



FEDERAL DEPOSIT INSURANCE CORPORATION

**National Banker Teleconference  
Timely and Comprehensive Information  
from the FDIC**

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**Understanding the Requirements of the TRID Rule  
December 11, 2019**

# Agenda



Introduction

Closing Cost Details – Loan Estimate and Closing Disclosure

Closing Cost Details - Lender Credits

Construction Loan Disclosures

Compliance Management System & Third-Party Relationships

Resources and Questions

# Questions

If you have any questions related to the topics being discussed today, please email them to:

**BankerTeleconference@fdic.gov**

# Disclaimer

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# Introduction

- Loan Estimate and Closing Disclosure
- Consumer Financial Protection Bureau Assessment



## **Closing Cost Details**

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### **Loan Estimate and Closing Disclosure**

# Loan Estimate

## Subpart E—Special Rules for Certain Home Mortgage Transactions

- §1026.31 General rules.
- §1026.32 Requirements for high-cost mortgages.
- §1026.33 Requirements for reverse mortgages.
- §1026.34 Prohibited acts or practices in connection with high-cost mortgages.
- §1026.35 Requirements for higher-priced mortgage loans.
- §1026.36 Prohibited acts or practices and certain requirements for credit secured by a dwelling.
- §1026.37 Content of disclosures for certain mortgage transactions (Loan Estimate).
- §1026.38 Content of disclosures for certain mortgage transactions (Closing Disclosure).
- §1026.39 Mortgage transfer disclosures.
- §1026.40 Requirements for home equity plans.
- §1026.41 Periodic statements for residential mortgage loans.
- §1026.42 Valuation independence.
- §1026.43 Minimum standards for transactions secured by a dwelling.
- §§1026.44-1026.45 [Reserved]

**Loan Estimate**

**Closing Disclosure**

# Loan Estimate – Loan Costs and Other Costs

§ 1026.37(f)(5), (g)(7)

- Make disclosures clear and conspicuous
  - Reasonably understandable
  - Including abbreviations and acronyms
- Follow order requirements
  - List required items first, in the prescribed order
  - List remaining items in alphabetical order

## Closing Cost Details

### Loan Costs

#### A. Origination Charges

% of Loan Amount (Points)

#### B. Services You Cannot Shop For

#### C. Services You Can Shop For

#### D. TOTAL LOAN COSTS (A + B + C)



# Loan Estimate – Loan Costs

§ 1026.37(f)(1), (f)(5)

- For origination charges, list points first
- List all other Loan Cost items in alphabetical order

## Closing Cost Details

### Loan Costs

<b>A. Origination Charges</b>	<b>\$1,802</b>
.25 % of Loan Amount (Points)	\$405
Application Fee	\$300
Underwriting Fee	\$1,097

# Loan Estimate – Maximum Loan Cost Items

§ 1026.37(f)(2), (f)(6)

Loan Costs	Max. <u>Total</u> Items	If >, Label Last Line “Additional Charges”	If >, Label Last Line “Additional Charges” <u>or</u> Use Addendum
Origination Charges	13 (incl. 1 req'd)	X	
Services: Cannot Shop	13	X	
Services: Can Shop	14		X

# Loan Estimate - Shopping

§ 1026.37(f)(2), (f)(3)

C. Services You Can Shop For	\$1,921
Pest Inspection Fee	\$125
Survey Fee	\$150
Title - Courier Fee	\$32
Title - Lender's Title Policy	\$665
Title - Settlement Agent Fee	\$325
Title - Title Search	\$624

- “**Title —**” must appear at the beginning of the label for an item if it is—
  - A component of title insurance; or
  - For conducting the closing
- **Tip:** Use spaces consistently after “**Title —**” so that system alphabetizes items correctly

# Loan Estimate – Taxes

§ 1026.37(g)(1)

Recording Fees and Other Taxes	Transfer Taxes
<ul style="list-style-type: none"><li>• Charges assessed by a government authority for recording and indexing loan and title documents</li><li>• Not based on sale price or loan amount</li><li>• Combine with any other charges or fees imposed by a state or local government that are <b>not</b> transfer taxes</li></ul>	<ul style="list-style-type: none"><li>• In general, based on loan amount or sales price</li><li>• On <b>Loan Estimate</b>, disclosed only if paid by the consumer/borrower, incl. if lien possible for nonpayment</li></ul>

# Loan Estimate – Other Costs

§ 1026.37(g)(1), (g)(7)

- Order requirements apply
  - First: Recording Fees and Other Taxes
  - Second: Transfer Taxes
  - **Nothing Else**
- Terminology requirements apply

Other Costs	
<b>E. Taxes and Other Government Fees</b>	<b>\$152</b>
Recording Fees and Other Taxes	\$152
Transfer Taxes	
<b>F. Prepays</b>	<b>\$1,352</b>
Homeowner's Insurance Premium ( 12 months)	\$1,000
Mortgage Insurance Premium ( months)	
Prepaid Interest ( \$23.44 per day for 15 days @ 4.00%)	\$352
Property Taxes ( months)	

# Loan Estimate – Prepaids

§ 1026.37(g)(2), (g)(7)

## Other Costs

<b>E. Taxes and Other Government Fees</b>	<b>\$85</b>
Recording Fees and Other Taxes	\$85
Transfer Taxes	
<b>F. Prepaids</b>	<b>\$867</b>
Homeowner's Insurance Premium ( 6 months)	\$605
Mortgage Insurance Premium ( months)	
Prepaid Interest ( \$17.44 per day for 15 days @ 3.875%)	\$262
Property Taxes ( months)	

- Order requirements apply
  - First: Homeowner's insurance policy
  - Second: Mortgage insurance premium
  - Third: Prepaid interest
  - Fourth: Property taxes
- Cannot delete inapplicable lines; list and leave amounts blank
- Maximum of three additional Items, in alphabetical order

# Loan Estimate – Escrow Payments

§ 1026.37(g)(3), (g)(7)

<b>G. Initial Escrow Payment at Closing</b>		<b>\$413</b>
Homeowner's Insurance	\$100.83 per month for 2 mo.	\$202
Mortgage Insurance	per month for mo.	
Property Taxes	\$105.30 per month for 2 mo.	\$211

- Order requirements apply
  - First: Homeowner's insurance premiums
  - Second: Mortgage insurance premiums
  - Third: Property taxes
- Cannot delete inapplicable lines; list and leave amounts blank
- Maximum of five additional items, in alphabetical order

# Loan Estimate – Title Costs

§ 1026.37(g)(4), (g)(7)

<b>H. Other</b>	<b>\$1,436</b>
Title – Owner's Title Policy (optional)	\$1,436

- Maximum of 5 items, in alphabetical order
- “**Title —**” must appear at the beginning of the label for an item if it is a component of title insurance
- “**(Optional)**” must appear at the end of the label for any premium paid for the following separate products:
  - Insurance
  - Warranty
  - Guarantee
  - Event coverage



# Loan Estimate – Maximum Other Cost Items

§ 1026.37(g)(8)

Other Costs	Required Items	Max. <u>Additional</u> Items	If >, Label Last Line “Additional Charges”
Taxes and Other Gov’t Fees	2	0	N/A
Prepays	4	3	X
Initial Escrow Payment	3	5	X
Other	0	5	X

# Closing Disclosure

## Subpart E—Special Rules for Certain Home Mortgage Transactions

- §1026.31 General rules.
- §1026.32 Requirements for high-cost mortgages.
- §1026.33 Requirements for reverse mortgages.
- §1026.34 Prohibited acts or practices in connection with high-cost mortgages.
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- §1026.37 Content of disclosures for certain mortgage transactions (Loan Estimate).
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- §1026.39 Mortgage transfer disclosures.
- §1026.40 Requirements for home equity plans.
- §1026.41 Periodic statements for residential mortgage loans.
- §1026.42 Valuation independence.
- §1026.43 Minimum standards for transactions secured by a dwelling.
- §§1026.44-1026.45 [Reserved]

Loan Estimate

**Closing Disclosure**

# Closing Disclosure – Loan Costs and Other Costs

§ 1026.38(h)(4)

## Closing Cost Details

Loan Costs	Borrower-Paid		Seller-Paid		Paid by Others
	At Closing	Before Closing	At Closing	Before Closing	
<b>A. Origination Charges</b>					
01 % of Loan Amount (Points)					
02					
03					
04					
05					
06					
07					
08					
<b>B. Services Borrower Did Not Shop For</b>					
01					
02					
03					
04					
05					
06					
07					
08					
09					
10					
<b>C. Services Borrower Did Shop For</b>					
01					
02					
03					
04					
05					
06					
07					
08					
<b>D. TOTAL LOAN COSTS (Borrower-Paid)</b>					
Loan Costs Subtotals (A + B + C)					

- Describe the item disclosed
- In a manner consistent with the descriptions or prescribed labels used on the Loan Estimate
- In the same sequential order as on the Loan Estimate

# Closing Disclosure - Compensation

## Loan Originator Compensation

§ 1026.38(f)(1)

- Disclose all compensation paid to a loan originator that is a third party
- From the consumer to a third-party loan originator: Borrower Paid column
- From the creditor to a third-party loan originator: Paid by Others column

### Closing Cost Details


Loan Costs	Borrower-Paid		Seller-Paid		Paid by Others
	At Closing	Before Closing	At Closing	Before Closing	
<b>A. Origination Charges</b>					
01 % of Loan Amount (Points)					
02					
03					
04					
05					
06					
07					

# Closing Disclosure – Shopping Changes

§ 1026.38(h)(4)

B. Services Borrower Did Not Shop For	
01	
02	
03	
04	
05	
06	
07	
08	
09	
10	

C. Services Borrower Did Shop For	
01	
02	
03	
04	
05	
06	
07	
08	



- Borrower Did/Did Not Shop
- If settlement services switch categories, list in alphabetical order within the final category

# Closing Disclosure – Written List

§ 1026.38(f)(2), (f)(3)

- If the consumer was provided a written list of service providers and can shop, how consumer shopping is disclosed depends on whether or not a service provider used is on the list.

On the list

Not on the list

## Closing Cost Details

Loan Costs	
<b>A. Origination Charges</b>	
01	% of Loan Amount (Points)
02	
03	
04	
05	
06	
07	
08	
<b>B. Services Borrower Did Not Shop For</b>	
01	
02	
03	
04	
05	
06	
07	
08	
09	
10	
<b>C. Services Borrower Did Shop For</b>	
01	
02	
03	
04	
05	
06	
07	
08	

# Closing Disclosure – Taxes and Prepaids

## Other Costs – Taxes and Other Government Fees

§ 1026.38(g)(1), (g)(2)

- First line: Recording fees
- Following lines: Transfer taxes - itemized

## Other Costs – Prepaids

- If no prepaid interest, disclose “\$0.00” (not “\$0”)

	Borrower-Paid		Seller-Paid		Paid by Others
	At Closing	Before Closing	At Closing	Before Closing	
<b>Other Costs</b>					
<b>E. Taxes and Other Government Fees</b>					
01 Recording Fees	Deed:	Mortgage:			
02					
<b>F. Prepaids</b>					
01 Homeowner's Insurance Premium ( mo.)					
02 Mortgage Insurance Premium ( mo.)					
03 Prepaid Interest ( per day from to )					
04 Property Taxes ( mo.)					
05					

# Closing Disclosure – Transfer Taxes

§ 1026.38(g)(1)

Loan Estimate	Closing Disclosure
<ul style="list-style-type: none"><li>• Disclose sum of transfer taxes; limited to one line</li></ul>	<ul style="list-style-type: none"><li>• Itemize each transfer tax and each government entity</li></ul>
<ul style="list-style-type: none"><li>• Do not disclose the name of the government entity assessing the charge</li></ul>	<ul style="list-style-type: none"><li>• Disclose the name of the government entity assessing the charge</li></ul>



# Closing Disclosure – Commissions

## Real Estate Commissions

§ 1026.38(g)(4)

- In the Other section, itemize each amount that is—
  - In addition to those disclosed in subsections E, F, & G
  - For services required or obtained in the real estate closing
  - By the consumer, seller, or **other party**



Other Costs	Borrower-Paid		Seller-Paid		Paid by Others
	At Closing	Before Closing	At Closing	Before Closing	
<b>E. Taxes and Other Government Fees</b>	<b>\$85.00</b>				
01 Recording Fees Deed: \$40.00 Mortgage: \$45.00	\$85.00				
02 Transfer Tax to Any State			\$950.00		
<b>F. Prepays</b>	<b>\$2,120.80</b>				
01 Homeowner's Insurance Premium ( 12 mo.) to Insurance Co.	\$1,209.96				
02 Mortgage Insurance Premium ( mo.)					
03 Prepaid Interest (\$17.44 per day from 4/15/13 to 5/1/13)	\$279.04				
04 Property Taxes ( 6 mo.) to Any County USA	\$631.80				
05					
<b>G. Initial Escrow Payment at Closing</b>	<b>\$412.25</b>				
01 Homeowner's Insurance \$100.83 per month for 2 mo.	\$201.66				
02 Mortgage Insurance per month for mo.					
03 Property Taxes \$105.30 per month for 2 mo.	\$210.60				
04					
05					
06					
07					
08 Aggregate Adjustment	- 0.01				
<b>H. Other</b>	<b>\$2,400.00</b>				
01 HOA Capital Contribution to HOA Acre Inc.	\$500.00				
02 HOA Processing Fee to HOA Acre Inc.	\$150.00				
03 Home Inspection Fee to Engineers Inc.	\$750.00				\$750.00
04 Home Warranty Fee to XYZ Warranty Inc.			\$450.00		
05 Real Estate Commission to Alpha Real Estate Broker			\$5,700.00		
06 Real Estate Commission to Omega Real Estate Broker			\$5,700.00		
07 Title - Owner's Title Insurance (optional) to Epsilon Title Co.	\$1,000.00				
08					
<b>I. TOTAL OTHER COSTS (Borrower-Paid)</b>	<b>\$5,018.05</b>				
Other Costs Subtotals (E + F + G + H)	\$5,018.05				



## **Closing Cost Details**

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## **Lender Credits**

# Lender Credits

Loan Estimate and Closing Disclosure – Closing Cost Details  
Other Costs – Total Closing Costs

§ 1026.19(e)(3)  
§ 1026.37(g)(6)(ii)  
§ 1026.38(h)(3)

- Two Types of Lender Credits
  - General Lender Credits: Do not pay for a particular fee
  - Specific Lender Credits: Pay for a specific fee
- Include any credit or rebate from a creditor for a portion or all of the closing costs

# Lender Credits – Loan Estimate

## Loan Estimate – Other Costs

§ 1026.37(g)(6)(ii)

### Closing Cost Details

Loan Costs		Other Costs	
<b>A. Origination Charges</b>		<b>E. Taxes and Other Government Fees</b>	
3 % of Loan Amount (Points)	\$1,950	Recording Fees and Other Taxes	\$80
Application Fee	\$250	Transfer Taxes	\$80
Origination Fee	\$450	<b>F. Prepaids</b>	\$1,985
Underwriting Fee	\$500	Homeowner's Insurance Premium ( 6 months)	\$605
		Mortgage Insurance Premium ( 1 month)	\$82
		Prepaid Interest (\$17.71 per day for 15 days @ 4.25%)	\$266
		Property Taxes ( 6 months)	\$602
		<b>G. Initial Escrow Payment at Closing</b>	\$413
		Homeowner's Insurance \$90.83 per month for 2 mo.	\$182
		Mortgage Insurance per month for 2 mo.	\$82
		Property Taxes \$105.30 per month for 2 mo.	\$211
<b>H. Services You Cannot Shop For</b>	\$635	<b>H. Other</b>	\$0
Appraisal Fee	\$425		
Credit Report Fee	\$30		
Flood Determination Fee	\$25		
Flood Monitoring Fee	\$45		
Tax Monitoring Fee	\$65		
Tax Status Research Fee	\$45		
		<b>I. TOTAL OTHER COSTS (E + F + G + H)</b>	\$3,998
<b>C. Services You Can Shop For</b>	\$936	<b>J. TOTAL CLOSING COSTS</b>	\$9,999
Post Inspection Fee	\$85	D + I	\$5,990
Title – Insurance Binder	\$50	Lender Credits	-\$500
Title – Lender's Title Policy	\$251		
Title – Settlement Agent Fee	\$250		
Title – Title Search	\$300		
		<b>Calculating Cash to Close</b>	
		Loan Amount	\$150,000
		Total Closing Costs (J)	-\$9,999
		Estimated Total Payoffs and Payments	-\$120,000
		Estimated Cash to Close <input type="checkbox"/> From <input checked="" type="checkbox"/> To Borrower	\$24,991
		Estimated Closing Costs Financed (Paid from your Loan Amount)	\$5,999
<b>D. TOTAL LOAN COSTS (A + B + C)</b>	\$3,521		

- List lender credits under Section J, “Total Closing Costs,” below “D + I”
  - Applies whether specific or general
- Should be sufficient to cover the estimated items that creditor represented as not paid by consumer

# Lender Credits – Closing Disclosure

§ 1026.38(h)(3)

## Closing Disclosure – Other Costs

Closing Cost Details			
Loan Costs	Borrower Paid		Paid by Others
	At Closing	Before Closing	
<b>A. Origination Charges</b>			
01 3. Nat Loan Amount (Points)	\$750.00		
02 Application Fee	\$250.00		
03 Origination Fee	\$400.00		
04 Underwriting Fee	\$100.00		
05			
06			
07			
08			
<b>B. Servicing Borrower Did Not Shop For</b>			
01 Appraisal Fee	\$450.00	\$405.00	
02 Credit Report Fee		\$30.00	
03 Flood Determination Fee			
04 Flood Monitoring Fee	\$30.00		
05 Tax Monitoring Fee	\$45.00		
06 Tax Status Research Fee	\$45.00		
07			
08			
09			
10			
<b>C. Servicing Borrower Did Shop For</b>			
01 Pest Inspection Fee	\$85.00		
02 Title - Insurance Binder	\$50.00		
03 Title - Lender's Title Policy	\$250.00		
04 Title - Settlement Agent Fee	\$100.00		
05 Title - Title Search	\$300.00		
06			
07			
08			
<b>D. TOTAL LOAN COSTS (Borrower Paid)</b>			
Loan Costs Subtotal (A + B + C)	\$1,060.00	\$435.00	
<b>Other Costs</b>			
<b>E. Taxes and Other Government Fees</b>			
01 Recording Fees	\$60.00		
02			
<b>F. Prepaids</b>			
01 Homeowner's Insurance Premium (12 mo.) to Insurance Co.	\$1,200.00		
02 Mortgage Insurance Premium (inc)	\$283.36		
03 Prepaid Interest (\$17.77 per day from 4/15/2013 to 5/1/2013)	\$633.80		
04 Property Taxes (6 mo.) to Any County USA			
<b>G. Initial Escrow Payment at Closing</b>			
01 Homeowner's Insurance \$100.00 per month for 2 mo.	\$200.00		
02 Mortgage Insurance \$83.33 per month for 2 mo.	\$166.66		
03 Property Taxes \$100.00 per month for 2 mo.	\$200.00		
04			
05			
06			
07			
08			
09			
10			
11 Aggregate Adjustment	-\$0.01		
<b>H. Other</b>			
01			
02			
03			
04			
05			
06			
07			
08			
09			
10			
<b>I. TOTAL OTHER COSTS (Borrower Paid)</b>			
Other Costs Subtotal (E + F + G + H)	\$2,763.87		
<b>A. TOTAL CLOSING COSTS (Borrower Paid)</b>			
Closing Costs Subtotal (D + I)	\$3,823.87	\$435.00	
Lender Credits	-\$300.00		
CLOSING DISCLOSURE PAGE 2 OF 5 - LOAN 03-12345678			

General Credit: Include under Section J, "Lender Credits"

General

Closing Cost Details			
Loan Costs	Borrower Paid		Paid by Others
	At Closing	Before Closing	
<b>A. Origination Charges</b>			
01 3. Nat Loan Amount (Points)	\$750.00		
02 Application Fee	\$250.00		
03 Origination Fee	\$400.00		
04 Underwriting Fee	\$100.00		
05			
06			
07			
08			
<b>B. Servicing Borrower Did Not Shop For</b>			
01 Appraisal Fee	\$450.00	\$405.00	
02 Credit Report Fee		\$30.00	
03 Flood Determination Fee			
04 Flood Monitoring Fee	\$30.00		
05 Tax Monitoring Fee	\$45.00		
06 Tax Status Research Fee	\$45.00		
07			
08			
09			
10			
<b>C. Servicing Borrower Did Shop For</b>			
01 Pest Inspection Fee	\$85.00		
02 Title - Insurance Binder	\$50.00		
03 Title - Lender's Title Policy	\$250.00		
04 Title - Settlement Agent Fee	\$100.00		
05 Title - Title Search	\$300.00		
06			
07			
08			
09			
<b>D. TOTAL LOAN COSTS (Borrower Paid)</b>			
Loan Costs Subtotal (A + B + C)	\$1,060.00	\$435.00	
<b>Other Costs</b>			
<b>E. Taxes and Other Government Fees</b>			
01 Recording Fees	\$60.00		
02			
<b>F. Prepaids</b>			
01 Homeowner's Insurance Premium (12 mo.) to Insurance Co.	\$1,200.00		
02 Mortgage Insurance Premium (inc)	\$283.36		
03 Prepaid Interest (\$17.77 per day from 4/15/2013 to 5/1/2013)	\$633.80		
04 Property Taxes (6 mo.) to Any County USA			
<b>G. Initial Escrow Payment at Closing</b>			
01 Homeowner's Insurance \$100.00 per month for 2 mo.	\$200.00		
02 Mortgage Insurance \$83.33 per month for 2 mo.	\$166.66		
03 Property Taxes \$100.00 per month for 2 mo.	\$200.00		
04			
05			
06			
07			
08			
09			
10			
11 Aggregate Adjustment	-\$0.01		
<b>H. Other</b>			
01			
02			
03			
04			
05			
06			
07			
08			
09			
10			
<b>I. TOTAL OTHER COSTS (Borrower Paid)</b>			
Other Costs Subtotal (E + F + G + H)	\$2,763.87		
<b>A. TOTAL CLOSING COSTS (Borrower Paid)</b>			
Closing Costs Subtotal (D + I)	\$3,823.87	\$435.00	
Lender Credits	-\$300.00		
CLOSING DISCLOSURE PAGE 2 OF 5 - LOAN 03-12345678			

Specific

Specific

Specific Credit: List the amount with item and designate in "Paid by Others."

Can list "(L)" designation with the amount to indicate creditor-paid

# Lender Credits – Good Faith Analysis

§ 1026.19(e)(3)

- Compare the amount of “Lender Credits” identified in Section J of the Loan Estimate with the total amount of lender credits in the Closing Disclosure (i.e., the sum of the lender credits listed in the Closing Costs, Loan Costs, and Other Costs sections)
- If actual amount provided is less than lender credits estimated identified on the Loan Estimate, that is an increased charge under 19(e)(3)(i), for which there is zero tolerance absent a valid changed circumstance

# Lender Credits – Offsetting Excess Charges

§ 1026.38(h)(3)

<b>J. TOTAL CLOSING COSTS (Borrower Paid)</b>	<b>\$5,977.57</b>	
Closing Costs Subject to Legal Limit	\$5,977.57	\$655.00
Lender Credits (Includes \$200 credit for increase in Closing Costs above legal limit)	-\$500.00	

- Amounts charged in excess of tolerance limitations

- Disclose offsetting credits from a creditor on the Lender Credits line on the Closing Disclosure
- Include required statement
- Provide corrected Closing Disclosure, if post-consummation

Calculating Cash to Close		Use this table to see what has changed from your Loan Estimate.	
	Loan Estimate	Final	Did this change?
Loan Amount	\$150,000.00	\$150,000.00	NO
Total Closing Costs (J)	-\$5,099.00	-\$5,977.57	YES - See Total Loan Costs (D) and Total Other Costs (I) - Increase outside legal limits by \$200. See Lender Credits on page 2 for credit of excess amount.
Closing Costs Paid Before Closing	\$0	\$655.00	YES - You paid these Closing Costs before closing
Total Payoffs and Payments (K)	-\$120,000.00	-\$115,000.00	YES - See Payoffs and Payments (K)
Cash to Close	\$24,901.00	\$29,677.43	
	<input type="checkbox"/> From <input checked="" type="checkbox"/> To Borrower	<input type="checkbox"/> From <input checked="" type="checkbox"/> To Borrower	Closing Costs Financed (Paid from your Loan Amount) \$5,322.57

# Lender Credits – Changed Circumstances

§ 1026.19(e)(3)(iv)

- Both specific and general lender credits may increase or decrease if there is a changed circumstance or other triggering event.
  - Changed circumstance must relate directly to the fee that is tied to the lender credit initially disclosed.
- Creditor must provide revised disclosures within three business days.
  - All of the disclosures on a revised Loan Estimate must be based on the best information reasonably available at the time the revised disclosure is provided.



# Lender Credits – Changed Circumstances

## Definition of a Changed Circumstance

§1026.19(e)(3)(iv)(A)(1)

§1026.19(e)(3)(iv)(A)(2)

§1026.19(e)(3)(iv)(A)(3)

- An extraordinary event beyond the control of any interested party or other unexpected event specific to the consumer or transaction;
- Information specific to the consumer or transaction that the creditor relied upon when providing the Loan Estimate that was inaccurate or changed after the Loan Estimate disclosures were provided; or
- New information specific to the consumer or transaction that the creditor did not rely on when providing the Loan Estimate disclosures.

# Lender Credits – Changed Circumstances

§1026.19(e)(3)(iv)

- Assume a changed circumstance or triggering event causes the lender credit to decrease
- No tolerance violation occurs if—
  - All the other requirements for resetting tolerances are met; and
  - Legal obligation allows the decrease

# Lender Credits – Changed Circumstances & Record Retention

## Example

§1026.25(c)(1)(i)

- Assume:
  - An appraisal fee decreases by \$50 due to a change in the loan program; and
  - The underlying legal obligation stated that the creditor would pay for the appraisal, but not the specific amount
- Result:
  - Lender credit decrease would not result in a zero tolerance standard violation

Note: Must retain evidence of compliance with Loan Estimate requirements



## **Construction Loan Disclosures**

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# Construction Loans – Disclosure Options

## Construction-Permanent Loan

§ 1026.17(c)(6)

### Creditor's Option:

- Separate sets of disclosures; or
- Combined disclosures for both the construction financing and the permanent financing

### Series of multiple advances:

May be considered as one transaction

# Construction Loans – Appendix D

## APPENDIX D TO PART 1026—MULTIPLE ADVANCE CONSTRUCTION LOANS

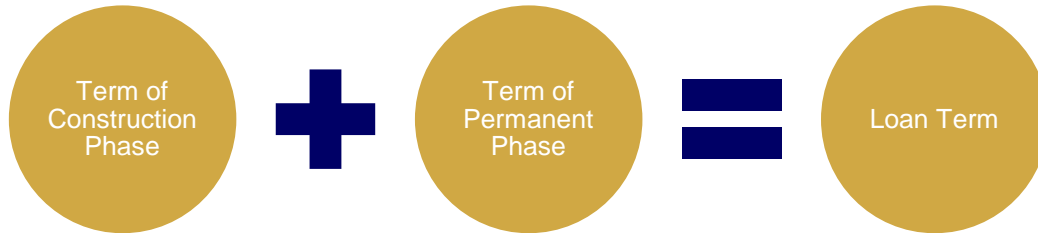
Section 1026.17(c)(6) permits creditors to treat multiple advance loans to finance construction of a dwelling that may be permanently financed by the same creditor either as a single transaction or as more than one transaction. ~~If the actual schedule of advances is not known, the following methods may be used to estimate the interest portion of the finance charge and the annual percentage rate and to make disclosures. If the creditor chooses to disclose the construction phase separately, whether interest is payable periodically or at the end of construction, part I may be used. If the creditor chooses to disclose the construction and the permanent financing as one transaction, part II may be used.~~

~~7. Relation to §§1026.37 and 1026.38. Creditors may use, at their option, the following methods to estimate and disclose the terms of multiple-advance construction loans pursuant to §§1026.37 and 1026.38. As stated in comment app. D-1, appendix D may also be used in multiple-advance transactions other than construction loans, when the amounts or timing of advances is unknown at consummation.~~

# Construction Loans – Loan Term

## Construction-Permanent Loan

### Loan Treated as Single Transaction



§ 1026.37(a)(8)  
§ 1026.38(a)(5)(i)  
Comment app. D-7.i

### Permanent Financing Term



Count from Date  
Interest for Permanent  
Phase Starts to Accrue

# Construction Loans – Product

## Product Disclosure

§ 1026.37(a)(10)  
§ 1026.38(a)(5)(iii)

LOAN TERM

PURPOSE

PRODUCT

LOAN TYPE

Conventional  FHA  VA  \_\_\_\_\_

LOAN ID #

RATE LOCK

NO  YES, until

*Before closing, your interest rate, points, and lender credits can change unless you lock the interest rate. All other estimated closing costs expire on*

- Product description preceded by name of a feature that may change periodic payment
- “Interest Only” feature, if one or more regular periodic payments may be applied only to interest accrued and not to the loan principal



# Construction Loans – Interest-Only Product

## Construction-Permanent Loan– Product Disclosure Interest-Only Time Period

§ 1026.37(a)(10)  
§ 1026.38(a)(5)(iii)  
Comment app. D-7.ii

### Separate Sets of Disclosures



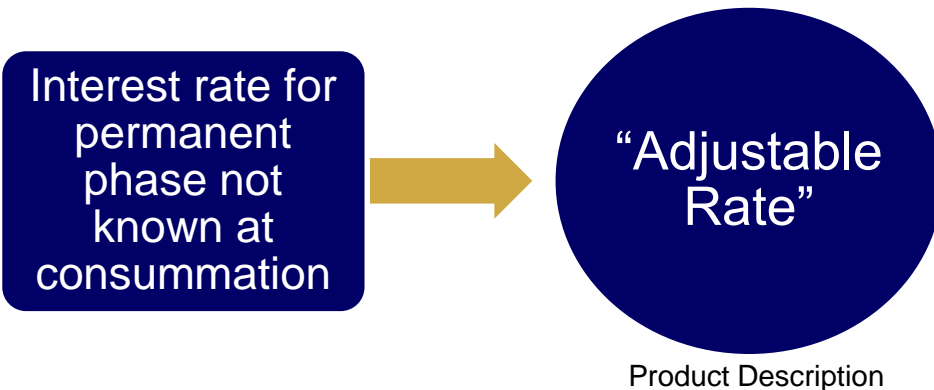
Exclude any final balloon payment

### Combined Disclosures



# Construction Loans – Adjustable-Rate Product

## Construction-Permanent Loan – Product Disclosure



§ 1026.37(a)(10)  
§ 1026.38(a)(5)(iii)  
Comment app. D-7.ii-C

“Adjustable Rate” is the product description, if interest rate may increase under terms of legal obligation, even if interest rate will be fixed for term of permanent phase once set

# Construction Loans – Interest Rate Disclosure

## Construction-Permanent Loan

Comment app. D-7.iii

<b>If the Permanent Financing . . .</b>	<b>Then</b>
Has an adjustable rate at consummation and separate disclosures are provided	Disclose the fully indexed rate for permanent financing
Has a fixed rate that will not adjust upon conversion	Disclose the fixed rate
Has a rate that may adjust upon conversion	The permanent financing has an adjustable rate

# Construction Loans – Interest Rate Disclosure

## Construction-Permanent Loan

Comment app. D-7.iii

**1026.20(c): Disclosures for rate adjustments resulting in corresponding payment changes**

**1026.20(d): Disclosure for initial interest rate adjustment**

Provide Section 1026.20(c) disclosures (but not initial adjustment disclosure) if:

- 1 - Permanent financing interest rate may adjust upon conversion;
- 2 - Such adjustment results in corresponding adjustment to payment; and
- 3 - Interest rate for permanent phase will be fixed after conversion

# Construction Loans – Disclosure of Construction Costs

## Construction Only or Construction-Permanent Loan

Comment app. D-7.vi.B

- On the Loan Estimate, construction costs are factored into the funds for borrower calculation under the Calculating Cash To Close Table.
- On the Closing Disclosure, construction costs are disclosed on the Closing Disclosure under the Summary of Transaction table and factored into the down payment/funds from borrower and funds for borrower calculation under the Calculating Cash to Close Table.
- On both the Loan Estimate and the Closing Disclosure, can disclose construction costs in the optional alternative calculating cash to close table if—
  - There is no seller; or
  - There is simultaneous subordinate financing.

# Construction Loans – Construction Holdbacks

## Construction Only or Construction-Permanent Loan

Comment app. D-7.vi-D

- Option to disclose holdback amounts either separately from or included in the amount disclosed for construction costs
- If disclosed separately, holdback amount is excluded from the balance of construction costs disclosed, to avoid double-counting

### Summaries of Transactions

Use this table to see a summary of your transaction.

BORROWER'S TRANSACTION

SELLER'S TRANSACTION

# Construction Loans – Inspection and Handling Fees

§ 1026.37(f)

§ 1026.38(f)

Comment app. D-7.vii

Inspection and Handling Fees, including Draw Fees, are Loan Costs

- If Collected At or Before Consummation → Loan Costs table and included in the Calculating Cash to Close table
- If Collected After Consummation → Separate Addendum and not included in the Calculating Cash to Close table
- Regardless of when collected, include as Loan Costs for “In 5 Years” and “Total of Payments”

# Construction Loan Resources

- Special Disclosure Provisions in Regulation Z (among others):
  - § 1026.17(c)(6);
  - Appendix D; and
  - § 1026.19(e)(3)(iv)(F) (for new construction only).
- Section 14, Small Entity Compliance Guide (v 5.2, May 2018)
- CFPB FAQs on construction loans
- Guide to Loan Estimate and Closing Disclosure Forms





FEDERAL DEPOSIT INSURANCE CORPORATION

## **Compliance Management System**

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## **& Third Party Relationships**

# Consumer Compliance Program - General

- Policies and procedures
- Training
- Monitoring and/or audit
- Consumer complaint response



# Consumer Compliance Program – Policies & Procedures

- Commensurate with risk in products, services, and activities
  - Provides information needed to perform the business transaction
  - Sets clear expectations in third party agreements
  - Provides standards for review, including system parameters

# Consumer Compliance Program - Training


- Using consistent terminology between the loan estimate and closing disclosure
- Technical requirements for disclosing fees
- Prepaid finance charges; timing requirements for providing disclosures
- Services consumer can and can't shop for

# Consumer Compliance Program – Monitoring and/or Audit

- Effective monitoring generally may include:
  - Loan Estimates & Closing Disclosures
    - Fee disclosure (e.g. consistent terminology, proper slotting)
    - Applicable fees are disclosed (e.g. HOA fees)
    - Change in circumstances
    - Tolerance issues
    - Missing information
  - System Updates/Conversions
    - Pre/post implementation

# Third-Party Relationships – FIL-44-2008

- Risk assessment
- Due diligence in selecting a third party
- Contract structuring and review
- Oversight

 <b>Federal Deposit Insurance Corporation</b> 550 17th Street NW, Washington, D.C. 20429-9990		<b>Financial Institution Letter</b> FIL-44-2008 June 6, 2008
<b>THIRD-PARTY RISK</b> Guidance for Managing Third-Party Risk		
<b>Summary:</b> The attached FDIC guidance describes potential risks arising from third-party relationships and outlines risk management principles that may be tailored to suit the complexity and risk potential of a financial institution's significant third-party relationships.		
<b>Distribution:</b> FDIC-Supervised Banks (Commercial and Savings)	<b>Highlights:</b>	Financial institutions often rely upon third parties to perform a wide variety of services and other activities. An institution's board of directors and senior management are ultimately responsible for managing activities conducted through third-party relationships, and identifying and controlling the risks arising from such relationships, to the same extent as if the activity were handled within the institution.
<b>Suggested Routing:</b> Chief Executive Officer Chief Financial Officer Chief Compliance Officer Chief Risk Officer		Management should tailor the principles contained in this guidance to each significant third-party arrangement, taking into consideration such factors as the complexity, magnitude, and nature of the arrangement and associated risks. This guidance outlines the potential risks that may arise from the use of third parties and addresses the following four basic elements of an effective third-party risk management program:
<b>Related Topics:</b> Risk Management Third-Party Contracts Outsourcing Arrangements FFIEC IT Handbook on Outsourcing Technology Services (June 2004) Required Notification for Compliance with the Bank Service Company Act.		<ul style="list-style-type: none"><li>• Risk assessment</li><li>• Due diligence in selecting a third party</li><li>• Contract structuring and review</li><li>• Oversight</li></ul>
<b>Attachment:</b> Guidance for Managing Third-Party Risk		This guidance is based on and supplements the principles contained in policy guidance that has previously addressed third-party risk in the context of specific functions, such as information technology. This guidance is intended to assist in the effective management of third-party relationships, and should not be considered as a set of required procedures.
<b>Contact:</b> Senior Examination Specialist Kenyon T. Kolbe (Risk Management) at <a href="mailto:kolbe@fdic.gov">kolbe@fdic.gov</a> or (202) 898-8935, or Policy Analyst Victoria Pawelski (Compliance) at <a href="mailto:vpawelski@fdic.gov">vpawelski@fdic.gov</a> or (202) 898-3871		
<b>Note:</b> FDIC financial institution letters (FILs) may be accessed from the FDIC's Web site at <a href="http://www.fdic.gov/news/news/financial/2008/index.html">http://www.fdic.gov/news/news/financial/2008/index.html</a> .		
To receive FILs electronically, please visit <a href="http://www.fdic.gov/about/subscriptions/fil.htm">http://www.fdic.gov/about/subscriptions/fil.htm</a> .		
Paper copies of FDIC financial institution letters may be obtained through the FDIC's Public Information Center, 3501 Fairfax Drive, E-1002, Arlington, VA, 22206 (1-877-275-3342 or 703-562-2200).		

# Third-Party Relationships

Contract  
Provisions

Third-Party  
Completion of  
Closing  
Disclosures

Pre-Closing  
Software

System  
Parameters

Complaints/  
Inquiries



## **VII. Resources and Questions**

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# Resources

- [FDIC Consumer Compliance Examination Manual](#) (Links below current as of Dec. 1, 2019)
  - [Consumer Compliance Examinations – Compliance Management System](#)
  - [Lending—TILA](#)
- [CFPB TRID Implementation Resources](#)
  - [TILA-RESPA Integrated Disclosure – Guide to the Loan Estimate and Closing Disclosure Forms](#) (v. 2.1, May 2018)
  - [TILA-RESPA Integrated Disclosure FAQs](#)
- [CFPB Interactive Bureau Regulations](#)
  - [12 CFR Part 1026 - Truth in Lending \(Regulation Z\)](#)

# Questions

If you have any questions related to this presentation, please email them to:

[BankerTeleconference@fdic.gov](mailto:BankerTeleconference@fdic.gov)

# Conclusion

If you have any questions related to this presentation, please email them to:

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