

NEW TRID RULE SUMMARY FOR REAL ESTATE EDUCATORS

In November 2013, the Consumer Financial Protection Bureau (CFPB) integrated the Real Estate Settlement Procedures Act (RESPA) and Truth in Lending Act (TILA) disclosures and regulations. The new TILA-RESPA Integrated Disclosure (TRID) forms were to be implemented on August 1, 2015. An administrative issue caused the CFPB to delay implementation, and a new effective date of Saturday, October 3, 2015 has been announced.

In anticipation of this change, the current PSI National Sales and Broker exams are currently silent on the new TRID forms and rules about the timing of disclosures and provision of estimates, until the rule change is complete. The term "HUD-1" will continue to appear as a general reference to the closing statement until the new forms come into use, **but no active items deal with the aspects of the closing statement that are affected by the new TRID rule.**

PSI has prepared new items to address the new TRID rule and will wait before adding these items to the exams until the new rules take effect. At that time, the items addressing the new TRID forms will be added to the exams in a pretest status to gather candidate performance statistics. Items that perform well statistically will be incorporated as scored items on the National Broker exam when the exams are republished in January 2016 and to the National Sales exam when they are republished later in 2016.

WHAT IS TRID?

This acronym stands for **TILA-RESPA Integrated Disclosures** and refers to new forms that will replace the current HUD-1 form, the Good Faith Estimate and the existing Truth-in-Lending (TIL) disclosures. These forms integrate the existing disclosures with new provisions of the Dodd-Frank Act intended to make the mortgage process clearer to consumers. As a result of this new rule, two new forms will be used for essentially all real estate transactions involving a new closed-end consumer mortgage application.

These new forms are called the **Loan Estimate (LE)** and the **Closing Disclosure (CD)**.

The Loan Estimate replaces the Good Faith Estimate (GFE) and the initial TIL disclosure. It provides somewhat more and clearer information to consumers to make comparison shopping easier and to ensure that consumers understand loan and closing costs. The Loan Estimate must be provided to the consumer within three days of the submission of a loan application, and the consumer must acknowledge receiving it.

The Closing Disclosure replaces the HUD-1 and the final TIL disclosure, and the TIL forms that summarized both TIL disclosures. The Closing Disclosure must be received by the consumer three days before closing, and the lender must have proof of receipt.

It is the **lender** who is responsible for the timely delivery of documents to the consumer, and who may also be liable if certain costs exceed the tolerance limitations that TRID establishes, so it changes the relationship between lenders and mortgage brokers. TRID also increases the likelihood of transactions

being delayed, because any changes between the delivery of the Closing Disclosure and the closing date will trigger a new 3-day waiting period.

WHAT TRANSACTIONS ARE AFFECTED?

As noted above, nearly all closed-end consumer mortgage loans will require the use of the new TRID forms and adherence to the deadlines they prescribe. They are to be used on all new loan applications received by lenders. The new forms become mandatory on October 3, 2015.

The TRID rule does not apply to

1. HELOCS (Home Equity Lines of Credit)
2. Mortgages secured by mobile homes or other “movable” dwellings that are not permanently attached to real estate
3. Reverse mortgages

WHAT DO REAL ESTATE LICENSEES NEED TO KNOW?

TRID does not impose any specific responsibilities upon real estate brokers or salespersons, but it changes some aspects of mortgage lending and closing in ways that real estate agents need to understand in order to educate their clients and manage transactions without undue delays. They also need to know the names and functions of the new forms and how they correspond to the forms they are replacing so that they can discuss them knowledgeably, especially with clients and customers who have been involved in previous real estate transactions and may have questions about the “missing” forms that will no longer be used and the unfamiliar new documents.

The key issue is that the disclosures required by the new TRID rule will change the timing for transactions that involve a mortgage. The potential for various delays is much greater than in the past and real estate licensees need to caution their clients and customers. **PSI does NOT claim to have the expertise to project potential issues, but other experts have predicted the following likely changes in the way transactions are handled:**

- The Closing Disclosure is likely to be prepared and delivered by the lender, not an escrow company or the closing agent.
- The Closing Disclosure will be provided to the closing agent by the lender, but the closing agent may not send a copy to the real estate agent. A real estate licensee who is not the closing agent will need to obtain the CD from the lender or the borrower in order to review it in advance.
- Real estate licensees who act as closing agents (or who provide instructions to escrow companies that handle their closings) will need to be sure that the lender receives all necessary information about 10 to 14 days before the closing date in order to be confident that the Closing Disclosure can be prepared and delivered to the buyer at least three business days before the

scheduled closing. This will include information on any buyer-paid charges, seller-paid charges and the license numbers of the real estate brokerage company and the individual licensee handling the transaction.

- The Loan Estimate must be provided within three business days of receiving the loan application, and the prospective borrower then has 10 days to respond as to whether he or she wishes to proceed. Although the lender may pull a credit report, the lender is NOT permitted to verify or document the loan applicant's claimed income before providing the Loan Estimate. This may mean that initial "prequalification" of a borrower becomes fairly meaningless!
- It may not be realistic to specify a 30-day closing under the new TRID rule. Contract forms should be reviewed and adjusted if they specify a set number of days for the closing to occur – adding 15 additional days would be prudent, and specifying a particular closing date would need to involve communication with the lender to determine what is realistic.
- Any significant change to the loan (e.g. a different loan product, a change in APR, the addition of a prepayment) triggers a new 3-day waiting period for the CD.
- Last minute negotiations will pose a significant risk of delaying closing. Scheduling back-to-back closings when the sale of one property is a contingency in the contract for another property may not be wise as the risk of delay in the first transaction becomes higher.

WHAT WILL PSI TEST?

PSI will test at least, but not necessarily ONLY, the following:

The names and purposes of the new forms, and possibly the forms they replace

The time limits and receipt acknowledgement for delivery of the LE and the CD

The changes that can trigger new waiting periods, and the risk of delay posed by making any contract changes after delivery of the CD

HOW CAN I LEARN MORE?

The following web pages from the National Association of Realtors and the Consumer Finance Protection Bureau contain a great deal of additional information about the new TRID rule and are considered by PSI to be authoritative.

<http://www.realtor.org/topics/trid-tila-respa-integrated-disclosure>

http://files.consumerfinance.gov/f/201503_cfpb_tila-respa-integrated-disclosure-guide-to-the-loan-estimate-and-closing.pdf