

Head Down the Right Road

Communication with employees and vendors can eliminate TRID headaches

By Michael P. Bell and Elliot M. Liss

For some mortgage businesses, the implementation of processes to comply with new Truth in Lending Act and Real Estate Settlement Procedures Act Integrated Disclosure rules (TRID) has been rocky in the early days. For others, the path has been a bit easier. Few, however, have seemingly waded into TRID's murky waters without encountering at least a few significant challenges.

Although there are still more than a few aspects of TRID that sorely need clarification, there are steps that mortgage originators and companies can take to make their regulatory journey a bit smoother. Many companies have taken these steps and encountered fewer challenges — or have been able to overcome the obstacles encountered. Unfortunately, some have endured a much bumpier road during the implementation process. Even for those who have struggled the most, however, there is a path to a smoother road ahead.

One key element of TRID is the transformation of forms previously called the Good Faith Estimate and HUD-1 into the Loan Estimate and Closing Disclosure forms — which disclose mortgage terms and costs to borrowers. Under TRID, with a few exceptions, if changes must be made to the Closing Disclosure after it has been issued, but before closing, then a revised form must be issued.

Redislosure is fraught with challenges because certain circumstances may cause the disclosure timeline to reset, delaying closing. In addition, substantial variations among some categories not first disclosed in the



Loan Estimate that later appear in the Closing Disclosure can trigger financial losses for the lender.

Unfortunately, some mortgage companies have apparently bypassed working or communicating directly with the title and closing agents to estimate settlement fees. Instead, they have made use of closing-cost calculators to generate the settlement estimates. In a filed-rate state for title insurance, or where the vendor has a negotiated rate with that lender, this can be a grave mistake, leading to significant variations. There also have

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been instances in which the Closing Disclosure agreed to by the title company and lender is not the same form that appears at the closing table. This can be problematic, to say the least.

Some companies also could request that their vendors prepare the majority of the Closing Disclosure — which is perfectly acceptable — but then do so without providing the loan-level information necessary to process the form. The bottom line is that TRID, in part, was designed to force lenders and their vendors to communicate effectively for the benefit of the consumer. Give your vendors a call, and let them help you.

Vendor licensing

Make sure your vendors are licensed in the state where your transaction will occur. This is not actually just a TRID issue, but it happens often enough to merit mention. Is your title or settlement vendor even licensed to do business in the state of the transaction?

The Closing Disclosure now requires vendors to list all of their licensing credentials, so be sure that all vendors are accounted for on the form. The truth tends to come out when a lender or mortgage company is audited by an enforcement agency, so don't just take your vendor's word for it. Demand proof. It could spare you a significant penalty.

Your TRID process

Make sure your process for TRID is written and distributed to all vendors. There are any number of approaches to addressing these new regulations, and complications can arise

when these approaches and processes are not documented, not clearly written or not distributed to the employees and vendors involved in trying to close the transaction. Without doing this, personnel within the same company could even contradict themselves.

Any hiccup like this, of course, leads to delays, added costs and, possibly, TRID violations. Make it easy for everyone involved — and help prove your good-faith efforts to comply — by issuing a crystal-clear written process for TRID closings and then distribute it to those involved in the closing process.

In addition, you want to ensure that everyone within your company is well-trained on what TRID allows — and, maybe more importantly, what it prohibits. Without such training, major problems could arise. Vendors could be asked to furnish information to which they have no access. Forms could be altered, when the Consumer Financial Protection Bureau (CFPB) specifically prohibits alteration. Experienced originators could contradict their managers on TRID-related issues. Therefore, any personnel who could remotely be involved in the process should be trained. The risks of TRID violations are far too great to ignore.

The right way

Above all, do it right the first time, even if it's difficult or painful. You really don't want to redo a closing.

One of the most dangerous things that could happen with TRID is a lender that, even when faced with the requirement to issue an amended Closing Disclosure, requests that the

settlement agent proceed with the closing anyway. This is a clear violation of the rule, and the requirement is unambiguous — unlike some other parts of TRID. The profit from a single loan can't possibly outweigh the potential cost of a CFPB audit and/or fine.

It is certainly reasonable for anyone to have a fear of having a closing rescheduled to accommodate changes to the Closing Disclosure. Many things can change between the time of the originally scheduled close and the rescheduled close, including borrowers changing their mind about their loan, or changes in taxes, vendor rates or more. This is all the more reason to ensure every precaution has been taken in advance to address all details and avoid a repeat closing.



TRID isn't going away. Eventually, the unofficial good-faith allowance will give way to stricter enforcement of the rule. Those mortgage professionals who may have stumbled in the early going of TRID can make up a great deal of distance by asking themselves if they are communicating effectively with their vendors. There is still time to update or upgrade your approach, and doing so could save you thousands of dollars in fines — or more. ■