

## NAR Issue Brief

### CFPB Makes Clear Lenders' Present Ability to Share CD

On July 29, 2016, the Consumer Financial Protection Bureau (CFPB) announced a proposed rule amending the Know Before You Owe (KBYO), TILA-RESPA Integrated Disclosure rule (TRID), which requires most transactions involving a mortgage to use new CFPB disclosure forms as of October 3, 2015. In this rulemaking, the CFPB addressed lenders' reluctance to share the new required Closing Disclosure (CD) with real estate professionals out of fear of liability for disclosing clients' nonpublic personal information.

Lenders have been refusing to share the CD with real estate professionals citing potential privacy violations of the *Gramm-Leach-Bliley Act* (GLBA) or Regulation P. However, an exception to Regulation P already allows lenders to distribute the CD to third parties, including real estate professionals.

**As advocated by NAR, CFPB acknowledged that *sharing the CD with real estate professionals is already permitted under GLBA.***

**12 C.F.R. §1016.14(b)(2)(iii) - Exceptions to notice and opt out requirements for processing and servicing transactions.** Restrictions on non-disclosure by financial institutions do not apply when the information is shared:

*“To provide a confirmation, statement, or other record of the transaction, or information on the status or value of the financial service or financial product to the consumer or the consumer's agent or broker.”*

According to the CFPB, the CD is a “record of the transaction,” and is informative to “both the consumer credit and real estate portions of residential real estate sales transactions.”

*“Based on its understanding of the real estate settlement process, the Bureau understands that it is usual, appropriate, and accepted for creditors and settlement agents to provide the combined or separate Closing Disclosure as a confirmation, statement, or other record of the transaction, to consumers, sellers, and their agents, or information on the status or value of the financial service or financial product to their customers or their customers' agents or brokers.”*

The CFPB's amendments to KBYO in this latest proposed rule do not impact the Regulation P exception. On October 18, 2016, NAR sent a letter to the CFPB commenting on the proposed rule recommending that the final rule emphasize the need for lenders and title agents to share the CD with real estate professionals. A final rule is expected to be issued by Spring 2017.

For more information, see:

- [CFPB's Press Release and rulemaking announcement](#)
- [NAR's October 2016 Comment Letter](#)
- [Regulation P – Privacy of Consumer Financial Information; Exceptions](#)
- [NAR's latest action on TRID](#)