

Integrated Mortgage Disclosures

Are you ready for August 1, 2015?

Helping Credit Unions
Serve, Grow and Remain Strong.

The image shows two overlapping mortgage disclosure forms. The top form is a Loan Estimate, and the bottom form is a Closing Disclosure. Both forms contain various financial details and tables related to a mortgage loan.

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Agenda

Helping Credit Unions
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- Why?
- Coverage
- Loan Estimate Form
- Closing Disclosure
- Restriction on Fees
- Escrow Closing Notice
- Partial Payment Disclosure
- System Considerations
- Record Retention



Why? Know Before You Owe!

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- Dodd-Frank Act directed the CFPB to integrate loan disclosures under TILA and RESPA.
- CFPB conducted extensive consumer and industry research for over a year.
- CFPB did a study of the proposed integrated disclosures with approximately 850 consumers!
- Implementation questions?
CFPB_RegInquiries@cfpb.gov, include: name, contact information, detailed regulatory questions with specific title, section or subject matter. Or call 202-435-7700.



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Integrated Mortgage Disclosures

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FICUS BANK		Closing Disclosure	
Loan Estimate Loan Amount: \$142,000 Annual Rate: 3.875% Monthly Principal & Interest: \$761.78 Prepayment Penalty: YES Annual Payment: \$9,141.36 Estimated Cash to Close: \$8,054 Estimated Cash at Close: \$16,054		Closing Disclosure Closing Information: Date: 10/15/2013 Time: 10:00 AM Location: 1000 Main Street, Suite 100, New York, NY 10001 Lender: FICUS BANK Servicer: FICUS BANK Address: 1000 Main Street, Suite 100, New York, NY 10001	
Annual Percentage Rate (APR) 4.25% Annual Percentage Yield (APY) 4.38%		Loan Features Term: 30 years Payment Type: Fixed Rate Loan Type: Conventional Interest Rate Type: Fixed Loan-to-Value Ratio: 80% Loan-to-Value Ratio: 80%	
Estimated Cash to Close \$8,054 Estimated Cash at Close \$16,054		Other Disclosures This document is a summary of the information provided in the Closing Disclosure. It is not a contract. Please read the Closing Disclosure carefully.	



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Covered Loans

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- Applies to most closed-end consumer credit transactions secured by real property, including:
 - Construction-only loans
 - Loans secured by vacant land or by 25 or more acres
 - Credit extended to certain trusts for tax or estate planning purposes



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Loans NOT Covered

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- The integrated mortgage disclosure rules **do not apply to:**
 - HELOCs
 - Reverse Mortgages
 - Mortgages secured by a mobile home
 - Dwelling that is not attached to real property (land)
 - Lenders making less than 5 mortgages per year



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Loan Estimate



Loan Estimate Disclosure

Loan Estimate - replaces early TILA and GFE disclosures

- **Timing** - borrowers must receive within 3 **business days** of **application**.
 - **Business day** for the Loan Estimate – is a day on which the credit union's offices are open to the public for carrying out substantially all of its business functions.
 - An **application** consists of the submission of:
 - The applicant's name, income, social security number to obtain a credit report, the property address, an estimate of the value of the property; and the mortgage loan amount sought.
 - *Even if the credit union requires more information to underwrite the loan, the 3 days begins with the receipt of the above information.*



Loan Estimate Timing

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Timing – the Loan Estimate must also be placed in the mail no later than the **seventh business day** before consummation of the transaction.

- Borrower may waive the seven-business day waiting period for **bona-fide personal financial emergencies**.
 - **Bona fide personal emergency example** – imminent sale of the borrower's home at foreclosure, where the foreclosure sale will proceed unless loan proceeds are made available during the waiting period.
 - ****Business day**** for purposes of the Loan Estimate **waiting period**, means all calendar days except Sundays and the legal public holidays (5 USC 6103(a)).



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Good Faith Requirements

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Loan Estimate – Good Faith Requirements

- Generally speaking, if the charges paid by or imposed on the borrower exceed the amount originally disclosed on the estimate, it is **not in good faith** (regardless if the credit union later discovers a technical error or underestimation of a charge).
- **Exceptions** - A credit union can charge more than what is disclosed on the loan estimate in specific circumstances:
 - Exempt charges
 - Tolerance Thresholds
 - Changed Circumstances



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Exempt Charges

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Loan Estimate – Exempt Charges

- Credit unions are permitted to charge borrowers more than what is disclosed on the Loan Estimate without any tolerance limitation* for the following charges:
 - Prepaid interest, property insurance premiums; amounts placed into an escrow.
 - Services required by the credit union if they allow the borrower to shop and select a third-party service providers NOT on the credit union's written list of providers.
 - Charges paid to third-party service providers for services not required by the credit union.

**Only when the original estimated charge, or lack of an estimated charge was based on the best information reasonably available to the credit union at the time the disclosures were provided.*



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Tolerance Thresholds

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Loan Estimate – Tolerance Thresholds

- Charges subject to **ZERO tolerance**:
 - Fees paid to the creditor, mortgage broker, or an affiliate of either
 - Fees paid to an unaffiliated third party if the creditor did not permit the borrower to shop for a third party service provider for a settlement service
 - Transfer taxes
- Charges subject to the **10% cumulative tolerance**:
 - Can still be in good faith if the estimate of a **third-party service** or **recording fee in aggregate** does not exceed 10% of what was disclosed on the Loan Estimate. To qualify, the **third-party service** can not be paid to the creditor or the creditor's affiliate **and** the member is permitted to shop for the service and they select a provider from the credit union's list.



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Tolerance Thresholds

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Loan Estimate – EXCEEDED Tolerance Thresholds

- What happens at closing when a credit union determines the thresholds exceed the limits?
 - The credit union must refund the excess amount to the borrower no later than **60 days after consummation**.



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Changed Circumstance

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Loan Estimate – Revisions and Corrections

- What is a **changed circumstance**?
 - Event beyond the control of any interested party or other unexpected event specific to the borrower or transaction.
 - Information specific to the member or transaction that the credit union relied upon when providing the Loan Estimate that was inaccurate or changed after disclosures were provided.
 - New information specific to the member or transaction that the credit union did not rely on when providing the loan estimate.



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Revisions and Corrections

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Loan Estimate – Revisions and Corrections

- Revised Loan Estimates are permitted in limited circumstances:
 - **Changed circumstances** occurring after the loan estimate is provided to the member that cause settlement charges to increase beyond thresholds.
 - **Changed circumstances** occurring after the loan estimate is provided to the member that affect the member's eligibility for the terms which the borrower applied or the value of the security for the loan.
 - Revisions to the credit terms or settlement are requested by the member.
 - Interest rate was not locked when Loan Estimate was provided and locking causes the points or credit union credits disclosed on the Loan Estimate to change.
 - The member indicates their intent to proceed with the transaction more than 10 business days after the Loan Estimate was provided.
 - New construction loan and settlement is delayed by more than 60 calendar days (if the original Loan Estimate states clearly that the credit union may issue revised disclosures).



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Revised Loan Estimates

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Timing – Revised Loan Estimates have the same timing requirements as the initial Loan Estimate!

- Revised Loan Estimates must be delivered or mailed to the borrower no later than 3 **business days** after receiving the information to justify the revision.
- The credit union may not provide a revised Loan Estimate **on or after** the date it provides the Closing Disclosure.
- *Waiting Period* - the credit union must ensure the borrower receives the revised Loan Estimate no later than **four business days** prior to consummation. *(If sending in the mail, no later than **seven business days** before consummation- allows for 3 business days to receive).*
 - **Business day** on which the credit union's offices are open to the public for carrying out substantially all of its business functions.
 - **Business day** means all calendar days except Sundays and the legal public holidays (5 USC 6103(a)).



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Closing Disclosure



Closing Disclosure

Closing Disclosure – replaces final TILA and HUD-1 disclosures

- **Timing** - borrowers must receive **three business days before consummation**.
 - Credit unions may estimate disclosures when actual term or cost is not reasonably available – must be in good faith and due diligence used.
 - **Consummation** – occurs when the member becomes contractually obligated to the credit union on the loan (usually closing).
 - **Business day** – for purposes of the closing disclosure, means all calendar days except Sundays and the legal public holidays (5 USC 6103(a)).



Closing Disclosure Timing

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Timing – the Closing Disclosure must be received by the borrower, **three business days** before consummation of the transaction.

- Member may waive the three-business day waiting period for **bona-fide personal financial emergencies**.
 - **Bona fide personal emergency example** – imminent sale of the member’s home at foreclosure, where the foreclosure sale will proceed unless loan proceeds are made available during the waiting period.
 - **Business day** means all calendar days except Sundays and the legal public holidays (5 USC 6103(a)).



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Revised Closing Disclosure

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Closing Disclosures – Revisions and Corrections

- Credit unions are required to re-disclose terms or costs if certain changes occur that cause the first Closing Disclosure to become inaccurate.
- Changes occurring before consummation that require new **3 business day waiting period**.
 - The disclosed APR becomes inaccurate;
 - The loan product changes; or
 - A prepayment penalty is added.



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Revised Closing Disclosure

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Closing Disclosures – Revisions and Corrections (cont'd)

- Changes occurring before consummation that **do not** require a **3 business day** waiting period are all other changes not included on the prior slide (*related to APR, loan product or prepayment penalty*).
 - The revised Closing Disclosure must be provided **at or before consummation**.
 - The borrower has the **right to inspect** the Closing Disclosure the **business day before consummation**.
- For changes to the Closing Disclosure that occur **after** consummation.
 - A corrected disclosure must be provided if during the 30 calendar days after consummation the closing disclosure becomes inaccurate and results in a change to an amount paid by the member from what was previously disclosed.



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Revised Closing Disclosure

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Closing Disclosures – Revisions and Corrections (cont'd)

- For changes to the Closing Disclosure that occur **after** consummation.
 - A corrected disclosure must be provided **if during the 30 calendar days after consummation** the closing disclosure becomes inaccurate and results in a change to an amount paid by the member from what was previously disclosed.
 - The credit union is required **to deliver or place in the mail** a corrected Closing Disclosure **not later than 30 calendar days after receiving information** sufficient to establish that such an event has occurred.
- If the **credit union cures a violation** by providing a refund to a borrower, the credit union must deliver or place in the mail a corrected Closing Disclosure that reflects the refund **no later than 60 calendar days after consummation**.



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Clerical Errors

Clerical Errors – **do not** affect a numerical disclosure and do not affect the timing, delivery or other requirements imposed under the early and final disclosure requirements.

- Incorrect settlement service provider as recipient of payment **would be** a clerical error.
- Wrong property address affects delivery requirements and **would NOT** be a clerical error.
- Revised Closing Disclosure to **correct clerical errors and document refunds for tolerance violations** no later than **60 calendar days after consummation.**



Restriction on Fees



Prohibited Activities

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Prohibited Activities – The credit union **cannot impose a fee** on a borrower in connection with an application for a mortgage transaction until the borrower **has received the Loan Estimate and** indicated an **intent to proceed**.

- **Restriction on fees includes:**
 - Application fees;
 - Appraisal fees;
 - Underwriting fees; and
 - Other fees imposed on the borrower.
- **Exception** – for a bona fide reasonable fee for obtaining a **credit report**.



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Intent to Proceed

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Intent to proceed – when the borrower communicates that they wish to proceed after the Loan Estimate has been delivered.

- May include:
 - Oral communication in person immediately upon delivery of the Loan Estimate;
 - Oral communication over the phone, written communication via email, or signing a pre-printed form after receipt of the Loan Estimate.
- The credit union **must document the communication** to satisfy record retention requirements.



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Escrow Closing Notice



Escrow Closing Notice

Escrow Closing Notice – must be provided prior to cancelling an escrow account to any member who established an escrow account in connection with **a closed-end consumer credit transaction secured by a first lien on real property.**

- **Consumer Requested Cancellation** – Notice must be provided no later than **3 business days** before closure (*closing disclosure definition*).
- **Not Consumer Requested Cancellation** – Notice must be received by the borrower **no later than 30 business days** before the closure.
- **Exceptions** to Escrow Closing Notice Requirement:
 - Escrow account was established solely in connection with the borrower's delinquency or default.
 - Underlying debt obligation is terminated, including repayment, refinancing, recession, and foreclosure.

* Model form (H-29) in appendix H to Regulation Z.



Partial Payment Disclosure



Partial Payment Disclosure

Mortgage Servicing Transfer Notice – mortgage transfer notices when ownership of a mortgage loan is transferred needs to now include information related to the **partial payment policy** applicable to that loan.

- **Post-consummation** and required only for **closed end consumer credit secured by a dwelling or real property**.
- **Partial Payment Disclosure** – Requirements of content in model form (H-25) in appendix H or Regulation Z.



System Considerations



System Considerations

- Are you lending systems providers in the process of making these changes?
- Will the changes be completed to allow time to train staff?
- Will the system have the capability to handle loan applications received on July 31, 2015 – which will need to be processed with the current forms, at the same time having the ability to create the new forms for applications received on August 1, 2015?



Record Retention



Record Retention

- Closing disclosure (and all documents related) – **5 years (after consummation)**
- Post-consummation escrow cancellation notice and post-consummation partial payment policy disclosure – **2 years**
- Loan estimate and all other integrated disclosure provides of Reg Z – **3 years (after consummation)**



Required Disclosures – 3 days after receipt of application

The Legal Stuff



Disclosures Required

Within **3 business days** of receiving an application provide the applicant:

- Special Information Booklet (RESPA Settlement Costs)
- Loan Estimate
- Written list of homeownership counseling organizations
- Right to receive a copy of appraisal disclosure



Proposed Amendments to the “Final” Rule



The Final, Final Rule?

Expect to have revisions to these rules prior to August 1, 2015. Here is what is **proposed**

FINAL:

- When rate is locked, revised loan estimate must be provided no later than the **three business day** (as opposed to the date the rate is locked).
- Construction loans – proposal would add a new provision allowing credit unions to include a statement on the Loan Estimate Form to preserve the ability for transactions expected to settle more than 60 days after the initial Loan Estimate, the ability to provide the borrower with a revised loan estimate.



Questions???

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