



January 21, 2020

Office of Regulations
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: Integrated Mortgage Disclosures Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth In Lending Act (Regulation Z) Rule Assessment; Docket No.: CFPB-2019-0055

Dear Sir or Madam:

On behalf of the 2.2 million credit union members we represent, the Heartland Credit Union Association (HCUA) appreciates the opportunity to comment on the Consumer Financial Protection Bureau's (CFPB or Bureau) assessment of the Truth In Lending Act (Regulation Z) and Real Estate Settlement Procedures Act (Regulation X) Integrated Disclosures Rule.

Background

The CFPB issued the TILA-RESPA Integrated Mortgage Disclosures Rule (TRID Rule or rule) in November 2013, and the rule took effect on October 3, 2015. The intent of the rule was to streamline a complex, overlapping and inconsistent series of regulations governing the information provided to a borrower about their mortgage loan. In its rule, the CFPB also added new disclosures in the form of a Loan Estimate and Closing Disclosure, which combined and expanded upon multiple forms that existed prior to the TRID Rule's finalization. The amended disclosures are an attempt to increase consumer understanding of their mortgage loan prior to closing.

In November 2019, the CFPB issued a request for information (RFI) soliciting information related to its assessment of the TILA-RESPA Integrated Mortgage Disclosures Rule (TRID Rule or Rule), which is required by Section 1022(d) of the Dodd-Frank Act. Section 1022(d) requires the Bureau to conduct an assessment of each significant rule issued no later than five years after its effective date.

In the nearly five years since implementation the Bureau has provided guidance and resolved some of those initial implementation issues through the regulatory process. Credit unions appreciate those efforts but also believe the process could be more effective. In many cases, the guidance provided by the CFPB only addressed common questions in a limited manner and were often not binding. While this non-binding guidance was helpful in some instances, the use of non-binding guidance rather than official interpretations of the rule established through the Administrative Procedures Act (APA) process created unnecessary risk for credit unions in providing compliant mortgage disclosures to their borrowers.

HCUA believes that the TRID Rule had a material effect on their mortgage lending both in terms of price and volume of loans. However, the greatest burden was felt prior to and shortly after implementation in 2015. Our members have stated clearly that the resources put into TRID Rule compliance are substantial and they caution the Bureau against making sweeping, broad-scale changes to the rule that would merely result in additional dollars put towards – once again – completely changing systems, processes, procedures, and staff training. While the TRID Rule is by no means perfect and there are areas that need to be addressed, as the rule assessment progresses, HCUA respectfully requests the Bureau refrain from making wholesale change to the TRID rule. Dramatic changes to the regulation would only create more costs and require credit unions to expend finite resources that would be put toward serving their members.

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Rather, the CFPB should focus its efforts on providing clarity through the use of interpretive rules or official guidance that would resolve ongoing compliance concerns.

When a regulation affects a credit union, substantial costs are incurred: staff time and resources must be applied in determining what is necessary to comply with the regulation; forms and disclosures must be changed; data processing systems must be reprogrammed; and staff must be retrained. It also takes time and resources to discuss regulatory changes with credit union members, particularly when they are frustrated because changes are impacting the way they receive products and services. HCUA urges the Bureau to be mindful of the struggles of community-based financial service providers, especially credit unions, and prioritize its efforts on reducing compliance burdens for entities with finite resources.

Reduce the Burden

The CFPB could resolve some of these unclear areas through a targeted-scope notice and comment rulemakings or through the publication of thorough frequently asked questions (FAQs) in the Federal Register. The Bureau has previously issued FAQs to settle industry confusion and those documents have proven to be very helpful to regulated entities. For example, credit unions appreciated the Bureau's use of FAQs to clarify how to disclose construction loans under the TRID rule. We would encourage the Bureau to continue to engage with stakeholders and build upon its TRID FAQs.

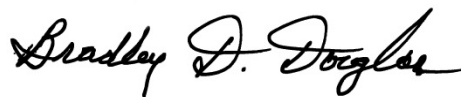
Handling of Errors

In addition to guidance assistance, the CFPB should permit a streamlined waiver of the mandatory waiting periods. Not only do costs increase as transaction times become protracted but individuals that already understand the terms of their mortgage loan, i.e. sophisticated borrowers, may prefer a faster process but are hampered by stagnant regulatory inflexibility.

In addition, the Bureau should amend the TRID Rule to permit creditors to cure any clerical errors in a loan file within a reasonable period after closing. The TRID Rule's zero tolerance requirement was extended substantially in the 2015 rule and the Bureau should examine whether to provide reasonable options to allow for fixes. Under the current rule, only "non-numeric" errors are correctable post-consummation. However, credit unions believe the distinction between "non-numeric" and "numeric" errors is not the best measure of whether or not an error should be curable. Rather, the cure provision should be amended to permit a credit union to cure any type of error that is not material to the transaction or did not cause a measurable harm to the consumer.

As always, we appreciate the opportunity to review this issue. We will be happy to respond to any questions regarding these comments.

Sincerely,



Brad Douglas
President/CEO