

30 Days Into TRID, What Do We Know Now? *Questions & Answers*

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Since the implementation of the TILA-RESPA Integrated Disclosure (“TRID”) rules, we have received hundreds of questions concerning the new disclosure requirements. Below is a compilation of the most frequently asked questions and answers. For additional information or advice on navigating TRID, please contact Daniella Casseres at dcasseres@offitkurman.com.

Q. Do you need to send all required 3 day disclosures if the individual is just shopping?

A. The TRID rules require that you send a LE and the home loan toolkit, when applicable, within 3 business days of receiving an application. An application for purposes of this rule, means the receipt of the following six pieces of information: name, income, social security number, property address, estimate of the value of the property, and loan amount sought. Prior to imposing any fees from the borrower on the transaction, except for reasonable credit report fees, you must also ensure that the borrower has received the LE and indicated an intent to proceed.

Q. Can you send the CD instead of a revised LE to avoid the additional wait?

A. The CD should indicate final loan terms and closing costs and must be provided to the borrower 3 business days before consummation. While originators may provide the CD after the delivery of the LE, it is important to note that lenders may not generally use the CD to re-baseline fees subject to tolerance limits except in very limited circumstances. As such, disclosing the CD too early in the process may subject a lender to tolerance cures.

Q. Must the “electronic” version of the CD be “signed” via electronic delivery or just “received”?

A. The TRID rules do not require a signature on the CD. However, investors may require a signature on the CD in order to prove that a CD has been received three days prior to consummation.

Q. Can you send a CD to re-disclose for the lock or does the lock re-disclosure have to be done on an LE?

A. Once you have issued a CD, any terms or costs that change must be re-disclosed on a revised CD. If you have sent out a CD, and fees that are subject to tolerance limits change as a result of the lock, you can re-set tolerance limits on the CD if you have a valid changed circumstance within the three business day waiting period before consummation.

Q. If a fee is disclosed on a LE a title search fee of \$250.00 and the actual cost comes in at \$350.00 can we do a change in circumstance to increase the fee to reflect the current cost and if not, what do can we do?

A. Title search fees are subject to tolerance limits. If there is a valid changed circumstance underlying the change in cost, then you can increase the fee and re-disclose the LE. A valid changed circumstance is: an extraordinary event beyond the control of any interested party or other unexpected event specific to the consumer or the transaction; information specific to the consumer or transaction that the creditor relied upon when providing the LE and that was inaccurate or changed after the disclosures were provided; or new information specific to the consumer or the transaction that the creditor did not rely on when providing the LE. Absent a valid changed circumstance you may not increase this fee to the borrower. It is important to ensure that your title companies clearly communicate fees prior to issuing the LE to avoid curing these costs based on error or underestimating costs.

Q. Can the re-disclosed CD be provided at consummation?

A. Yes. The CD can be provided at consummation, so long as the changes on the CD do not cause the APR to become inaccurate, change the loan product, or add a prepayment penalty. If the APR changes and becomes inaccurate, the loan product changes, or a prepayment penalty is added, you must re-disclose the CD at least three business days before consummation.

Q. If tolerances are not exceeded but fees change on a CD, do you still have to correct the CD to show actual fees?

A. Yes. Any changes to terms or costs prior to consummation must be disclosed on a revised CD.

Q. Whose number goes on the CD when working with a real estate team?

A. The name, license, and contact information of each real estate broker that worked on the transaction should be included on the CD.

Q. What is the tolerance if the borrower goes with the title company the seller selects?

A. If you disclose a fee on the LE as a service that the borrower can shop for, provide the borrower with a written list of available service providers, and state that the consumer may choose a different provider of that service, and the borrower elects to choose another service provider, then there is no tolerance limit on that service.