



Compliance Update

Released: July 14, 2009

IMPORTANT ANNOUNCEMENT

Effective with loan applications taken on or after July 30, 2009, there will be several new changes regarding early disclosure law, closing restrictions as well as changes to Regulation Z and RESPA – 2 months earlier than the original date of October 1, 2009. The specific provisions effective by this “new” rule implement the Mortgage Disclosure Improvement Act (MDIA).

The MDIA will broaden the category of application which requires early disclosure of mortgage applications which will result in the securitization of a consumers dwelling (including second and vacation homes) and applies to purchase transactions, refinances and assumptions. The language in the disclosure has been modified to include a notice to the consumer that they are not required to complete the loan agreement merely because they have received the disclosure or signed a loan application. MDIA requires additional language for the adjustable-rate loans (ARMs); however, this provision is still forthcoming by the Federal Reserve.

Initial Truth-In-Lending (TIL) Disclosure:

Under the new rule, estimated disclosures must be given no later than three business days after receipt of application for any consumer purpose mortgage and should include a Good Faith Estimate of Settlement Charges (GFE), Truth-in-Lending disclosure as well as a Servicing Transfer Disclosure.

Additionally, OCM will require the Mortgage Broker Agreement Disclosure on all loans effective immediately.

Waiting Periods:

The revised rule prohibits creditors, mortgage brokers, and any other person from imposing any fee other than a bona fide and reasonable credit report fee until the consumer has received the initial disclosures. If delivered by regular mail, the disclosures are considered received 3 business days after they are mailed. **Additionally, the loan cannot close (document signing) until 7 business days after the initial TIL disclosure has been mailed.**

If the APR at consummation increases by more than 0.125% from the previously disclosed APR, a re-disclosure TIL must be given. **The loan cannot close (document signing) until 3 business days after the re-disclosure TIL is received by the borrower {equal to a 7 day waiting period}.**

What this means for everyone is that if you are required to provide the borrower revised disclosures because the terms of the conditions of the transactions are changing to such a point that the APR will increase by the aforementioned ratio, **then you must wait at least 3 business days from the receipt of the corrected disclosures to close the mortgage.**

The business day definition for the purpose of waiting periods is the same as the definition used for rescission, Monday-Saturday excluding legal public holidays.

Waiver of Seven and Three-Day Waiting Periods:

Both the seven-day and three-day waiting periods regarding TIL Statement disclosure can be shortened or waived if the extension of credit is necessary to meet a bona fide financial emergency. If re-disclosure of the TIL Statement is again out of tolerance subsequent to this waiver, the waiver is no longer effective. In order to request this waiver, a pre-printed form *cannot* be used. The consumer must prepare a dated written statement, signed by each consumer that will be legally obligated and entitled to receive the TIL Statement (including conveyance of homestead rights), detailing the specific emergency and specifies that request for waiver of the waiting period. This waiver should follow regulatory requirements for waiving rescissions rights and waiving a waiting period prior to consummation of a high cost loan under HOEPA. **All decisions by OCM underwriting staff to either grant or deny such waiver request is final; no exceptions!**

Exclusions:

These requirements are not applicable, and there have been no changes at this time to Home Equity Lines of Credit requirements.

If you have any questions, please contact your Account Executive.
Thank you.

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