

TILA-RESPA Integrated Disclosure FAQs

The questions and answers below pertain to compliance with the TILA-RESPA Integrated Disclosure Rule (TRID or TRID Rule). Reviewing these questions and answers is not a substitute for reviewing TILA, RESPA, Regulation Z, or its official interpretations (also known as the commentary). The statutes, Regulation Z, and its official interpretations are the definitive sources of information regarding the requirements.

Corrected Closing Disclosures and the Three Business-Day Waiting Period before Consummation

QUESTION 1:

If there is a change to the disclosed terms after the creditor provides the initial Closing Disclosure, is the creditor required to ensure the consumer receives a corrected Closing Disclosure at least three business days before consummation?

ANSWER (UPDATED 1/25/2019):

It depends on the type of change. As discussed below, there are three types of changes that require a creditor to ensure that the consumer receives a corrected Closing Disclosure at least three business days before consummation. For other types of changes, a creditor is not required to ensure that the consumer receives a corrected Closing Disclosure at least three business days before consummation, but is required to ensure that the consumer receives a corrected Closing Disclosure at or before consummation.

A creditor must ensure that a consumer receives an initial Closing Disclosure no later than three business days before consummation. 12 CFR § 1026.19(f)(1)(ii)(A). If the disclosed terms change after the creditor has provided the initial Closing Disclosure to the consumer, the creditor must provide a corrected Closing Disclosure to the consumer. Unless the change is

one of the three types of changes discussed below, it is sufficient if the consumer receives the corrected Closing Disclosure at or before consummation. 12 CFR § 1026.19(f)(2)(i). This means that, for most types of changes, the creditor can consummate the loan without waiting three business days after the consumer receives the corrected Closing Disclosure.

However, the creditor must ensure that a consumer receives the corrected Closing Disclosure at least three business days before consummation of the transaction if: (1) the change results in the APR becoming inaccurate; (2) if the loan product information required to be disclosed under the TRID Rule has become inaccurate; or (3) if a prepayment penalty has been added to the loan. 12 CFR § 1026.19(f)(2)(ii). Any of these three types of changes triggers a new three business-day waiting period, and the creditor must wait three business days after the consumer receives the corrected Closing Disclosure to consummate the loan.

More information on the timing requirements for providing initial Closing Disclosures and corrected Closing Disclosures is available in Sections 11 and 12 of the [TILA-RESPA Rule Small Entity Compliance Guide](#).

QUESTION 2:

Is a creditor required to ensure that a consumer receives a corrected Closing Disclosure at least three business days before consummation if the APR decreases (i.e., the previously disclosed APR is overstated)?

ANSWER (UPDATED 1/25/2019):

The answer depends on whether the overstated APR that was previously disclosed on the Closing Disclosure is accurate or inaccurate under Regulation Z. If the overstated APR is accurate under Regulation Z, the creditor must provide a corrected Closing Disclosure, but the creditor is permitted to provide it at or before consummation without a new three business-day waiting period. 12 CFR § 1026.19(f)(2)(i). If the overstated APR is inaccurate under Regulation Z, the creditor must ensure that a consumer receives a corrected Closing Disclosure at least three business days before the loan's consummation (i.e., the inaccurate APR triggers a new three-business day waiting period). 12 CFR § 1026.19(f)(2)(ii).

A disclosed APR is accurate under Regulation Z if the difference between the disclosed APR and the actual APR for the loan is within an applicable tolerance in Regulation Z, 12 CFR § 1026.22(a). For transactions secured by real property or a dwelling, Regulation Z includes several tolerances that might apply, including a tolerance whereby the disclosed APR is considered accurate if it results from the disclosed finance charge being overstated. See 12

CFR § 1026.22(a)(4). For example, if the APR and finance charge are overstated because the interest rate has decreased, the APR is considered accurate. Thus, the creditor may provide the corrected Closing Disclosure to the consumer at consummation, and is not required to ensure that the consumer receives the corrected Closing Disclosure at least three business days before consummation.

Additional information related to APR accuracy is available in the Federal Reserve's Consumer Compliance Outlook, First Quarter 2011 available at:

www.consumercomplianceoutlook.org/2011/first-quarter/mortgage-disclosure-improvement-act/.

QUESTION 3:

Does Section 109(a) of the Economic Growth, Regulatory Relief, and Consumer Protection Act affect the timing for consummating a transaction if a creditor is required to provide a corrected Closing Disclosure under the TRID Rule?

ANSWER (UPDATED 1/25/2019):

No. Section 109(a) of the Economic Growth, Regulatory Relief, and Consumer Protection Act (2018 Act) did not change the timing for consummating transactions if a creditor is required to provide a corrected Closing Disclosure under the TRID Rule.

Section 109(a) of the 2018 Act, which is titled "No Wait for Lower Mortgage Rates," amends Section 129(b) of the Truth in Lending Act (TILA). TILA Section 129(b) governs when certain disclosures must be provided for high cost mortgages and the waiting periods for consummating a transaction after the creditor has provided those high cost mortgage disclosures. 15 U.S.C. § 1639. For more information on high cost mortgages, see Regulation Z, 12 CFR §§ 1026.31, .32, and .34.

As discussed in the FAQs above, if the APR disclosed pursuant to the TRID Rule becomes inaccurate, the creditor must ensure that a consumer receives the corrected Closing Disclosure at least three business days before consummation of the transaction. 12 CFR § 1026.19(f)(2)(ii). This requirement arises from TILA Section 128, 15 U.S.C. § 1638, and is separate and distinct from the waiting period requirement in TILA Section 129(b). Therefore, Section 109(a) of the 2018 Act did not create an exception to the waiting period requirement under TILA Section 128, and does not affect the timing for consummating transactions after a creditor provides a corrected Closing Disclosure under the TRID Rule.

However, as noted in the FAQ above, an overstated APR is not inaccurate if it results from the disclosed finance charge being overstated, and a creditor is not required to provide a new three-business day waiting period in these circumstances. Thus, if the disclosed APR decreases due to a decrease in the disclosed interest rate, a creditor is not required to provide a new three-business day waiting period under the TRID Rule.

Model Forms

QUESTION 1:

Does a creditor's use of a model form provide a safe harbor if the model form does not reflect a TRID Rule change finalized in 2017?

ANSWER (UPDATED 1/25/2019):

Yes. As the Bureau noted in finalizing the 2017 changes to the TRID Rule, a creditor is deemed to be in compliance with the disclosure requirements associated with the Loan Estimate and Closing Disclosure if the creditor uses the appropriate model form and properly completes it with accurate content. 82 Federal Register 37,761-62. See also 15 U.S.C. § 1604(b).

Appendix H to Regulation Z includes blank model forms illustrating the master headings, headings, subheadings, etc., that are required by Regulation Z, 12 CFR §§ 1026.37 and 1026.38. These blank model forms for the Loan Estimate are H-24(A) and (G) and H-28(A) and (I). For the Closing Disclosure, they are H-25(A) and (H) through (J), and H-28 (F) and (J).

Appendix H to Regulation Z also includes non-blank model forms. These non-blank model forms for the Loan Estimate are H-24(B) through (F) and H-28(B) through (E). For the Closing Disclosure, they are H-25(B) through (G) and H-28(G) and (H).

To the extent that the appropriate model form is properly completed with accurate content, the safe harbor is met. The safe harbor applies even if the model form does not reflect the changes to the regulatory text and commentary that were finalized in 2017.

For example, the regulatory text provides that the percentage amount required to be disclosed on the Loan Estimate line labeled "Prepaid Interest (___ per day for __ days @__ %)" is disclosed by rounding the exact amount to three decimal places and then dropping any trailing zeros that occur to the right of the decimal point. 12 CFR § 1026.37(g)(2)(iii) and (o)(4)(ii). However, on page 2 of model form H-24(C), section F, the interest rate disclosed on the line for

prepaid interest includes two trailing zeros that occur to the right of the decimal point. Thus, a creditor could claim the safe harbor by disclosing the interest rate on the “Prepaid Interest” line by including two trailing zeros, or otherwise could comply with § 1026.37(o)(4)(ii) by rounding the exact amount to three decimal places and dropping any trailing zeros that occur to the right of decimal point. For example, assuming that the interest rate for the transaction being disclosed is four percent, the creditor could claim the safe harbor by disclosing “4.00%” (consistent with the model form) although it also could disclose “4%” (consistent with the regulatory text and commentary).