Changes In Store for Residential Mortgage Loan Closings

Beginning August 1, the borrowing public will experience fundamental changes in the closing process for most residential mortgage loans as lenders implement the new TILA/RESPA integrated disclosure rules (TRID). Lenders are well prepared to implement the new rules, having spent countless hours studying the rules, revamping their systems and retraining their employees. On the other hand, the general public and other real estate market participants may not be aware of the changes that are in store for residential mortgage loan closings. To ease the transition and adjust expectations, lenders may want to provide borrowers and other real estate market participants with some basic information about TRID, how it will impact closings, and things they can do to facilitate timely closings.

TRID replaces the Good Faith Estimate form with a Loan Estimate form that contains estimated loan closing costs and must be delivered or mailed to the borrower no later than three business days after receipt of a loan application and at least seven business days before closing. TRID also replaces the HUD-1 form with a Closing Disclosure form that contains final closing costs and must be delivered to the borrower at least three business days prior to closing. The substance and layout of the new forms are materially different from the old forms. In addition, lenders are primarily responsible for the content and delivery of the new forms, which has led to many lenders to change their procedures for collecting information and preparing and distributing the forms. Similar to the old rules, there are limits on how much some costs can change from the Loan Estimate to the Closing Disclosure. New rules limit changes to certain items after delivery of the Closing Disclosure without delaying closing until three business days after the borrower receives a revised Closing Disclosure.

The Dodd-Frank Act directed the Consumer Financial Protection Bureau (CFPB) to simplify and clarify the required residential mortgage loan disclosures. The CFPB conducted a multi-year study that evaluated several iterations of the new forms involving numerous different borrowers, loan products and lenders. The TRID rules and forms are the result of that process and are intended to help consumers understand key features, costs and risks of a mortgage loan.

The new forms provide consumers with many benefits. The new forms use clear language and design to make it easier for consumers to locate key information, such as interest rate, monthly payments, and costs to close the loan. The forms also provide more information to help consumers decide whether they can afford the loan and to facilitate comparison of the cost of different loan offers, including the cost of the loans over time. Importantly, the new timing rules will prevent borrowers from being surprised by additional loan costs on the day of closing.

To facilitate timely closings and avoid delays, borrowers, loan originators and real estate brokers should conduct inspections and walk-throughs as early in the process as possible to allow ample time to react to any adverse discoveries. All loan related cost information, such as home owners' association dues and special assessments, should be provided to the lender as soon as possible and no later than seven business days prior to closing. In many instances, lenders may mail the Closing Disclosure six business days prior to closing to ensure it is deemed delivered to the borrower at least three business days prior to the scheduled closing.

Borrowers, loan originators and real estate agents are encouraged to anticipate delays and take precautions to mitigate the impact of delays as the entire real estate industry adjusts to the new rules, forms and closing procedures. Allotting more time between the execution of a purchase contract and the scheduled closing may be advisable (such as 60 days rather than 30 days). Longer interest rate locks may be prudent (again, 60 days may be more appropriate than 30 days). It may be a good idea not to schedule multiple contingent closings close in time given the increased risk that any one of the transactions could be delayed. For example, back-to-back closings where the proceeds of a sale transaction in the morning are used to close on a purchase in the afternoon are risky given that the morning transaction could be delayed three days to deliver a revised Closing Disclosure.

The banking industry has been preparing for TRID for months and has adopted the necessary process improvements to continue providing homebuyers with the credit they need with as little disruption as possible. Change in general can be disconcerting for many people. Bankers can ease the transition for borrowers and other real estate market participants by reminding them of the benefits of the TRID forms and timing requirements and suggesting ways to minimize and cope with potential delays.

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