for most real estate transactions. But the rule is more than just simply replacing forms. It entails a major shift in workflow processes, timing requirements and responsibilities for the parties involved.

North American Title Insurance Company has identified 15 key items for lenders to learn prior to the Oct. 3, 2015, effective date to be fully prepared for the transition.

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Lender's reference guide to TRID implementation

No. 1 Understand the effective date. Oct. 3, 2015, is a firm date. This means the new Loan Estimate and Closing Disclosure are to be used for qualifying consumer loan transactions for applications received on or after Oct. 3. If a lender receives an application for a loan prior to the effective date, a Good Faith Estimate and Truth-in-Lending disclosure will be used, as well as the accompanying HUD-1 Settlement Statement.

No. 2 Know the key provisions of the rule and its forms. Learning the rule and communicating with title agents on how responsibilities will be shared will provide a smoother transition. Lenders need to be fully trained on all line items of the Loan Estimate and Closing Disclosure. The new forms are very different from the Good Faith Estimate and HUD-1 Settlement Statement. NATIC has provided a PowerPoint presentation on the key elements of the final rule, which NATIC agents can share with lender clients when discussing the rule.

No. 3 Notice the new definition of application. The lender must provide the Loan Estimate to the borrower within three business days after six specific items of information are collected: consumer's name, income and Social Security number; property address; estimate of the value of the property; and mortgage loan amount sought. The catch-all seventh item has been eliminated.

No. 4 Determine who will prepare the Closing Disclosure. Lenders carry the liability for making sure the Closing Disclosure is correctly prepared for the borrower. The rule permits the lender to direct the settlement agent to prepare the Closing Disclosure. Determine the workflow and test the process with settlement agents prior to Oct. 3.

No. 5 Determine who will deliver the Closing Disclosure. TRID requires that the Closing Disclosure be delivered to the borrower at least three business days before he or she becomes contractually obligated for the loan (See No. 11). This task can be handled by the lender or settlement agent. The lender should determine who will be responsible for delivery.

No. 6 Collaborate with the settlement agent for exchanging information. The lender and settlement agent will need to exchange data in order to complete the Closing Disclosure. Some lenders will use an automated system or portal to achieve this collaboration. Others may rely on another approach. Determine the flow of data prior to Oct. 3.

No. 7 Determine who will make changes to the Closing Disclosure. The lender needs to decide how it will handle making changes to the Closing Disclosure and should instruct the settlement agent accordingly. Changes at the closing table could trigger a re-issue of the Closing Disclosure, which, in some cases, could force another three-business-day waiting period before consummation can take place.

No. 8 Share a transaction calendar. All parties to the transaction will need to know what to expect and when to expect it. It is recommended to link all parties into a shared calendar to maximize collaboration and to ensure timing requirements are met.

No. 9 Be cautious of the "bona fide financial emergency" exception. A borrower cannot use the bona fide financial emergency exception as a way to avoid the three-business-day waiting period. The only exemption example the CFPB has provided is a situation where the borrower is refinancing to avoid an impending foreclosure sale on his or her home.

No. 10 Protect nonpublic personal information. Protecting nonpublic personal information is critical. Ascertain how you and your agent are ensuring the protection of this valuable information throughout each step of the process.

No. 11 Learn how consummation is defined in the states in which you do business. The CFPB defines consummation as "the time that a consumer becomes contractually obligated on a credit transaction." The point in time when this happens can vary from state to state. For example, it could be the closing date, the date of recordation or other date, depending on state law.

No. 12 Understand the disclosure of title insurance fees. When a simultaneous-issue discount is applied, understand the calculation on the forms. The CFPB designed the forms so the full amount of the loan policy is disclosed to the borrower. For states with a simultaneous-issue rate premium, the loan policy premium will be calculated and disclosed on the forms as if no owner's policy is being issued. The owner's policy premium will be calculated by taking the full owner's policy premium, subtracting the full loan policy premium and adding the simultaneous-issue rate. Settlement agents may be using approved Settlement Statement forms provided by their local or national land title associations to disclose the actual title insurance premiums as required by state law.

No. 13 There is no grace period for compliance. Lenders, settlement agents and real estate professionals must be in compliance with the TRID rule as of the Oct. 3 effective date. Prior to Oct. 3, work with your agent to practice workflows, test technology interfaces and run through agreed-upon protocols.

No. 14 Understand the role of the secondary market. A loan with a potential RESPA or TILA error will at a minimum be difficult to sell on the secondary market. Therefore, lenders should work with their settlement agents to avoid violations. In addition, use the Uniform Closing Dataset (UCD) format for delivering loan data to Fannie Mae and Freddie Mac.

No. 15 Be aware of liability and enforcement concerns. Lenders face stiff fines and potential lawsuits if they are found to be noncompliant with CFPB regulations, including the TRID rule. Because of this, lenders will need to follow compliant procedures and document and retain files according to the rule's requirements.

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