5 Things You Need to Know (and Do) to Get Ready for TRID 2.0
In July, The Consumer Financial Protection Bureau (CFPB) published amendments to the Know Before You Owe / TILA-RESPA Integrated Disclosure rule, commonly referred to as TRID 2.0. That rule became effective October 10, 2017, but compliance isn’t mandatory until October 1, 2018.

The initial TRID 2.0 ruling did not address the so-called “Black Hole” problem that had prevented lenders from re-setting fee tolerances when a Closing Disclosure (CD) has been issued prematurely. However, the CFPB finally proposed a solution this past July, which was published in the Federal Register and has recently closed for public comments.

Some of the most significant changes include:

- Clarification of “no tolerance fees”—The new rule makes it clear that certain products and services, such as property insurance, impound and escrow amounts, are still excluded from zero and 10 percent tolerances, even if they are paid to an affiliate of the lender. The only caveat is that the original estimates can’t be unreasonably low. Also, the preamble to the amended rule reaffirms that “typographical errors regarding a settlement service...do not subject the charges for such a service to the zero percent tolerance category...” in most instances.

- Construction loan disclosures—The Bureau made a number of additions to Appendix D, and clarified how construction loan inspection and phase-specific fees should be disclosed before and after the project is completed. If the fees are collected after the project is completed, they must now be disclosed in an addendum to both the Loan Estimate (LE) and the CD. Additional clarifications were also made regarding how construction costs, existing lien payoffs, and unsecured debt payoffs are disclosed.

- Written List of Providers—The CFPB said that changes could be made to Form H-27 without losing safe harbor protections. The amended rule also clarifies when a service is considered “shoppable.” In addition, the Bureau said that a WLP may exclude a list of fee estimates not required by the lender, such as title search, notary, and fees for other administrative services.

- Re-disclosures after Rate Lock—A lender must issue a revised LE after the interest rate has been initially locked if no CD has been issued. Once a CD has been issued, the lender must issue a revised CD if the rate lock makes the CD inaccurate.
- Cost reductions after initial LE—The Bureau clarified that cost reductions of certain items don’t automatically reset tolerances. Tolerance determinations are based on comparisons between “the charge paid by or imposed on the consumer” versus “the amount originally disclosed” or a revised estimate.

- Closing the “Black Hole”—The Bureau’s proposed amendment removes the four business day limit for providing CDs for purposes of resetting tolerances and determining if an estimated closing cost was disclosed in good faith. This will allow creditors to reset tolerances by providing a CD (including any corrected disclosures) within three business days of receiving information sufficient to establish that a reason for revision applies.

2 – CONSIDER YOUR COMPLIANCE APPROACH FOR THE NEXT YEAR

As we’ve noted, while new rules have been issued, compliance isn’t mandatory until October 2018. This unique situation can raise questions as to what approach lenders should take. As part of the process, we encourage lenders to consult with legal counsel as they review their options.

Ideally, lenders should be adopting the new TRID 2.0 rules now, but, at the moment, this is easier said than done. That’s because technology providers have been focused on getting ready for the Uniform Closing Dataset (UCD) and the new Home Mortgage Disclosure Act (HMDA) reporting rules—two major compliance challenges that have hard 2017 deadlines. Which brings us to our next point...

3 – TALK TO YOUR LOS AND COMPLIANCE TECH VENDORS (EARLY AND OFTEN)

Now that providers are finishing up with UCD and HMDA, they are beginning to focus on TRID 2.0. But how fast they’ll get there and how soon their solutions will be ready for testing will certainly vary by provider. Lenders should contact their providers and get a sense of where they are.

One area where a number of LOS providers seem to be falling short is in capturing and preserving interim LEs. Despite the CFPB’s clear direction on this, some LOS providers only capture the first and final LE. To date, the CFPB hasn’t penalized lenders on exams for this shortfall, but post TRID 2.0, it is reasonable to expect they will take a harder line on this defect.
Lenders using our automated compliance auditing solution, ComplianceAnalyzer® with TRID Monitor™, already capture all LEs and are ready in the event of an audit or exam.

4 – DO A POST-MORTEM ON TRID 1.0

While technology plays a significant role in TRID compliance and monitoring, loan officers, processors, and compliance staffers, as well as workflows, can accelerate the process or derail it. With that in mind, it is worth taking the time to do a realistic internal assessment of what went right and wrong during your company’s implementation of TRID 1.0., and how you’re doing nearly three years into the rule.

Some of the questions to ask might include:

- Have TRID issues made any of your loans un-salable or pushed them into the scratch and dent category?

- Have there been TRID issues during regulatory exams or audits? What were they and have they been resolved?

- What percentage of your loans failed compliance reviews? What are the major defects?

- How often do you have to re-issue LEs or make closing table changes on issues within your control?

- How much money have you had to reimburse post-closing? How much have you had to absorb in costs that couldn’t be passed through?

- How much are you spending enterprise/company-wide for TRID compliance when you factor in the cost of tracking down and reviewing closing cost data, creating and re-working disclosures, manually reviewing documents during the origination, and closing and post-closing process?

- Are you getting the support you need in terms of TRID compliance from your tech vendors?
Our industry learned some painful lessons with TRID 1.0, including that implementation always takes longer than you think, and while a year sounds like a long time, it’s over faster than you think.

The good news is that much of what we learned with TRID 1.0 will still apply. But TRID 2.0 will require significant revisions to existing software, and those revisions will need to be tested. Also, lenders will need to work with their compliance advisors to understand the new rules and then develop policies, procedures, workflows and training to integrate them into their businesses.

So, make a plan, as early as you can. Obviously the scale and complexity of your company will drive the planning process, but most importantly, decide how you will approach the coming changes and stick with it.
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