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## The New Settlement Cost Booklet

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Every once in a while we are asked about “the home buying information booklet,” as the Bureau has charmingly euphemized it, though it is known throughout the residential mortgage banking industry as the Special Information Booklet – which incidentally is the phraseology that was given to it by RESPA or, if you prefer, the “Settlement Cost Booklet.”

Let's just call it the “Booklet.”

Regulation Z provides a general rule that requires banks and nonbanks to provide a special booklet issued by the Bureau that describes home purchases to all applicants for federally related mortgage loans.<sup>[i]</sup> This mandate previously was required under rules set forth in Regulation X, RESPA's implementing regulation. This requirement has been removed from Regulation X and added to Regulation Z.<sup>[ii]</sup>

Let me first straighten out the evolving nomenclature.

In 2013 the Bureau revised both the Booklet (viz., dubbing it, “Shopping for Your Home Loan: Settlement Cost Booklet”) and also the home equity loan booklet, the latter remaining a requirement for home equity loans under Regulation Z. In 2015 the Bureau again revised the Booklet, initially to be issued beginning on August 1, 2015, but postponed to October 3, 2015; the Booklet was renamed “Your Home Loan Toolkit: A Step-by-Step Guide.” It reflects the numerous changes to both Regulation Z and Regulation X (viz., TRID) in the Final Rule of January 2014.

The [latest version of the Booklet](#) can be downloaded from the Bureau's website.

Earlier revisions of these booklets have been announced by the Bureau with a statement that lenders may, at their option, use up existing stock of earlier publications or provide the revised versions immediately. However, with the announcement of the latest revision, the Bureau has emphasized that this

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update includes information on the new Loan Estimate and Closing Disclosure required to be provided to consumers for applications received on or after October 3, 2015. As previous versions of the Booklet do not reference or explain the new integrated disclosures, the Bureau "believes that providing consumers with the updated Booklet in conjunction with the integrated disclosures is important to facilitating consumers' understanding of the transaction."<sup>[iii]</sup>

Sometimes, the question is asked whether there are exceptions to this disclosure requirement and, if so, what are those exceptions. There are a few obvious and maybe a few not-so-obvious exceptions. I'll point these out.

The Booklet describes home purchases, so the regulation exempts the following loan types:

- Refinance transactions
- Closed-end loans, when the lender takes a subordinate lien on the property
- Reverse mortgages

Generally, all other federally related mortgage loans with a purpose other than for the purchase of residential property are exempt from requiring the Booklet disclosure, to wit, consumer credit transactions secured by real property, the purpose of which is not the purchase of a one-to-four family residential property.

The Bureau has taken the position that it may revise the Booklet to address other types of loans or to adopt a booklet prepared by another federal agency. But, when and if the Bureau actually does this, the Booklet requirement will be extended to appropriate types of loans, based on the contents of such booklet.

There are three exceptions to the requirement of a lender to provide the Booklet.

These are where:

1. A borrower uses a mortgage broker; that is, the mortgage broker is required to give the applicant the Booklet. If a consumer uses a mortgage broker, the mortgage broker provides the special information booklet and the lender need not do so.
2. The lender decides to deny an application within three business days after it was prepared or received; specifically, if the lender denies the consumer's application before the end of the three-business-day period, the lender need not provide the Booklet.
3. A consumer applies for an open-end credit plan<sup>[iv]</sup> and the lender or mortgage broker provides a copy of the brochure, "What you should know about Home Equity Lines of Credit," published by the Bureau.

The Booklet is available through the Bureau. It may be reproduced in any form, but no changes, deletions from, or additions to the Booklet may be made, except as follows:

- **Booklet Cover:** The cover of the Booklet may be in any form and with any drawings, pictures or artwork, provided the words "settlement costs" are used in the title. The cover may not provide any discussion regarding the matters covered in the Booklet. Names, addresses, and telephone numbers of the lender or others and similar information may appear on the cover, but no discussion of the matters covered in the booklet may appear on the cover. References to HUD on the cover of the booklet may be changed to references to the Bureau.
- **Other Languages:** The Booklet may be translated into languages other than English.
- **Approvals for Content Changes:** The lender must apply in writing to the Bureau for approval of any changes it wants to make in the content of the Booklet. The request should include a statement of reasons why the lender believes the changes are necessary.



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Some modest changes are permitted. For instance, in the "Complaints" section of the booklet, "the Bureau of Consumer Financial Protection" may be substituted for "HUD's Office of RESPA" and "the RESPA office." Other examples involve the sections entitled "Avoiding Foreclosure" and "No Discrimination".

There is a mandate that the Booklet may not be made a part of a larger document for purposes of distribution. Additionally, it must be clearly legible, but the text does not have to be any particular color, size, or quality of paper, type of print, or method of reproduction.

The other question that we often get is about the deadline and method of compliance. This is clear enough: the lender must mail or deliver a copy of the Booklet to the applicant no later than three business days after the application is received. A "business day" for this purpose is a day when the office of the lender is open to the public for carrying on substantially all of its business functions.[v]

The mailing requirement is satisfied by placing the Booklet in the mail, addressed to the address stated in the loan application or in other information submitted to the lender at the time of application. A revised address must be used where the lender is expressly informed in writing of a change in address.

Where two or more persons have jointly applied for a loan, mailing or delivering the Booklet to one of them satisfies the disclosure requirement. The lender may, at its option, provide additional Booklets to other applicants and to guarantors.

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[i] 12 CFR 1026.19(g)

[ii] Idem

[iii] Federal Register, Notice of Availability, 4/01/15, 80 FR 17414, pp 17414 -17415

[iv] 12 CFR 226.2(a)(20),

[v] 12 CFR 1024.2(b)



Labels: [Regulation X](#), [Regulation Z](#), [RESPA](#), [Settlement Cost Booklet](#), [TILA](#), [TILA-RESPA Integrated Disclosure](#), [TRID](#)

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