# TILA-RESPA Integrated Disclosure Rule Frequently Asked Questions

These frequently asked questions (FAQs) are intended to help you understand and implement the TILA-RESPA Integrated Disclosure Rule guidelines that take effect October 3, 2015.

## Topics



## Definitions

**Q: What is the definition of an application?**

A: An application is comprised of the following six pieces of information: the borrower's name, income, and Social Security number, and the subject property address, estimate of property value, and the loan amount sought. An application may be in written or electronic format. (If the application was received orally, there still must be a written record.)

**Q: Why did the definition of an application change?**

A: The CFPB's final rule adopted RESPA's existing definition of "application" but revised it slightly. RESPA's definition includes the catch-all phrase "and other information deemed necessary by the loan originator". This phrase is not included in Regulation Z's new definition of "application" to promote consistency amongst lenders and provide clarity to borrowers.

Note: Avoid collecting the application information pieces that trigger the disclosure time clock before you intend to.

**Q: If the borrower provides their income over the phone, does this count as submission of a piece of "application" information?**

A: Yes, if the submission was to obtain an extension of credit and a written record of the income is created.

# TILA-RESPA Integrated Disclosure Rule FAQs Cont.

## Definitions

**Q: To avoid collecting information that triggers an "application", can we request additional information before, for example, the SSN, or do all six pieces of application information need to be collected at one time?**

A: The six pieces of application information do not need to be collected at one time.

The CFPB has stated that "sequencing" application information is allowed. In other words, the regulation does not dictate any order to the application information received. Therefore, you may request additional information such as the products the potential applicant is interested in, etc. before acquiring all information that would trigger the definition of an application.

However, a creditor may not condition providing the Loan Estimate on a consumer submitting documents verifying information related to the loan application before providing the Loan Estimate.

**Q: The final rule requires that disclosures be provided before consummation of the transaction. How is the term "consummation" defined?**

A: Regulation Z defines consummation as the time that a consumer becomes contractually obligated to a lender on a credit transaction.

**Q: What is the definition of a business day?**

A: For purposes of providing the Loan Estimate, a business day is defined as a day on which the lender's offices are open to the public. For purposes of providing the Closing Disclosure, a business day is defined as any calendar day except Sundays and legal public holidays such as New Year's Day, Martin Luther King Jr.'s Birthday, Washington's Birthday (aka President's Day), Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day.

**Q: What is the definition of a "changed circumstance"?**

A: Changed circumstances include:

- An extraordinary event beyond the control of any interested party or other unexpected event specific to the borrower or the transaction
- Information specific to the borrower or transaction that the lender relied upon when providing the Loan Estimate that was inaccurate or changed after the disclosures were provided
- New information specific to the borrower or transaction that the lender did not rely on when providing the Loan Estimate

  Note: A changed circumstance triggers a revised Loan Estimate.

# TILA-RESPA Integrated Disclosure Rule FAQs Cont.

## Coverage

**Q: Does the integrated disclosure rule apply to home equity loans?**

A: Yes. The final rule applies to most closed-end consumer mortgages secured by real property; this includes a closed-end home equity loan. It does not apply to home equity lines of credit (HELOCs), reverse mortgages, or loans secured by a mobile home or by a dwelling that is not attached to real property. Also note that certain types of loans that are currently subject to TILA but not RESPA are subject to the TILA-RESPA rule's integrated disclosure requirements, if the loans are for consumer purpose. Examples of these types of loans are construction-only loans, loans secured by vacant land, or by 25 or more acres, and credit extended to certain trusts for tax or estate planning purposes.

**Q: Can a loan be covered by RESPA for one purpose and not for another or is a loan a RESPA loan for all purposes or none? For instance, can a loan not be a RESPA loan in regard to disclosures (GFE, TIL, etc.), but be a RESPA loan for purposes of paying interest on a tax escrow account?**

A: No. Currently, RESPA applies to all federally related mortgage loans, unless a specific exemption applies. Once a loan falls into the federally related mortgage category, all provisions within RESPA/Regulation X would apply to that transaction including disclosures, prohibitions against kickbacks, escrow requirements, etc.

## Loan Estimate Disclosures

**Q: Will we use the Broker's LE and re-disclose it as we do now?**

A: The process will be similar to the current GFE process. We will accept the Broker's Loan Estimate, provided that it is properly validated and approved. (12 CFR 1026.19(e)(1)(ii)

**Q: Will the broker be required to disclose the initial LE to their borrower(s) from our InterFirst Validator or from their own system (LOS), i.e. Calyx Point, or both?**

A: The LE is not required to be disclosed from our InterFirst Validator. Brokers can use our system as a document generator, but should not generate multiple LEs (one from their own LOS and another from our Validator). However, we are not allowed to issue a follow up, subsequent LE to correct technical or clerical errors. (Comment 19(e)(1)(ii) -2)

# TILA-RESPA Integrated Disclosure Rule FAQs Cont.

## Loan Estimate Disclosures

**Q: If the borrower acknowledges upfront via email the receipt of InterFirst's initial disclosures within 48 hours, that triggers our system and we are able to collect fees (i.e. appraisal can be ordered). However, if for some reason, the borrower does not acknowledge receipt upfront, and the disclosures drop to postal mail delivery, can we do something where the borrower requests to receive the Closing Disclosure via email and he/she/they will acknowledge receipt of such so there are not more delays? In other words, our goal is to have a 3 business day waiting period for receipt of the Closing Disclosure versus 6 business days because of postal mail.**

A: The delivery process is similar to the process now. Time frames are set in the regulation; however, if we have evidence of receipt, we use that date. For example, if we send disclosures via overnight delivery and the consumer signs for receipt of the disclosures, we can use that date. (Comment 19(e)(1)((iv) – 1).

However, we will not order appraisals until we have reviewed and accepted the LE and the Intent to Proceed.

**Q: Do the fees for services that are not required by the lender need to be disclosed on the Loan Estimate?**

A: Yes. The lender must itemize the fees in the column titled "Other" in the Closing Cost Details on page 2 of the Loan Estimate. Regulation states that "any other amounts in connection with the transaction that the consumer is likely to pay or has contracted with a person other than the creditor or loan originator to pay at closing and of which the creditor is aware" must be disclosed.

Examples include the commissions of real estate brokers or agents, additional payments to the seller to purchase personal property, HOA and condo fees associated with the transfer of ownership, inspection fees not required by the creditor but paid by the borrower, and personal attorney fees.

**Q: For fees that cannot change, is a Loan Estimate considered accurate if the amount of some fees goes down?**

A: Yes. The Loan Estimate is considered to be accurate and in good faith if the lender charges the borrower less than the amount disclosed on the Loan Estimate, without regard to tolerance limitations.

**Q: What is TIP?**

A: TIP stands for Total Interest Percentage, the total amount of interest that the borrower will pay over the life of the loan, expressed as a percentage of the amount of credit extended. For example, if the Loan Amount is $200,000 and the total amount of interest that the borrower will pay over the Loan Term is $50,000, then the TIP is 25%.

# TILA-RESPA Integrated Disclosure Rule FAQs Cont.

## Loan Estimate Disclosures

**Q: What if the lender does not have the information to calculate various costs such as appraisal fees, tax service fees, etc.? Can the lender over-estimate the fee and then lower the amount?**

A: A Loan Estimate is considered to be in good faith if the lender charges the borrower less than the amount disclosed on the Loan Estimate, without regard to tolerance limitations. However, estimates should use the best information available at the time of disclosure. When estimated figures are used, they must be specified as such on the Loan Estimate.

**Q: Is it still allowed to do a CIC to add a 1004d (condo questionnaire) if it is not disclosed originally as a condo, etc.?**

A: Valid CICs remain in place for TRID. We may use revised estimate charges instead of the charges originally disclosed if the revision is due to the following:

i. An extraordinary event beyond the control of any interested party or other unexpected event specific to the consumer or transaction;

ii. Information specific to the consumer or transaction that the creditor relied upon when providing the disclosures required under paragraph (i) of this section and that was inaccurate or changed after the disclosures were provided; or

iii. New information specific to the consumer or transaction that the creditor did not rely on when providing the original disclosures required under paragraph (i) of this section. (12 CFR 1026.19(e)(3)(iv)(A)

Ex: Assume the affiliated appraisal was ordered based upon information provided by the consumer as a single family home and disclosed as $200. When the appraiser arrives, the property is discovered to be a single family home on a farm and the schedule of fees for such an appraisal is $400. This equals a valid change in circumstances and the tolerance is based upon the $400, not the $200 originally disclosed if we re-disclose the $400. (Comment 19(e)(3)(iv)(A) – 1(i))

## Closing Disclosures

**Q: For an escrow state such as California, the term consummation means when the borrower signs the note. The note does not have a date field. Can we assume the date the note is signed will be used to determine if the 3-day waiting period expired?**

A: Yes. If consummation occurs when the borrower signs the note, then the date to determine compliance with the 3-day rule will likely be the date next to the borrower's signature.

**Q: What if there are changes at closing, will we accept CD to make changes?**

# TILA-RESPA Integrated Disclosure Rule FAQs Cont.

## Closing Disclosures

A: InterFirst will generate the closing disclosure. Brokers are not responsible for the generation of the document. Changes can occur at closing; however, if any of the following occur after the issuance of a Closing Disclosure:

i. Change in the APR of 1/8th or more,

ii. Change in Product Type (ARM to Fixed, 7/1 ARM to 5/1 ARM), or

iii. Addition of a prepayment penalty,

New, corrected disclosures must be provided and a new three (3) day waiting period will be required.

**Q: In states such as California, we fund the loan on one day and close/record the transaction on the next day. Is the requirement to provide the Closing Disclosure three days before consummation based on the funding date or the closing/recording date?**

A: The borrower must receive the Closing Disclosure no later than three business days before consummation. Consummation occurs when the borrower becomes contractually obligated on the loan. The point in time when a borrower becomes contractually obligated to the lender on the loan depends on applicable state law.

In California, as long as the loan documents identify the lender, consummation occurs when the borrower signs the loan documents, which generally happens at closing. So the Closing Disclosure would need to be provided three days prior to the closing.

## Tolerances/Variations

**Q: Will the fees validator let us run the numbers before we register the loan? Or, do we need to know if we need fees in or fees out? If we have to switch it, does this need to be a whole new loan number?**

A: Loans must be registered to use the Validator.

**Q: Are there still built in tolerances for title fees in the InterFirst Validator based on our vendor's recommendations?**

A: Yes. We use historical data to validate title fees and Brokers must establish the validity of the fee if it breaches historical tolerances.

**Q: Is the annual percentage rate tolerance still .125%?**

A: Yes. The annual percentage rate (APR) tolerance is still 1⁄8 of 1 percentage point (.125%).

**Q: What charges may change without regard to the 10% cumulative tolerance limitation?**

# TILA-RESPA Integrated Disclosure Rule FAQs Cont.

## Tolerances/Variations

A: The following charges are not subject to tolerance limitations:

- Prepaid interest, property insurance premiums, escrow amounts, impounds, and reserves
- Services required by the lender if the lender permits the borrower to shop and the borrower selects a third-party service provider not on the lender's written list of service providers
- Charges paid to third-party service providers for services not required by the lender (may be paid to affiliates of the lender)

**Q: What charges are subject to the 10% cumulative tolerance limitation?**

A: The lender may charge the borrower more than the amount disclosed on the Loan Estimate, but the total sum of all the charges may not exceed the sum of all the charges on the Loan Estimate by more than 10%.

The charges subject to the 10% cumulative tolerance limitation are:

- Recording fees
- Charges for third-party services where the charge is not paid to the creditor or an affiliate of the creditor, the consumer is allowed to shop for the third-party service and the consumer selects a third-party provider on the creditor's written list of service providers.

**Q: Does the Loan Estimate or Closing Disclosure have to be re-disclosed if the fees subject to the 10% tolerance limitation change?**

A: Re-disclosure is not required until the cumulative total of the fees reaches 10% (unless the change is due to the borrower's request).

**Q: What charges are subject to zero tolerance?**

A: Fees paid to the lender, broker, or an affiliate of either, fees paid to an unaffiliated third party if the lender did not permit the borrower to shop for a service provider, and transfer taxes cannot increase.

**Q: When the Broker is suggesting other services the borrower can shop for, does the Broker use their own form or will we require them to use our form?**

A: The Broker is not required to use an InterFirst form; however, they must provide a service provider list to InterFirst's Receiving Dept. for review and we suggest that it substantially match the forms provided by the CFPB.

**Q: For a purchase transaction in Illinois, the seller's attorney always orders title. Do we show this fee as a title charge under Services You Can Shop For? If not, which section should this go under?**

# TILA-RESPA Integrated Disclosure Rule FAQs Cont.

## Tolerances/Variations

A: InterFirst's policy is that borrowers can shop for title services and it should remain under Services You Can Shop For.

**Q: Regarding transfer taxes – we have been told by our lenders to disclose this to our buyers regardless of how title companies show it on the HUD-1. The LE and CD will be the same correct? Should we show only the actual transfer stamps the buyer pays or all of the transfer taxes paid on the transaction?**

A: The LE should show only what the borrower is responsible for.

**Q: For the owner's policy on a purchase – on the GFE we had to show the owner's policy cost even if the borrower was not responsible for the cost. Since the buyer does not pay for the owner's policy, do it need to be disclosed on the LE?**

A: No

## Rate Lock

**Q: Is a lender required to send a revised disclosure for a rate lock when the interest rate remains the same?**

A: The regulation is not clear on whether a revised disclosure is required when the rate that is locked is the same rate that was originally disclosed. It says, *"[n]o later than three business days after the date the interest rate is locked, the creditor shall provide a revised version of the disclosures required under paragraph (e)(1)(i) of this section to the consumer with the revised interest rate, the points disclosed pursuant to § 1026.37(f)(1), lender credits, and any other interest rate dependent charges and terms." §1026.19(e)(3)(iv)(D).*

The regulation does not explicitly state that a revised loan estimate needs to be provided if there is a rate lock that does not change any of the charge information, but that is the implication. As the rules are not clear on this matter, it is best to consult with a legal professional for guidance.

**Q: If the loan is not locked at the time of initial disclosure and then locked - does this mean we cannot add any origination fees if they were not disclosed initially?**

# TILA-RESPA Integrated Disclosure Rule FAQs Cont.

## Rate Lock

A: Technically, a lender can always send a revised disclosure that contains new origination fees. The TRID rule does allow a lender to provide corrected or updated disclosures even if there hasn't been a triggering event. However, in this situation, whatever charge is changed cannot be used for purposes of resetting a good faith tolerance. Only revised disclosures that are produced pursuant to one of the triggering events allow a lender to reset the tolerance for purposes of determining good faith. This means that if a lender a sends a revised disclosure because of a rate lock and it adds new origination fees to the disclosures, then the revised disclosures can be used to calculate some good faith tolerances, but not others.

When a borrower locks an interest rate, this is a triggering event. The lender has 3 days to provide a revised disclosure that shows the revised interest rate, the points disclosed, lender credits, and any other interest rate dependent charges and terms. When calculating good faith, the updated interest rate dependent charges that were listed on the revised disclosure may be used. If a lender also adds an additional origination fee that is unrelated to the rate lock, then that unrelated origination fee cannot be used to reset the base tolerances.

While the CFPB allows a lender to provide a revised disclosure outside of an event triggering situation, doing so may make the good faith tolerance calculations more complicated because instead of comparing the most recent revised loan estimate to the closing disclosure, the lender will have to compare some fees from the initial loan estimate and some fees from revised loan estimates to the final fees as shown on the closing disclosure.

## Disclosure Delivery

**Q: Can we provide the integrated disclosures electronically?**

A: Yes. However, the borrower must have consented to receive the disclosures electronically and the consent cannot have been withdrawn.

## Implementation

**Q: Do escrow/title companies need to do anything different for TRID?**

A: As it relates to the LE, there is nothing for the escrow/title company to do; however, they should update Brokers if changes in Title fees and endorsements occur.

As it relates to the CD, briefly, InterFirst will have a collaborative tool for the escrow/title company to work with our closers in the generation and production of the Closing Disclosure. Further, we will rely upon the escrow/title company to generate and deliver the Seller's Closing Disclosure.

# TILA-RESPA Integrated Disclosure Rule FAQs Cont.

## Implementation

**Q: The new disclosures cannot be used prior to October 3, 2015. Does this mean that early roll out is prohibited and that we can't "practice" these disclosures before the effective date?**

A: For applications received prior to October 3, 2015, lenders must use the existing forms (Truth-in-Lending disclosures, GFE, HUD-1). However, it's a good idea to set a target date for testing actual transactions against the new disclosures. Test disclosures should not be provided to the consumer – only used to verify compliance.

**Q: Can I comply early and begin using the new integrated disclosure prior to October 3, 2015?**

A: No. The CFPB has stated that for transactions where the application is received prior to October 3, 2015, lenders must follow the current disclosure requirements under Regulations X and Z, and use the existing forms (Truth-in-Lending disclosures, GFE, HUD-1). As a tool for consumer credit shopping, it is important that potential borrowers are comparing comparable disclosure models.

## Regulatory Updates

**Q: Will we have a TRID EMAIL BOX QUEUE for questions from our brokers/AEs?**

A: Yes

**Q: Will the CFPB be publishing FAQ Guidance on the integrated disclosure rule?**

A: Yes, the CFPB has published a Compliance Guide that is in an FAQ format. It also has published a Guide to Forms that contains information on how to complete the Loan Estimate and the Closing Disclosure. Additionally, there is a series of recorded webinars that can be found on the CFPB website.