

NAR Issue Brief

CFPB Again Makes Clear Lenders' Present Ability to Share CD

On July 7, 2017, the Consumer Financial Protection Bureau (CFPB) announced a final rule amending the Know Before You Owe (KBYO), TILA-RESPA Integrated Disclosure (TRID) rule, 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, the CFPB again 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 real estate agents and others representing both the consumer credit and real estate portions of residential real estate sales transactions.”

“[The Bureau] understands that it is usual, appropriate, and accepted for creditors and settlement agents to provide the combined or separate Closing Disclosure to consumers, sellers, and their agents as a confirmation, statement, or other record of the transaction, or to provide information on the status or value of the financial service or financial product to their customers or their customers' agents or brokers. . . . [T]he Bureau notes that such sharing of the Closing Disclosure may be permissible currently to the extent that it is consistent with GLBA and Regulation P and is not barred by applicable State law.”

The CFPB's final rule does not impact this Regulation P exception and the ability of lenders to share the CD with third parties.

For more information:

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[CFPB Press Release](#)

[CFPB Final Rule](#)

[Exceptions to Regulation P – Privacy of Consumer Financial Information](#)