Mortgage Disclosure Improvement Act

The mortgage industry is certainly undergoing many changes to help provide homebuyers better information when it comes to financing a home. imortgage is providing this document to help you understand some of the new regulations and investor requirements that are taking effect – especially those that impact timelines. imortgage is dedicated to working with our trade partners and industry colleagues to help ensure these changes do not detract from an outstanding experience for our mutual customers.

HOEPA, HERA and TILA – Background Information

In 2008, the Home Ownership and Equity Protection Act (HOEPA) and the Housing and Economic Recovery Act (HERA) were passed by Congress, and the Federal Reserve Board published the regulations under the Truth In Lending Act (TILA). These regulations were written to provide a more transparent, level and fair regulation of the real estate industry; to add additional steps to help prevent deceptive lending practices; and to protect consumers by making them more informed – and therefore more confident – in their home financing choices. Additionally, Fannie Mae and Freddie Mac adopted the Home Valuation Code of Conduct (HVCC) in 2008 to reinforce appraiser independence, valuation protections, and enhance the overall integrity of the valuation process.

HVCC	Effective May 1, 2009	Promotes the accuracy of appraisals by shielding appraisers from undue influence and ensuring that borrowers have sufficient notice of appraisal content by requiring that borrowers receive a copy of their appraisal reports no less than 3 days prior to the closing of their loan, absent a borrower wavier of this requirement.
HERA	Effective July 30, 2009	Amends the Truth InLending Act (TILA), implemented through Regulation Z. Has a number of provisions including the Mortgage Disclosure Improvement Act, which changes the Truth In Lending Act requirements surrounding early and final disclosures to homebuyers and addresses the timing of when fees can be charged.

New HERA regulations may affect your borrowers' closing expectations

The HERA regulation goes into effect with all loan applications taken on, or after, **July 30, 2009**. This regulation requires all mortgage lenders and brokers to provide Truth In Lending (TIL) disclosures to borrowers according to a defined schedule. This schedule may alter your borrowers' closing date expectations. The regulation is in the best interest of our borrowers, so it's imperative that we all understand and implement it thoughtfully and consistently. In addition, we all need to work together to ensure the changes that will result from this regulation are understood by our borrowers and trade partners.

Four key elements you need to know

1 If the homebuyer is financing the property, these new regulations and investor guidelines will impact – and could even dictate – the closing date.

Historically, homebuyers and sellers would agree on a closing date, and then service providers – including lenders – would work toward meeting that date. Going forward, purchase contracts can still be written with a specific closing date in mind, but all parties need to take into account that the earliest any home purchase transaction can close is ***7 business days after*** the homebuyer is sent his or her initial mortgage disclosures from the lender.

Loans cannot close until after 7 business days have elapsed from the time the initial disclosures are sent.

2 Upfront fees cannot be collected by the lender (except for a credit report fee) until the initial disclosures are "*received*" by the borrower.

In the past, upfront fees could be collected at the time of loan application for both in person, telephonic and internet loan applications. Moving forward, the homebuyer must receive his or her initial disclosures before upfront fees can be collected.

Check the calendar on the following pages to see examples of the timeframes.

3 The borrower must be provided with a copy of his or her appraisal a minimum of *3 business days* prior to closing.

imortgage has elected to rely on the Mortgage Planner and Processor to deliver the appraisal report to the borrower. This means the borrower must receive his or her appraisal report at least ***3 business days prior*** to the mortgage closing. If the borrower believes the 3-busienss-day required review period is not necessary for whatever reason, he or she has the right to waive that requirement by providing a written waiver at least ***3 business days prior*** to the mortgage closing

4 An increase of more than 0.125% in the Annual Percentage Rate (APR) from the initial Truth In Lending Disclosure (TIL) requires the TIL and Good Faith Estimate (GFE) disclosures to be revised and reissued to the homebuyer. If the APR increases by more than 0.125% at any time after revised TIL and GFE disclosures have been reissued, another TIL and GFE must be revised and reissued. The homebuyer must receive the revised TIL disclosure at least *3 business days prior* to closing, providing the homebuyer with the time required to determine if he or she is comfortable with his or her loan choice.

A more typical contract date may be 21-30 days – or possibly longer (such as with new construction loans.) Considering that many things occur and may be changed or finalized throughout the course of the transaction, there are a number of things that can impact the homebuyers APR. Therefore it is critical on the front end to ensure that the estimated fees on the initial disclosures are as accurate as possible.

Potential impacts to the APR

- *Unlocked rate*
- *Loan amount change*
- *Incorrect MIP %*
- *Program change*
- *Rate re-lock or extension*
- *Change in closing date*
- *Impound fees*
- *Changes to fees, inclusive of settlement agent fees*

Key definitions

Business Day:	The days on which imortgage offices are open to the public for carrying on substantially all of its business functions. This is all calendar days excluding Saturdays, Sundays and specific Federal legal public holidays.
Initial TIL:	The Truth In Lending and Good Faith Estimate disclosures mailed or delivered at the time of loan application.
Corrective TIL:	The Truth In Lending and Good Faith Estimate disclosures that are required to be mailed or delivered to the borrower at least **3 Business Days** prior to the closing of the mortgage loan.
Final TIL:	The Truth In Lending and Good Faith Estimate disclosures delivered to the borrower at the closing of the mortgage loan.
Loan Application Date:	The date the loan application was taken by the interviewer regardless if the loan application was taken in person, by telephone or via the internet. This date is documented in Point as the Interviewer's Signature Date on Page 4 of the loan application, by the Submitted Date in Datatrac.
Upfront Fee:	Any fee except for the cost of a credit report that is collected from the borrower prior to closing.
Disclosures Delivery:	There are 5 methods to deliver disclosures. In Person ~ Email ~ Fax ~ Overnight Delivery ~ Regular Mail
Closing:	The date of the **signing** of final loan documents by the borrower.

Regulatory timelines

7 Day Waiting Period

A period of no less than 7 Business Days must be provided to the borrower after he or she completes the loan application in order for the loan to be eligible for closing.

3 Day Compliance Period

A period of no more than 3 Business Days may pass between the date of initial loan application and the date the Initial TIL is delivered or mailed to the borrower. This is referred to as the 3 Day Compliance Period as it allows the lender three business days in which to comply with the regulation. Unlike other regulatory timelines, the 3 Day Compliance Period does include Saturday as a business day.

3 Day Review Periods

Corrective TIL

A period of no less than 3 Business Days may pass between the date a Corrective TIL is delivered to the borrower and the date of the loan closing. This is referred to as the 3 Day Review Period, as it is designed to allow borrowers ample time to review the revised Truth and Lending and Good Faith Estimate disclosures prior to closing.

Appraisal

A period of no less than 3 Business Days may pass between the date a borrower is provided with a copy of the appraisal and the date of the loan closing. This is also referred to as the 3 Day Review Period, as it is designed to allow borrowers ample time to review the appraisal report prior to closing.

The new rules

The new regulations apply to all purchase and refinance mortgage transactions. The following is a list of inviolable rules that must be followed on every loan originated on or after July 30, 2009.

1 All regulatory timelines must be adhered to. No waivers of any regulatory timelines will be granted unless the borrower provides a request, in writing, citing definitive proof that the timeline will result in a significant financial burden. Such written requests will be reviewed by and approved at the discretion of one of the following executive managers:

Dean Bloxom, President
Jay D. Johnson, Chief Operating Officer
Dena Yocom, Executive Vice President
Dan Pena, Vice President

Please be advised that approval of a waiver is highly unlikely as most investors will not accept any request for a regulatory timeline waiver.

2 A Corrective TIL must be delivered to the borrower if a triggering event, such as a lock or change in fees, causes the Annual Percentage Rate (APR) to increase by more than 0.125%. Increases are calculated by comparing the most recently disclosed APR and the new APR.

3 The Final TIL will be delivered to closing as part of the document package. The Final TIL must be accurate, which means the APR stated on the Final TIL cannot be more than 0.125% greater than the most recent previously issued TIL, be it the initial TIL or a Corrective TIL.

4 Upfront fees cannot be collected until the day following the borrower's receipt of the Initial Disclosures except for a credit report fee.

5 All Initial and Corrective TILs must have documented sent and delivery dates. Acceptable proof of such dates varies depending on the delivery method as follows:

A. In Person – Signed and dated disclosures.

B. Email – Copy of the email sent to the borrower with the attached disclosures and either a return email from the borrower acknowledging receipt, read receipt or the signed and dated disclosures.

C. Fax – Copy of the fax confirmation page clearly showing the borrowers fax number, the date sent and the image of the TIL. A cover sheet will not suffice.

D. Overnight Delivery – Copy of the delivery receipt from the overnight carrier.

E. Regular Mail – You must allow 3 Business Days for delivery of the disclosures before the 3 Day Review Period can begin.

The new mortgage process and timeline

Perhaps the easiest way to understand the new process and timelines required by these regulations for a purchase transaction is with a calendar. Since most transactions are not "rush" deals – but rather close in a 21-30 day timeframe, the calendar below illustrates a desired 21 day close. It is wise to plan ahead to a target closing date when originating the loan.

Other assumptions in the illustration below:

- Loan application taken over the phone on July 30th.
- Initial disclosures sent regular mail the same day as the loan application.
- The homebuyer locks in the interest rate at least 10 business days prior to the desired closing date of August 19th.
- The estimated fees increased the APR more than 0.125% requiring a Corrective TIL to be delivered.
- The appraisal was ordered in accordance with imortgage HVCC policies and came in at or above value and the borrower received their copy of the appraisal report at least 3 Business Days prior to the desired close date of August 19th.
- The homebuyer signs and closes on August 19th.

August 2009

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				July 30 Loan application taken over phone Mail disclosures	*July 31* Day 1 Initial TIL mail delivery	*1*
2	*3* Day 2 Initial TIL mail delivery	*4* Day 3 Initial TIL mail delivery	*5* Earliest day to collect upfront fees Day 1 Initial TIL review	*6* Appraisal ordered Day 2 Initial TIL review	*7* Day 3 Initial TIL review	*8*
9	*10* Loan locked Corrected TIL mailed APR is Final	*11* Day 1 Corrective TIL mail delivery	*12* Appraisal received and emailed to borrower Day 2 Corrective TIL mail delivery	*13* Day 1 Appraisal review Day 3 Corrective TIL mail delivery	*14* Day 2 Appraisal review Day 1 Corrective TIL review	*15*
16	*17* Day 3 Appraisal review Day 2 Corrective TIL review	*18* Day 3 Corrective TIL review	*19* Homebuyer can sign closing documents	*20*	*21*	*22*
23	*24*	*25*	*26*	*27*	*28*	*29*
30	*31*					

Note: If the Loan Application is taken in person (instead of a phone application in the example above), then we may be ready to close sooner because the initial disclosures are issued and any upfront fees can be collected at application.