



Federal Deposit Insurance Corporation
550 17th Street NW, Washington, D.C. 20429-9990

Financial Institution Letter

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Interagency Consumer Compliance Examination Procedures for Truth in Lending Act (Regulation Z) and Real Estate Settlement Procedures Act (Regulation X) Mortgage Rules

Summary: The FDIC has released revised interagency examination procedures for the new Truth in Lending Act (TILA) - Real Estate Settlement Procedures Act (RESPA) Integrated Disclosure Rule (TRID Rule), as well as amendments to other provisions of TILA Regulation Z and RESPA Regulation X. The Consumer Financial Protection Bureau (CFPB) issued a proposal for a TRID Rule effective date of October 3, 2015. The examination procedures should be helpful to financial institutions seeking to better understand the areas on which the FDIC will focus as part of the examination process.

Statement of Applicability to Institutions Under \$1 Billion in Total Assets: This Financial Institution Letter applies to all FDIC-supervised institutions.

Distribution:
FDIC-Supervised Institutions

Suggested Routing:
Chief Executive Officer
Chief Compliance Officer
Chief Loan Officer

Related Topics:
Dodd-Frank Wall Street Reform and Consumer Protection Act
Truth in Lending Act (Regulation Z)
Real Estate Settlement Procedures Act (Regulation X)

Attachments:
[Compliance Examination Manual](#)

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Note:
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Highlights:

FDIC examiners will use the updated interagency examination procedures to evaluate financial institutions' compliance with residential mortgage loan rules, including the following new or amended rules:

- **TRID Rule** – replaces the requirements to provide the RESPA Good Faith Estimate and HUD-1 Settlement Statement and Truth in Lending disclosures for most closed-end mortgage loans with two documents: the Loan Estimate and the Closing Disclosure. (**Proposed Effective Date October 3, 2015**)
- **Mortgage Servicing Rules** – provide an alternative definition of the term "small servicer" for certain nonprofit entities.
- **Ability-to-Repay / Qualified Mortgage Rule** – amended to provide creditors or assignees meeting certain requirements a limited period of time in which to review a transaction and "cure" excess points and fees for purposes of maintaining QM status.

The updated procedures also reflect the additional exemptions from the **Higher-Priced Mortgage Loans (HPML) Appraisal Rule**, which were finalized prior to the January 2014 effective date, but after examination procedures were last issued.

Additional resources on the new rules can be found on the CFPB's website at <http://www.consumerfinance.gov/regulatory-implementation/>.

Interagency Consumer Compliance Examination Procedures for Truth in Lending Act (Regulation Z) and Real Estate Settlement Procedures Act (Regulation X) Mortgage Rules

The FDIC's Division of Depositor and Consumer Protection (DCP) has released revised interagency consumer compliance examination procedures applicable to the new Truth in Lending Act (TILA) - Real Estate Settlement Procedures Act (RESPA) Integrated Disclosure rule (TRID Rule), as well as amendments to other provisions of TILA Regulation Z and RESPA Regulation X mortgage rules issued pursuant to the Dodd-Frank Act. The procedures were developed in coordination with member agencies of the Federal Financial Institutions Examination Council. The interagency procedures can be accessed at <https://www.fdic.gov/regulations/compliance/manual/index.html>.

The TRID Rule's requirements, which affect most closed-end consumer credit loans secured by real estate, are reflected in the procedures. The CFPB proposed moving the effective date to October 3, 2015.¹ The procedures addressing various other, targeted amendments² to Regulation Z, are currently in effect.³

Background and Summary

The following is a brief summary of key aspects of the new or amended mortgage rules covered in the examination procedures. FDIC examiners will use these procedures to review institutions for compliance with the mortgage rules.

Truth in Lending Act - Real Estate Settlement Procedures Act Integrated Disclosure Rule (TRID Rule)

The examination procedures reflect amendments to Regulations Z and X issued by the Consumer Financial Protection Bureau (CFPB) and published in the Federal Register in December 2013 (and later amended in February 2015) implementing provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act (DFA), which require integration of the disclosures provided to consumers in connection with most closed-end residential mortgage loans.

The TRID Rule amendments integrate consumer disclosures that had been required separately under TILA and RESPA. The integrated disclosures substitute two forms for the four previously required by TILA and RESPA. Specifically, the TRID Rule replaces the requirements to provide the RESPA Good Faith Estimate and HUD-1 Settlement Statement and

¹ On June 24, 2015, the CFPB announced a proposal to move the TRID Rule's effective date from August 1, 2015, to October 3, 2015. The proposal will be open for public comment until July 7, 2015.

² The amendments issued by the CFPB since December 2013 related to Mortgage Loan Servicing and Ability-to-Repay/Qualified Mortgages.

³ However, some provisions related to modified exemptions from the HPML appraisal rule for certain types of manufactured home transactions will become effective on July 18, 2015.

Truth in Lending (TIL) disclosures for most closed-end mortgage loans with two documents: the Loan Estimate and the Closing Disclosure.

In addition, there are new timing requirements and a new definition of “application” that trigger a requirement that the Loan Estimate be provided within three business days. The timing rules also require waiting periods to allow consumers time to evaluate the information in the disclosures prior to consummation. In addition, there are some revisions regarding limits on fee increases between the time that the Loan Estimate is provided and consummation.

The new integrated disclosures do not apply to reverse mortgages, home equity lines of credit (HELOCs), chattel-dwelling loans such as loans secured by a mobile home or by a dwelling that is not attached to real property (i.e., land), or other transactions not covered by the TRID Rule. The TRID Rule also does not apply to loans made by an entity that is not a “creditor” as defined by Regulation Z, which generally means making five or fewer mortgage loans in a year. In these instances, lenders must continue to use, as applicable, the previously established forms.

For loans secured by subordinate liens that are associated with certain housing assistance loan programs for low- and moderate-income persons, creditors also are not subject to TRID, but must provide consumers with the previously established TIL disclosures but not the RESPA Good Faith Estimate nor the HUD-1 Settlement Statement.

Higher-Priced Mortgage Loans (HPML) Appraisal Rule

The examination procedures were updated to reflect changes made to the HPML Appraisal Rule prior to its effective date of January 18, 2014, exempting the following transactions from the HPML loan appraisal requirements: extensions of credit equal to or less than the applicable threshold amount, indexed annually for inflation; refinancings secured by first liens, provided that the refinancings meet certain criteria (often referred to as “streamlined refinances”); and transactions secured in whole or in part by a manufactured home (however, note that effective July 18, 2015, transactions secured by manufactured homes will be exempt only under certain conditions based on whether it is new or used and whether it is secured by land).

Mortgage Servicing Rules

The examination procedures were updated to reflect an alternative small servicer definition for certain nonprofit entities, which is currently in effect. The definition of small servicer includes a nonprofit entity that services 5,000 or fewer mortgage loans, including any mortgage loans serviced on behalf of associated nonprofit entities, for all of which the servicer or an associated nonprofit entity is the creditor. A nonprofit servicer is evaluated based on the mortgage loans serviced by the servicer (and not those serviced by associated nonprofit entities).

Ability-to-Repay/Qualified Mortgage Rule (ATR Rule)

The examination procedures reflect amendments to the ATR Rule to provide a “cure provision,” which gives creditors or assignees meeting certain requirements a limited period of time in which to review a transaction and “cure” excess points and fees for purposes of maintaining QM status. If points and fees exceed the applicable threshold, a qualifying creditor or assignee can bring the transaction into conformity by reimbursing the consumer for the

excess points and fees, along with interest on the excess points and fees. These amendments are currently in effect.⁴

Technical Assistance Resources

The examination procedures should be helpful to financial institutions seeking to better understand the areas the FDIC will focus on as part of the examination process. For more information on bank regulatory compliance and consumer protection issues, see the following:

- FDIC Community Banking Initiatives –<https://www.fdic.gov/regulations/resources/cbi/>.
- FDIC Technical Assistance Videos –
<https://www.fdic.gov/regulations/resources/director/video.html>.
- FDIC Regulatory Calendar –
<https://www.fdic.gov/regulations/resources/cbi/calendar.html>.

The Consumer Financial Protection Bureau's (CFPB) website also provides resources on the mortgage-related rulemakings. Information can be obtained at
<http://www.consumerfinance.gov/regulatory-implementation/>.

⁴ Except for one new subparagraph in the Official Interpretations of the ATR Rule for which the CFPB has proposed an effective date of October 3, 2015.