

FAQs - TILA/RESPA Integrated Disclosure (TRID) Rule

(August 2, 2017)

NAR is compiling a list of frequently asked questions by members for the TILA/RESPA Integrated Disclosure forms, also known as “TRID” or “Know Before You Owe.”

Q: I see that the Closing Disclosure requires a license number for the real estate broker. My office has multiple brokers who serve in different roles. Whose license number should go on the form?

A: The “Contact Information” box on the Closing Disclosure provides various forms of contact information for the main settlement servicer providers in the transaction, including the real estate professionals. The Consumer Financial Protection Bureau (“CFPB”), did not specify whose license number should go on the form, other than that it should be information that allows the consumer to contact the brokerage if the consumer has questions. Therefore, brokerages should use their best judgment in providing this information to lenders/closing agents. If your state licenses offices, the office license number is an option. Another option is the principal broker for the firm. If the firm has multiple offices, the managing broker for the office that handled the transaction is another option.

Q: The lender for my buyer’s upcoming closing has refused to send me the Closing Disclosure, instead telling me that I must receive this from my client, the borrower. I have always received the HUD-1 before the closing from the closing agent. What has changed—does this have something to do with the new TRID rules?

A: The TRID rules do not limit the sharing of these disclosures, but some lenders are taking the position that there is personally identifiable information in the Closing Disclosure and therefore other federal privacy laws (not TRID) prohibit the lender from sharing this information with third parties without the consent of the borrower. However, the CFPB through a final rule acknowledges an existing exception within privacy law (*Gramm-Leach-Bliley Act* or GLBA) that allows lenders to share the Closing Disclosure with third parties, as a “record of the transaction.” The final rule should give confidence to lenders hesitant to share the Closing Disclosure, which is allowed to the extent it is consistent with GLBA and is not barred by applicable state law. NAR continues to educate industry partners on the CFPB’s recognition of permissible sharing to facilitate better access to the Closing Disclosure.

Q: I’ve heard of different lenders requiring a new Closing Disclosure and 3-day review period for minor changes such as last minute repairs. I thought the new rules would allow for such changes without a new 3-day period.

A: You are correct. While some lenders may adopt different policies internally, the CFPB has made it clear that only three circumstances REQUIRE a new Closing Disclosure and 3-day review period:

1. The annual percentage rate (APR) increases by more than 1/8 of a point for fixed rate or 1/4 of a percent for adjustable rate loans.

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2. A prepayment penalty is added.
3. The basic loan product changes, such as switching from a fixed rate to an adjustable rate mortgage.

Even though the TRID rules will only directly delay closings in these limited circumstance, TRID also requires lenders to make refunds for certain “tolerance violations,” which arise when certain charges involved in obtaining the mortgage vary from the initial estimates contained in the Loan Estimate. Because of the potential tolerance refunds, lenders are carefully scrutinizing any variations between the Loan Estimate and the Closing Disclosure or other changes in the property value, and so any variations have the potential to cause the lender to delay the transaction. The CFPB is further examining the ability of lenders to reset tolerances using the Closing Disclosure (or a revised Closing Disclosure) to reflect a valid change in circumstance, regardless of when closing is scheduled to occur. A final rule on this issue is expected sometime next year.