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July 6, 2015

The Honorable Richard Cordray  
Director  
Consumer Financial Protection Bureau  
1700 G Street, NW  
Washington DC 20552

Re: 2013 Integrated Mortgage Disclosures Rule Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z) and Amendments; Delay of Effective Date. Docket No. CFPB-2015-0029/RIN 3170-AA48

Transmitted electronically to [www.regulations.gov](http://www.regulations.gov).

Dear Director Cordray:

I am writing on behalf of the more than one million members of the National Association of REALTORS® (NAR) to comment on the Bureau's June 26, 2015 proposal to extend until October 3, 2015 the implementation date for the TILA-RESPA Final Rule, also commonly referred to as the TILA-RESPA Integrated Disclosures (TRID) Rule.

The National Association of REALTORS® is America's largest trade association, including NAR's five commercial real estate institutes and its societies and councils. REALTORS® are involved in all aspects of the residential and commercial real estate industries and belong to one or more of some 1,400 local associations or boards, and 54 state and territory associations of REALTORS®.

**NAR Supports Implementation Date of October 3, 2015**

In short NAR applauds the Bureau for its acknowledgement of the "real world" circumstances that make August 1 impractical to start the use of new forms and procedures for mortgage closings. August is typically one of the busiest and time-sensitive periods for home purchases, especially for families placing children in new schools. Secondly, as the Bureau acknowledges in its proposed extension of the implementation date, many vendors are still delivering and installing hardware and software to implement the new rules. An additional two months will allow all players in the mortgage closing process to be better able to serve the interests of the consumer.

**NAR Seeks Clarification on Issues Related to the Rule**

Written guidance is important for effective implementation of any regulation. NAR is generally supportive of efforts by the Bureau to provide additional guidance on any number of issues including RESPA and other regulatory issues; but more official, written guidance is needed in especially sensitive areas of the mortgage closing process. For example, when HUD implemented RESPA reform in 2010, it also issued 400 questions and answers to explain the rule. Industry had hoped that would be unnecessary with the new RESPA/TILA rule, but it appears more written guidance is not only unavoidable but needed.

CFPB staff has been helpful in providing oral guidance and attending and participating in industry education events. However, the litigious climate that has consumed the lending industry in the wake of the most recent crisis has made industry participants (and more specifically their counsels and risk managers) extremely cautious. While oral guidance may put one's mind somewhat at ease, written guidance is necessary for a practice or procedure to be approved more universally and consistently. Therefore, NAR urges the CFPB to ensure lingering questions get answered so consumers only benefit from these new rules and disclosures.



NAR is using the occasion of this comment letter to again ask for additional CFPB guidance and action on the following key matters relating to TILA/RESPA Integrated Disclosure (TRID):

### ***Grace Period on Initial Implementation***

NAR is very appreciative of the Bureau's assurances that it will be sensitive to good faith efforts at compliance with the TRID Rules in the early going and continues to believe that more specificity as to the leeway that will be allowed is appropriate. Moreover, it would be helpful to everyone involved in mortgage closings to know whether this "sensitivity" will extend for three months, six months, etc.

NAR continues to believe that Congress granted the Bureau considerable flexibility under Dodd-Frank which would allow for the construction of an initial implementation period that gives industry the appropriate assurances while ensuring the new forms and procedures are implemented effectively starting October 3, 2015. It is worth noting that Section 1032 of Dodd-Frank did require a proposed rule by July 21, 2012, though it did not propose an implementation date for these changes as it required for most of the other mortgage rules. It cedes nearly complete authority to CFPB; section 1032(e) also envisions the possibility of a trial period with a safe harbor.

NAR believes CFPB should use this authority and establish a trial implementation period from October 3, 2015 to at least December 31, 2015. During this period lenders and other settlement service providers would be required to use the new forms in good faith but not be bound to hold up transactions should the new forms and rules create glitches. Instead, lenders should be required to catalog and report these issues or glitches to the CFPB so the CFPB and industry can work together to improve the rule and ensure a positive consumer experience.

### ***Changed Circumstances Affecting Disclosure of Appraisal Fees***

As an important specific example of the need for written guidance, NAR requests further guidance on changes in circumstances regarding appraisals that may affect settlement charges. The appraisal fee has been moved into the "zero tolerance" category even though loan originators may not have enough information about a property to quote the proper appraisal fee at the time of application. Upon arrival at the subject property, an appraiser may discover additional complexities in the assignment such as physical deterioration, unpermitted renovations or excess land. Unfortunately, in anticipation of TRID implementation, some appraisers have received communications from lenders prohibiting re-disclosure of appraisal fees even if there is a significant change in circumstance. If the appraisal fee cannot be re-disclosed, an appraiser may be asked to complete a complex appraisal for compensation that does not meet "customary and reasonable fees" for the location or property type. Lenders may find that appraisers are not willing to take these complex assignments where standard fees are quoted, which will harm consumers trying to get to the closing table.

### ***Co-branding and Distributing "Your Home Loan Toolkit"***

The Bureau has discussed ways to co-brand and distribute the "Your Home Loan Toolkit" with real estate agents and brokers. On the question as to whether distributing a broker's mortgage affiliate 'branded' Toolkit at an open house would be a thing of value and therefore a RESPA violation, the Bureau has verbally indicated that it would not be, but suggested that written clarification could be requested if concerns remained. Such written clarification would be welcomed by the industry.

### ***Other Remaining Issues for Clarification***

There are many other issues NAR has raised previously where written guidance and additional changes would be helpful, reduce confusion and additional paperwork. Some of these include:

- Clarifying where RESPA and TILA liability apply.
- Clarifying whether real estate agents can receive copies of the closing disclosure directly from the lender in order to explain and advance the transaction with their clients.
- Resolving conflicts with "simultaneous issue."
- Ensuring that consumers can still choose the agent that closes their transaction without lender interference the same way one chooses their lawyer to represent them and not their opponent.
- More information and flexibility on "bona fide financial emergency" and waivers.

These are but a few questions CFPB could and should answer or provide additional guidance in order to ensure a smooth implementation of the TRID rule.

Thank you for your time and consideration. NAR appreciates the efforts you have made at CFPB and we will continue to work and partner with you and the CFPB to improve the consumer experience in real estate and mortgage transactions. We also look forward to CFPB's answers and actions on these important questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Polychron". The signature is fluid and cursive, with a long horizontal stroke at the end.

Chris Polychron  
2015 President, National Association of REALTORS®