



# Know before you close.

## Things you should know by October 3<sup>rd</sup>, 2015

### What new terms should you know?

#### Business Days

For the purpose of providing the Closing Disclosure in a real estate transaction, business days include all calendar days except Sundays and the legal public holidays such as: New Year's Day, Martin Luther King Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day.

#### Creditor

The CFPB broadly defines the lender as a creditor. Note: for the purpose of the new rules and to remain consistent with the current rules under the Truth-in-Lending Act, a person or entity that makes five or fewer mortgages in a calendar year is not considered a creditor.

#### Consumer

Throughout the rules the borrower is referred to as the consumer. There are also sellers involved in many real estate transactions, which the CFPB also defines as consumers. The focus of the new rules is for the borrower and nearly all of their references to the consumer translate to the borrower.

#### Consummation\*

Consummation is the day the consumer becomes legally obligated under the loan, which would be the date of signing, even if the loan has a rescission period. The concept of a rescission is the consumer accepts the obligation and then later has an opportunity to rescind it.

\*NOTE: It is important to note the definition of consummation can be different than the closing date as defined in the purchase agreement where the buyer becomes contractually obligated to a seller on a real estate transaction.

### What new forms should you know?

#### The Loan Estimate

The creditor is responsible to deliver or place in the mail the Loan Estimate no later than the third business day after receiving the consumer's completed loan application for a mortgage loan. It replaces the early Truth in Lending statement and the Good Faith Estimate, and provides a summary of the key loan terms and estimated loan and closing costs. Consumers can use this new form to compare the costs and features of different loans.

#### The Closing Disclosure

Consumers will receive this form three business days before closing on a loan. It replaces the final Truth in Lending statement and the HUD-1 settlement statement, and provides a detailed accounting of the transaction.

### What triggers a Loan Estimate?

A completed loan application that consists of the submission of the following six pieces of information:

1. The consumer's name;
2. The consumer's income;
3. The consumer's social security number to obtain a credit report;
4. The property address;
5. An estimate of the value of the property; and
6. The mortgage loan amount sought

*cont'd*



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## Things you should know by October 3<sup>rd</sup>, 2015 cont'd

### Who prepares the Closing Disclosure?

The new CFPB rule provides that the creditor is ultimately responsible for preparation of the CD. However, the rule also allows the creditor to delegate some or all of the preparation to the settlement agent. Determining which system will create the final form is important in establishing workflows for the transfer of information.

### Who, When & How must the Closing Disclosure be delivered to the Consumer?

Generally, the creditor is responsible for delivery of the Closing Disclosure form no later than three business days before consummation. Creditors may also contract with settlement agents to have the settlement agent provide the Closing Disclosure to consumers on the creditor's behalf.

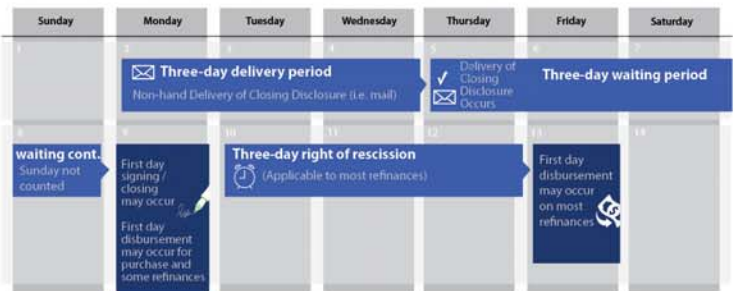
To ensure the consumer receives the Closing Disclosure on time, creditors must arrange for delivery as follows:

- By providing it to the consumer in person.
- By mailing, or by other delivery methods, including email. Creditors may use electronic delivery methods subject to compliance with the consumer consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act.
- Creditors must ensure that the consumer receives the Closing Disclosure at least three business days prior to consummation even if the settlement agent was to deliver the form.

### What Closing Disclosure Delivery Timing Period should you know?

As part of the final rule creating the new forms, the CFPB determined that consumers would be better served by having a short time to review the new Closing Disclosure prior to signing their loan documents. As a result, in its rule CFPB mandated consumers have three business days after receipt of the Closing Disclosure to review the form and its contents.

However, note that the three business day review period starts upon "receipt" of the form by the consumer. Unless some positive confirmation of the receipt of the form (i.e., hand delivery), the form is "deemed received" three business days after the delivery process is started (i.e. mailing). As a result, the combination of the "delivery time period" and the "review time period" results in six business days from mailing to loan signing. Below is an example for the Closing Disclosure Timing.



Fidelity National Title has also prepared a Consummation Calendar for use after October 3, 2015. Please ask your local representative for a copy.

For more information on CFPB, simply visit our website at [www.fntic.com/CFPB](http://www.fntic.com/CFPB).



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