

CFPB Issues Final Lending and Closing Disclosure Forms

By Richard D. Vetstein, Esq.



CFPB Issues Long Awaited “Know Before You Owe” Mortgage Disclosures, Replacing Truth in Lending, Good Faith Estimate, and HUD-1 Settlement Statement

As part of a continuing overhaul of the home mortgage market, the Consumer Financial Protection Bureau today issued a final rule to bolster fairness and clarity in residential lending, including requiring a new good faith estimate of costs for homebuyers, Truth in Lending disclosure and a new HUD-1 Settlement Statement.

The new Loan Estimate will replace the current Good Faith Estimate (GFE) and the current Truth in Lending Disclosure (TIL). The new Closing Disclosure will replace the current HUD-1 Settlement Statement. The new forms are embedded below.

The real estate industry will have 20 months to implement the new disclosures, by **August 1, 2015**. The CFPB website has a [summary of the new rules and disclosures here](#).

Initial Impressions, Did The CFPB Finally Get It Right?

Overall, I would say that the forms are a major improvement over the existing disclosures, especially the Truth in Lending disclosure. I always joke

that the Truth in Lending disclosure should be called “Confusion in Lending” (which usually gives the borrower a chuckle) as it’s nearly impossible to explain even for a trained attorney and sophisticated borrower. That may be rectified now with the new forms — although I still may employ the joke!

The new HUD-1 Closing Disclosure is a longer and more involved form, but it basically just reorganizes all of the information now contained in the current 3 page HUD-1 Settlement Statement, and it appears to be easier to read and explain at the closing table.

The CFPB says that the new forms will replace the existing forms, resulting in a decrease in pages to review — which is a minor miracle in and of itself. A common complaint from borrowers is the sheer number of forms and disclosures signed at the closing, so this is welcome news.

3 Business Day Rule May Be Problematic

As Bernie Winne of the Massachusetts Firefighters Credit Union testified at the announcement hearing today in Boston, the new requirement that the Closing Disclosure (new HUD-1) be provided to the borrower **within 3 business days** of the closing may pose a problem in some transactions and will certainly result in a major adjustment in current practices. There are often last minute changes in closing figures, seller credits, holdbacks, payoffs, etc., which result in last minute changes. Hopefully, the CFPB will realize this in the upcoming implementation period and relax the rules in certain circumstances. There has already been significant chatter on Twitter and the blogosphere about this new requirement.

Another encouraging note was CFPB Director Cordray’s comments today about the agency pushing for more [electronic closings](#). Fannie Mae has done squat to push e-closings, so hopefully CFPB will take the lead in this important area!

Loan Estimate Disclosure

- The new Loan Estimate will combine the disclosures currently provided in the Good Faith Estimate and the initial Truth in Lending statement.
- Lenders must provide the Loan Estimate **3 business days** after an application is submitted by a consumer, excluding days that the lender is not open (*e.g.*, Saturdays). However, it is not clear based from materials available thus far when a consumer has submitted sufficient information to constitute an “application.”
- The Loan Estimate will conveniently provide for the monthly principal and interest payment, projected payments over the term of the loan, estimated taxes and insurance (escrows), estimated closing costs, and cash to close.
- It will provide for a Rate Lock deadline.
- The Annual Percentage Rate (APR) appears on page 3, despite requests by consumer advocates that it appear in a prominent location on the first page. In addition, it appears that the Bureau did not adopt the proposal to revise the APR calculation to include more items in the finance charge and thereby potentially increase the number of loans that would fail the Qualified Mortgage’s points-and-fees test or would be treated as “high cost” or “higher priced.”

Closing Disclosure

- The Closing Disclosure will combine the disclosures currently provided in the HUD-1 settlement statement and any revised Truth in Lending statement. It is now a 5 page document compared to the current 3 page document.
- Critically, the Closing Disclosure must be provided **at least 3 business days before the closing**. Lenders and closing attorneys will have to adapt to this new requirement as currently we usually get the final HUD approved by the lender 24-48 hours before the closing.
- Page 1 of the Closing Disclosure carries over much of the Truth in Lending information previously found in the TIL form.
- Page 2 and 3 replicate the existing HUD-1 Settlement Statement (pages

1 and 2) outlining the fees and closing costs, adjustments, and commissions charged to the buyer and seller. It also contained a more extensive section on Cash to Close which will be helpful to explain.

- Page 4 contains a nice easy-to-read section on the escrow account which is often challenging to explain to borrowers.
- The last page is similar to the current page 3 of the HUD-1, providing a quick summary of the loan terms, interest rate, total payments and APR.