

# THE CFPB & NEW MORTGAGE DISCLOSURES

# Financial Reforms

- After finance crisis of 2007-08, Congress passed Dodd-Frank law in 2010
- Created CFPB
- Mandated comprehensive overhaul of all forms and disclosures
- Goals –
  - Easier to shop for closing services
  - Understand mortgage loans
  - Avoid surprises at closing



# Goal of Reforms



- Goal – For Consumers to “Know Before You Owe” or TRID Rule (TILA/RESPA Integrated Disclosure Rule)
- Applies to all residential consumer mortgages except:
  - Equity lines
  - Reverse Mortgages
  - Mortgages secured by a mobile home
  - Mortgages originated by lenders of 5 or fewer mortgages in a year
- Begins with loan applications made on August 1 and after

# August 1 Changes

- ❑ After August 1, last-minute surprises should be a thing of the past
- ❑ We will have new loan and closing forms
  - ❑ Loan Estimate (LE)
  - ❑ Closing Disclosure Form (CDF)



# The Loan Estimate (“LE”)

- ❑ Single, unified form to loan applicants
- ❑ Replaces early TILA form and GFE
- ❑ Delivered to borrower within 3 business days after loan application
- ❑ Must wait 7 days after delivery or mailing LE to close
- ❑ Clearer summary of loan and costs
- ❑ Allows time to shop and compare



# The LE – How is Loan Application Defined?



- “Application” - when lender receives at least the following 6 items:
  - Consumer/Borrower Name
  - Income & Social Security #
  - Property Address
  - Value of Property and Loan Amount
- Except for the cost of the credit report, Lender can not collect any fees prior to providing the LE and receiving the consumer’s intent to proceed

# LE: Timelines & What is a Business Day?



- ❑ 3 Day Notice Requirement
  - ❑ LE must be delivered within 3 business days of receipt of the above 6 items
- ❑ 7 Day Waiting Period
  - ❑ Must wait at least to 7 business days after the delivery or mailing of the LE before a closing can occur
- ❑ “Business day” is day on which creditor’s offices are open to public for substantially all functions



# The LE – What Does it Say?

- A total of 3 pages
- Page 1
  - Loan terms
  - Projected payments
  - Costs to close
  - Virtually identical to first page of final CDF
- Page 2
  - Itemizes closing costs
- Page 3
  - Total payments over 5 years & APR





# Can the Fees Disclosed on the LE Change?



- Some charges cannot increase at all – Zero Tolerance Charges
- Some charges can increase up to 10% – 10% Tolerance Charges
- Some charges can increase with no limit – No Tolerance Charges

# Zero Tolerance Charges



- Fees paid to:
  - The lender
  - Mortgage broker
  - An affiliate of either broker or lender
    - WNCW is an affiliate so our fees can not change from LE
  - Transfer taxes
  - An unaffiliated third party if lender does not permit consumer to shop for the service

# 10% Tolerance Charges



- Recording fees
- Third party services where borrower is permitted to shop from lender's list of providers
  - Survey fee
  - Pest inspection fee
  - If closing with someone other than WNCW, attorneys fees could increase

# No Tolerance Charges



- Some charges have no limit of increase from original estimate
  - Homeowners insurance
  - HOA Fees
  - Real Estate Commission

# Closing Disclosure Form (“CDF”)

- Replaces final TIL statement and HUD-1 - no more HUD-1s!
- Who provides CDF to borrower?
  - Lender is ultimately responsible for timely delivery but may delegate that responsibility to settlement agent
- A different CDF for sellers (does not include charges paid by borrower and can be provided at closing)

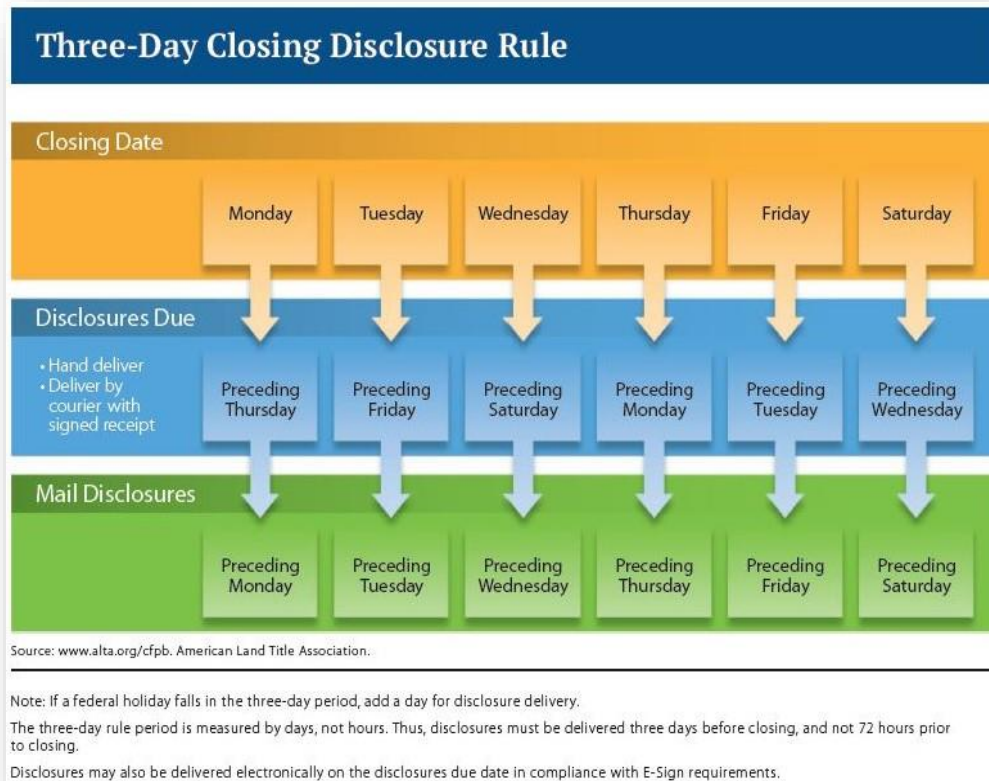


# Closing Disclosure Form (“CDF”)

- When is it provided?
  - Borrower must receive three “business days” before “consummation”
    - Consummation is defined as the date borrower is obligated to the lender. This will generally be the closing date.
    - No clear guidance yet on mailaways or “signing early”



# The CDF - “Business Day” and “Receipt”

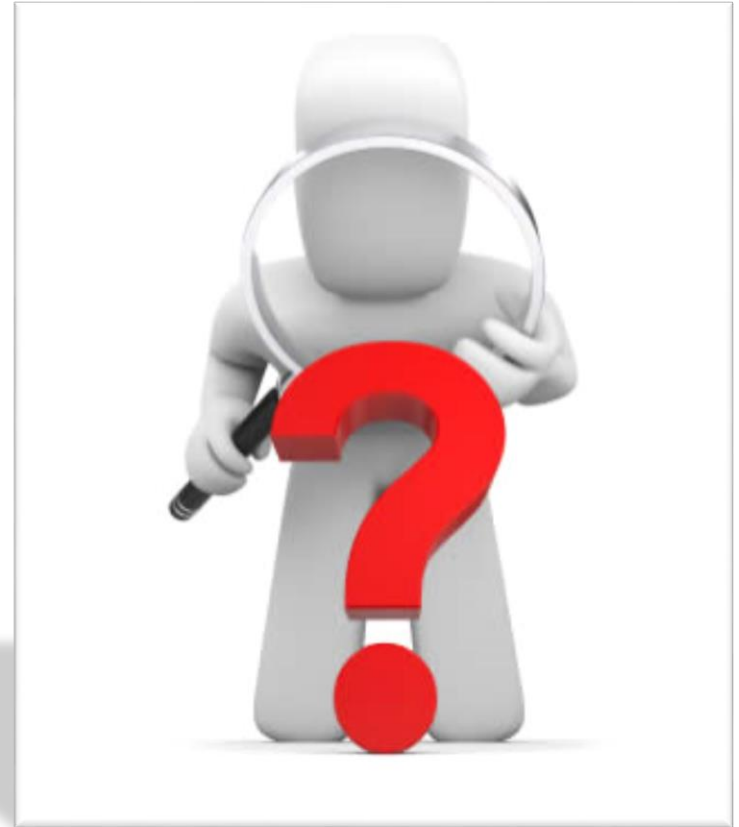


- For CDF, different definition for “business day”
- For CDF – Saturdays included
- Some lenders will take a more conservative approach in determining timeline i.e. Mailbox Rule
- Can be delivered or received physically or electronically



# The CDF – What Does it Say?

- Page 1
  - Mirrors LE so borrowers can compare Loan terms
    - Projected payments
    - Costs to close
    - Virtually identical to first page of final LE
- Pages 2 and 3
  - Itemizes closing costs
- Pages 4 and 5
  - Loan disclosures
- On all pages costs are itemized separately and alphabetically



# When is a revised CDF required?

- Upon “significant changes”
  - Change in APR
  - Change in loan product
  - Addition of prepayment penalty
- Waiting period begins again
- Can waiting period be waived?
  - Only in significant personal hardship –  
Commentators say virtually impossible for  
this to occur
- Unilateral right to extend in GAR  
Contract changes to 8 days



# Take-Aways



- Forms are clearer about total costs over term of loan
- Have time to compare estimated loan costs with final amounts; avoids closing surprises
- Amount of increase in estimated costs is now limited by law

# Take-Aways

- ❑ Must change thinking on time lines
  - ❑ Extend closing date by 7 to 10 days from your current practice
- ❑ Limits on lender's flexibility to accommodate changes
- ❑ Good and timely communication more important than ever – between all parties
- ❑ Encourage buyers to choose informed and knowledgeable lenders such as HomeServices Lending

