

“KNOW BEFORE YOU OWE”

CFPB Issued Final Rule on Mortgage Disclosures



The Consumer Financial Protection Bureau (CFPB) recently issued a Final Rule requiring easier-to-use mortgage disclosure forms that clearly lay out the costs and terms of a mortgage loan. The new “Know Before You Owe” forms will replace the existing federal disclosure forms and are designed to help consumers both understand a mortgage better and make loan comparisons. The rule also requires that consumers receive these forms in advance of making key decisions, so they have time to review the terms of the loan before signing on the dotted line.

EFFECTIVE DATE

Mortgage lenders and settlement agents must use these new forms on loans originated after August 1, 2015. Homebuyers will be able to more clearly understand the terms of the loan, their obligations, and what could possibly change.

“KNOW BEFORE YOU OWE” MORTGAGE FORMS

THE LOAN ESTIMATE

The Loan Estimate replaces the early Truth-in-Lending Disclosure and the Good Faith Estimate, and provides a summary of the key loan terms and estimated loan and settlement costs. The new form must be provided to the borrower within three business days after they submit certain minimum required information to the lender. Borrowers can use this new form to compare the costs and features of different loans. Recognizing that consumers may work with a mortgage broker, either a mortgage broker or lender may provide the Loan Estimate form upon receipt of the required information by a mortgage broker. However, the lender remains responsible for complying with all requirements and accuracy of the form.

THE CLOSING DISCLOSURE

The Closing Disclosure replaces the final Truth in Lending Statement and the HUD-1 Uniform Settlement Statement. The form must be provided to the borrower three business days before signing of the loan documents. In addition to summarizing the final loan terms and costs, the Closing Disclosure provides borrowers with a detailed accounting of their transaction. If after providing the Closing Disclosure certain costs or loan terms change, the borrower must receive a revised Closing Disclosure form containing the new information and must be provided an additional three days to review before signing. Consumers who have closed residential transactions previously will note a number of changes to the format of the Closing Disclosure. Line numbers commonly used in the HUD-1 are gone, replaced with section categories grouping various types of charges. Charges are alphabetized for ease of reference between the Loan Estimate and the Closing Disclosure forms. Certain challenges are ahead for lenders and settlement agents since the two forms replaced by the Closing Disclosure, and the information contained in each form, currently reside in separate systems. However, anticipating

these changes, lenders and settlement agents are modifying systems and processes to accommodate the changes. By providing borrowers with the Closing Disclosure three business days before signing, borrowers will have time to review final loan terms and costs prior to signing.

SPANISH-LANGUAGE VERSIONS

The CFPB has also included Spanish-language versions of the forms in the Final Rule.

LIMITS ON CLOSING COSTS

The CFPB Final Rule restricts the circumstances in which the terms of the loan, and the loan and settlement costs, may change from those shown on the Loan Estimate. The Final Rule provides some exceptions, but unless an exception applies, changes in loan terms or increases in most loan and settlement charges, depending upon the charge, are either prohibited or limited to an increase of no more than 10 percent. The Final Rule added two categories of loan and settlement costs that may not change at all: fees for required services where the lender requires the use of a specific service provider and fees for settlement services provided by a lender’s affiliate. When an exception applies, the lender generally must provide an updated Loan Estimate within three business days.

PROPOSALS NOT ADOPTED IN THE FINAL RULE

Based on public comments, raising implementation and cost concerns regarding the following two proposals, the Bureau has determined not to finalize the following two provisions in the Final Rule.

• APR

The proposed rule would have redefined the way the Annual Percentage Rate or “APR” is calculated. Under the proposal, the APR would have encompassed almost all of the up-front costs of the loan.

• RECORDKEEPING

The proposal rule would have required creditors to keep records of the Loan Estimate and Closing Disclosure forms provided to consumers in an electronic, machine readable format to make it easier for regulators to monitor compliance.