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**TRID FAQs**

On January 25, 2019, the Consumer Financial Protection Bureau (CFPB) posted a set of [TRID-related Frequently Asked Questions](#) (FAQs) to its website. After three and a half years, and the long list of TRID related topics that beg for clarification, we were initially disheartened to find that the FAQs contained only four questions involving two topics; i.e., corrected closing disclosures and the three business-day waiting period before consummation, as well safe harbor with respect to model forms that do not reflect the TRID 2.0 changes.

We can only hope that this set of FAQs is merely a first step, and that the CFPB will add additional sets of FAQs on other topics over time. For now, let's be thankful for what the CFPB has provided, as we examine this first set of FAQs.

**CORRECTED CDs - 3 BUSINESS-DAY WAITING PERIOD BEFORE CONSUMMATION**

There are three questions in this set of FAQs on this topic. Specifically:

**Item #CD-1 - Change to Disclosed Terms after the Initial Closing Disclosure is Provided**

This question seeks to clarify whether a lender is required to ensure that the consumer receives a corrected Closing Disclosure at least three business days before consummation, when there is a change to the disclosed terms that occurs / becomes known after the lender has provided the initial Closing Disclosure?

The CFPB's response to this FAQ Item indicates that the action required of the lender depends on the type of change. More specifically, the response states there are only three types of changes that require a lender to ensure that a corrected Closing Disclosure is received by the consumer receives at least three business days before consummation:

- (1) the change results in the APR becoming inaccurate;
- (2) if the loan product information required to be disclosed under the TRID Rule has become inaccurate; or
- (3) if a prepayment penalty has been added to the loan.

Under [§1026.19\(f\)\(2\)\(ii\)](#), any of the above types of changes triggers a new three business-day waiting period; and require the lender to wait three business-days after the consumer receives the corrected Closing Disclosure to consummate the loan.

For all other types of changes, a lender is not required to ensure that the consumer receives a corrected Closing Disclosure at least three business days before consummation; however, under [§1026.19\(f\)\(2\)\(i\)](#), the lender

is required to ensure that the consumer receives a corrected Closing Disclosure at or before consummation. From a practical perspective, this means that for most types of changes, a lender can consummate the loan without waiting three business days after the consumer receives the corrected Closing Disclosure.

More information on the timing requirements for providing initial Closing Disclosures and corrected Closing Disclosures is available in Sections 11 and 12 of the [TILA-RESPA Rule Small Entity Compliance Guide](#).

### **Item #CD-2 - Decrease in APR after the Initial Closing Disclosure is Provided**

This question seeks to clarify whether a lender is required to ensure that the consumer receives a corrected Closing Disclosure at least three business days before consummation, when there is a decrease in the APR (i.e., the previously disclosed APR is overstated)?

The CFPB's response to this Item indicates that the answer depends on whether the overstated APR disclosed on the Initial Closing Disclosure is considered "accurate" or "inaccurate" under Regulation Z. A disclosed APR is considered accurate under Regulation Z if the difference between the disclosed APR and the actual APR for the loan is within an applicable tolerance in as outlined in [§1026.22\(a\)](#). For transactions secured by real property or a dwelling, Regulation Z includes several tolerances that might apply, including a tolerance outlined in [§1026.22\(a\)\(4\)](#), whereby the disclosed APR is considered accurate if it results from the disclosed finance charge being overstated. An example of this would be if the initially disclosed APR and finance charge are overstated because the interest rate has decreased.

If the overstated APR is "accurate" under Regulation Z, [§1026.19\(f\)\(2\)\(i\)](#) allows for the lender provide a corrected Closing Disclosure at or before consummation without a new three business-day waiting period. Conversely, if the overstated APR is "inaccurate" under Regulation Z, it triggers a new three-business day waiting period. [§1026.19\(f\)\(2\)\(ii\)](#) requires the lender to ensure that the consumer receives a corrected Closing Disclosure at least three business days before the loan's consummation.

Additional information related to APR accuracy is available in the Federal Reserve's Consumer Compliance Outlook, First Quarter 2011 available at: [www.consumercomplianceoutlook.org/2011/first-quarter/mortgage-disclosure-improvement-act/](http://www.consumercomplianceoutlook.org/2011/first-quarter/mortgage-disclosure-improvement-act/).

### **Item #CD-3 - Impact of Section 109(a) of the Economic Growth, Regulatory Relief, and Consumer Protection Act (S.2155) on the Timing for Consummating a Transaction**

This question seeks to clarify whether [Section 109\(a\) of S.2155](#) affects the timing for consummating a transaction if a lender is required to provide a corrected Closing Disclosure under the TRID Rule?

The CFPB's response to this Item indicates that Section 109(a) of S.2155, entitled "No Wait for Lower Mortgage Rates", did not change the timing for consummating transactions if a lender is required to provide a corrected Closing Disclosure under the TRID Rule. Section 109(a) amends [Truth in Lending Act \(TILA\) Section 129\(b\)](#), which governs when certain disclosures must be provided for high cost mortgages, and the waiting periods for consummating a transaction after the lender has provided those high cost mortgage disclosures. These requirements are addressed in [§§ 1026.31](#), [.32](#), and [.34](#), and are specific to high cost mortgage disclosures.

The three-business day waiting period requirement under the TRID Rule arises from [TILA Section 128](#), and is separate and distinct from the waiting period requirement in TILA Section 129(b). Therefore, Section 109(a) of S.2155 did not create an exception to the waiting period requirement under TILA Section 128, and as such, does not affect the timing for consummating transactions after a lender provides a corrected Closing Disclosure under the TRID Rule.

As discussed in FAQ Item #CD-1, if the APR disclosed pursuant to the TRID Rule becomes inaccurate, the lender must ensure that a consumer receives the corrected Closing Disclosure at least three business days before consummation of the transaction. However, as discussed in FAQ Item #CD-2, an overstated APR is not inaccurate if it results from the disclosed finance charge being overstated, and a lender is not required to

provide a new three-business day waiting period in these circumstances. Thus, if the disclosed APR decreases due to a decrease in the disclosed interest rate, a lender is not required to provide a new three-business day waiting period under the TRID Rule.

### **MODEL FORMS - SAFE HARBOR**

There is only one question in this set of FAQs on this topic. Specifically:

#### **FAQ Item #MF-1 - Safe Harbor for Model Form that Does Not Reflect 2017 TRID Rule Change**

This question seeks to clarify whether a lender's use of a model form provides a safe harbor if the model form does not reflect a TRID Rule change finalized in 2017?

The CFPB's response to this Item indicates a safe harbor is provided, as in finalizing the 2017 changes to the TRID Rule, the CFPB deemed a lender to be in compliance with the disclosure requirements associated with the Loan Estimate and Closing Disclosure if the lender uses the appropriate model form and properly completes it with accurate content.

[Appendix H](#) to Regulation Z includes *blank model forms* illustrating the master headings, headings, subheadings, etc., that are required by Regulation Z, 12 CFR §§ 1026.37 and 1026.38. The blank model forms for the Loan Estimate are H-24(A) and H-24(G), and H-28(A) and H-28(I) (Spanish Language Versions). For the Closing Disclosure, the blank model forms are H-25(A) and H-25(H) through H-25(J), and H-28(F) and H-28 (J) (Spanish Language Versions).

Appendix H also includes *non-blank model forms*. The non-blank model forms for the Loan Estimate are H-24(B) through H-24(F), and H-28(B) through H-28(E) (Spanish Language Versions). For the Closing Disclosure, they are H-25(B) through H-25(G), and H-28(G) and H-28(H) (Spanish Language Versions).

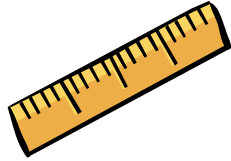
To the extent that the appropriate model form is properly completed with accurate content, the safe harbor is met. The safe harbor applies even if the model form does not reflect the changes to the regulatory text and commentary that were finalized in 2017.

For example, the regulatory text provides that the percentage amount required to be disclosed on the Loan Estimate line labeled "Prepaid Interest (\_\_\_ per day for \_\_\_ days @\_\_\_ %)" is disclosed by rounding the exact amount to three decimal places and then dropping any trailing zeros that occur to the right of the decimal point. 12 CFR § 1026.37(g)(2)(iii) and (o)(4)(ii). However, on page 2 of model form H-24(C), section F, the interest rate disclosed on the line for prepaid interest includes two trailing zeros that occur to the right of the decimal point. Thus, a lender could claim the safe harbor by disclosing the interest rate on the "Prepaid Interest" line by including two trailing zeros, or otherwise could comply with § 1026.37(o)(4)(ii) by rounding the exact amount to three decimal places and dropping any trailing zeros that occur to the right of decimal point. For example, if the interest rate for the transaction being disclosed is four percent, the lender could claim the safe harbor by disclosing "4.00%" (consistent with the model form) although it also could disclose "4%" (consistent with the regulatory text and commentary).

### **MORE TO COME???**

As noted at the beginning of this article, after three and a half years since TRID went into effect, and the long list of topics that beg for clarification, it was somewhat disheartening to find that this initial set FAQs contained only the four questions discussed in this article. Let's hope that the CFPB decides to build upon this, and issue additional sets of FAQs on other topics as time goes on.

## Short Clips



### **FDIC PROPOSED RULE ON JOINT OWNERSHIP DEPOSIT ACCOUNTS**

On 04/04/19, the FDIC published a [Notice of Proposed Rulemaking \(NPRM\) on Joint Ownership Deposit Accounts](#) in the Federal Register. The NPRM seeks to update Part 330 of its regulations regarding the requirements for verifying participants in joint deposit accounts; and is applicable to all banks. Current rules rely on physical signature cards or electronic signatures to authenticate account holders; however, the proposal would additionally accept usage of the account as verification. Comments on the Proposal are due by May 6, 2019.

### **HMDA MODIFIED LOAN APPLICATION REGISTERS RELEASED**

On 03/27/19, the Consumer Financial Protection Bureau (CFPB) published Home Mortgage Disclosure Act (HMDA) Modified Loan Application Registers (LARs) data for approximately 5,400 financial institutions. This is the first year in which additional data reported by certain institutions under the 2015 HMDA rule will be available. The Modified LARs contains loan level information for 2018 on individual HMDA filers, modified to protect privacy.

The HMDA statute requires that the Modified LARs be available by March 31st. The 2015 HMDA rule eliminated the need for individual financial institutions to make their Modified LARs available to members of the public who may request them. This is the second year that all Modified LARs have been publicly available on the FFIEC website. The 2018 HMDA Modified LARs are available on <https://ffiec.cfpb.gov/data-publication/modified-lar/2018>.

### **FFIEC 2018 GUIDE TO HMDA REPORTING NOW AVAILABLE**

On 03/25/19, the Federal Financial Institutions Examination Council (FFIEC) made a downloadable version of the 2019 [Guide to HMDA Reporting](#) available on its website. The 2019 Guide focuses on HMDA data submissions due

March 1, 2020; and offers the most official resource for assisting institutions in their HMDA reporting.

This edition reflects amendments made to HMDA by the S. 2155 regulatory reform law and the CFPB's 2018 HMDA interpretive and procedural rule. It also includes: overviews of the reporting requirements; institutional coverage descriptions; instructions on collection of data on ethnicity, race, and sex; a summary of responsibilities and requirements; directions for assembling the necessary tools; and instructions for reporting HMDA data. Additionally, the latest edition contains an Appendix for the HMDA Small-Entity Compliance Guide.

### **DOL RELEASES NEW OVERTIME RULE PROPOSAL**

On 03/22/19, the U.S. Department of Labor (DOL) published its long-awaited rewrite of the 2016 [Overtime Rule](#). In the proposed rule, DOL set the salary level at which an employee could be exempted from federal overtime and minimum wage requirements at \$679 per week, or \$35,308 per year. These figures apply the methodology adopted back in 2004, updated for projected 2020 salary data, setting the salary level at the 20th percentile of earnings of full-time salaried workers in the lowest-wage census region and in the retail sector. The DOL also proposed that the salary level be updated every four years through notice-and-comment rulemaking. DOL did not propose any changes to the "duties test" of the rule. Comments on the proposal are due by May 21, 2019.

### **CFPB REPORT ON 2018 ADMINISTRATION OF THE FAIR DEBT COLLECTION PRACTICES ACT**

On 03/20/19, CFPB released its [Annual Report to Congress on the Administration of the Fair Debt Collection Practices Act \(FDCPA\)](#). The report highlights the continued efforts by the Bureau and the Federal Trade Commission (FTC) to stop unlawful debt collection practices, including vigorous law enforcement, education and public outreach, and policy initiatives. The two agencies reauthorized their memorandum of understanding on Feb. 25, 2019 that provides for coordination in enforcement, sharing of supervisory information and consumer complaints, and collaboration on consumer education. The Bureau and the FTC continue to

work closely to coordinate efforts to protect consumers.

In the Report, the Bureau stated its intent to issue a Notice of Proposed Rulemaking on debt collection that will address issues ranging from communication practices to consumer disclosures. The Bureau reported that it handled approximately 81,500 debt collection complaints related to first-party (creditors collecting on their own debts) and third-party collections. Debt collection is among the most prevalent topics of consumer complaints about financial products or services received by the Bureau. In 2018, the Bureau engaged in six public enforcement actions arising from alleged FDCPA violations; one of which resulted in an \$800,000 civil penalty.

### **OCC UPDATES COMPTROLLER'S HANDBOOK**

On 03/15/19, the Office of the Comptroller of the Currency (OCC) updated the [Recovery Planning](#) booklet of its Comptrollers Handbook. The updated booklet, which explains effective recovery planning, replaces a previous version issued in April 2018.

### **FDIC FORMALLY RESCINDS DUPLICATIVE DISCLOSURE REQUIREMENT**

On 03/18/19, the Federal Deposit Insurance Corporation (FDIC) published a [Final Rule rescinding Part 350 from the Code of Federal Regulations](#) in the Federal Register, removing an annual disclosure requirement that was duplicated by data publicly available on the FDIC's website.

The 1987 requirement—flagged as outdated by the banking agencies in their most recent decennial Economic Growth and Regulatory Paperwork Reduction Act review—called for FDIC-insured state non-member banks and foreign branches, but not state thrifts, to prepare annual disclosures of Call Report and other data. The Final Rule takes effect on April 17, 2019.

### **CFPB FLAGS MORTGAGE SERVICING ISSUES IN LATEST SUPERVISORY HIGHLIGHTS**

On 03/12/19, the CFPB published the winter edition of its [Supervisory Highlights](#) Report, which focuses on recent examiner observations of several bank products or business lines, including

auto loan servicing, deposits, mortgage servicing and remittances.

The Report cited several issues noted relating to mortgage servicing, including: charging consumers unauthorized late fees; misrepresenting the conditions under which private mortgage insurance would be removed; failing to exercise reasonable diligence to complete loss mitigation applications; and failing to properly represent the requirements for foreclosure timeline extensions for home equity conversion mortgages.

The Report also noted issues identified relating to compliance with the remittance rule and misrepresentations made to consumers about when their deposit account would be debited through an institution's online bill-pay service.

### **FINCEN UPDATES LIST OF AML/CFT JURISDICTIONS**

On 03/08/19, the Financial Crimes Enforcement Network (FinCEN) issued [FIN-2019-A001](#), an Advisory to financial institutions regarding the Financial Action Task Force's (FATF) updated list of jurisdictions with strategic anti-money laundering and combatting the financing of terrorism (AML/CFT) deficiencies; as well as jurisdictions with AML/CFT deficiencies that are working to correct them.

The Advisory indicated that Iran will remain on the list for enhanced due diligence, while North Korea will remain in the category requiring countermeasures, FinCEN said. Cambodia was added to the list of jurisdictions working to remedy AML/CFT deficiencies.

### **OCC NOTIFIES BANKS OF KEY HMDA DATA FIELDS**

On 03/07/19, the OCC issued [OCC Bulletin 2019-12](#), informing the banks under its jurisdiction about the key data fields that its examiners will typically use to test and validate the accuracy and reliability of home mortgage loan data collected in 2018. The OCC provided the 37 key data fields that will apply to full HMDA reporters, as well as the 21 data fields that will apply to banks that qualify for the partial exemption from HMDA data collection.

The Bulletin also reminded banks that the OCC does not intend to require data resubmission for HMDA data collected in 2018 and reported in 2019, unless data errors are material.

## FFIEC ISSUE POLICY STATEMENT ON EXAMINATION REPORTS

On 03/06/19, the FFIEC issued a [Policy Statement on the Report of Examination](#), aimed at promoting clarity, consistency, and ease of reference for the presentation of information in examination reports. The Policy Statement, which is intended to reduce regulatory burden for community banks, includes principles that establish minimum expectations of what should be included in all reports of examination.

Among other things, the principles establish that all ROEs should present conclusions and issues in order of importance; document the condition and risk profile of the institution; discuss the adequacy of the institution's risk management practices; and document issues of supervisory concern or warranting prompt corrective action.

Concurrently, the agencies are rescinding their 1993 Interagency Policy Statement on the Uniform Core Report of Examination.

## FEDERAL RESERVE BOARD ISSUES ANPR TO AMEND REGULATION D

On 03/12/19, the Federal Reserve Board (Fed) published an [Advance Notice of Proposed Rulemaking to amend Regulation D](#) in the Federal Register. The ANPR seeks public comment on whether to amend Regulation D to lower interest rates paid on excess balances ("IOER") maintained at Federal Reserve Banks. Comments on the ANPR are due by May 13, 2019.

## CFPB SEEKS PUBLIC COMMENT ON PACE LOANS

On 03/08/19, the CFPB published an [Advance Notice of Proposed Rulemaking \(ANPR\) on Residential Property Assessed Clean Energy \(PACE\) Financing](#) in the Federal Register. The Bureau is seeking public feedback on Property Assessed Clean Energy loans, a controversial type of financing that allows homeowners to pay for energy-efficient retrofitting (e.g., such as solar panels and high-efficiency air conditioners) through their property tax assessments, and which often take lien priority over the first mortgage lien.

S. 2155 requires the CFPB to apply the Truth in Lending Act's ability-to-repay requirements and civil liability provisions to PACE loans. The Bureau

requested examples of PACE loan documentation, current origination standards and practices, to which parties to a PACE loan TILA's civil liability provisions should apply, unique features of PACE loans and potential implications of regulating PACE loans under TILA. Comments on the ANPR are due by May 7, 2019.

## CFPB UNVEILS ELECTRONIC PLATFORM FOR PREPAID ACCOUNT AGREEMENT SUBMISSIONS

On 03/06/19, the CFPB published its [Technical Specifications for Submissions to the Prepaid Account Agreements Database](#) in the Federal Register. These technical specifications relate to the Bureau's new streamlined electronic submission system, known as [Collect](#), which Prepaid Account issuers will be required to use to submit their account agreements to the Bureau.

The Prepaid Rule includes a requirement that prepaid account issuers submit their prepaid account agreements, including fee information, to the Bureau via the *Collect* online channel for submissions. All Prepaid Account agreements offered as of 04/01/19 must be uploaded to the Collect system by 05/01/19. After that, Prepaid Account issuers must make a submission to the Bureau within 30 days whenever a new agreement is offered, a previously submitted agreement is amended, or a previously submitted agreement is no longer offered.

The Bureau also released a variety of compliance materials and resources for prepaid issuers, which are available at: <https://www.consumerfinance.gov/data-research/prepaid-accounts/issuer-instructions/>

## FFIEC UPDATES CRA WEBSITE WITH 2019 DATA COLLECTION AND SUBMISSION TOOLS

On 03/04/19, the FFIEC [posted updates to its CRA website to aid in the collection and submission of 2019 CRA data. Specifically, the 2019 CRA Data Entry Software Release, 2019 Edits and 2019 File Specifications](#) are now available.

On behalf of the FFIEC, the Fed designed the CRA Data Entry Software to assist respondents in automating the filing of their CRA data. The free software includes editing features to help verify and analyze the accuracy of the data. The data file created using this software, can be submitted by one of the available submission methods listed

in the software.

### **FDIC ISSUES ANPR ON BROKERED DEPOSIT REGULATIONS**

On 02/26/19, the FDIC published its [Advanced Notice of Proposed Rulemaking on Brokered Deposits and Interest Rate Restrictions](#) in the Federal Register. The proposal seeks to revise the 30-year-old regulations so that they accommodate modern banking and don't discourage healthy banks from gathering deposits. Comments on the Proposal are due by May 7, 2019.

### **CFPB RELEASES SMALL-ENTITY COMPLIANCE GUIDE FOR PAYDAY LENDING RULE**

On 02/20/19, the CFPB released a [Payday Lending Rule Small-Entity Compliance Guide](#). The Guide summarizes both the general and payment provisions of the rule; as well as the record retention and compliance program requirements related to the payment provisions.

### **CFPB PROPOSES TO ELIMINATE SMALL-DOLLAR LENDING RULE'S ABILITY-TO-REPAY TEST**

On 02/14/19, the CFPB published the following two related proposals in the Federal Register:

- [Notice of Proposed Rulemaking](#) to remove the prescriptive underwriting provisions from the small-dollar lending rule it issued in October 2017. The rule imposes an ability-to-pay test on a wide swath of small-dollar loans of 45 days or less, including payday loans, auto title loans and bank-provided loans with balloon payments.

The CFPB's proposal maintains the complete exemption in the rule for financial institutions that made 2,500 or fewer small-dollar loans in each of the current and previous years and for which these loans account for less than 10 percent of revenues. The Comment Period for the NPRM ends on May 15, 2019.

[Proposal to Extend the Compliance Date](#) for the Rule's Underwriting Provisions by 15 months to Nov. 19, 2020. This extension is intended help lenders avoid expending unnecessary resources to comply with provisions that the CFPB has proposed to rescind. Comments on the Proposal are due by March 18, 2019.

### **CFPB RELEASES 2019 LISTS OF RURAL & UNDERSERVED COUNTIES**

On 02/12/19, the CFPB released the 2019 [Lists of Rural Counties and Rural or Underserved Counties](#) that entities can to determine whether they are exempt from certain regulatory requirements under its Ability-to-Repay, Escrow, HOEPA and Appraisal rules. The Lists are available for download as Excel, CSV or PDF files. In addition to the Lists, the CFPB has updated its [Rural and Underserved Areas Tool](#) to help lenders determine whether a property is located in a rural or underserved area.

### **AGENCIES ISSUE ADVISORY ON EDUCATION LOAN REHABILITATION PROGRAMS**

On 02/04/19, the Fed and FDIC issued an [Advisory on Voluntary Private Education Loan Rehabilitation Programs](#) to alert banks to an amendment to the Fair Credit Reporting Act that was included in the S. 2155 regulatory reform law.

Under the law, consumers may request that a financial institution remove a reported default regarding a private education loan under certain conditions. Banks have the option to establish loan rehabilitation programs, and, provided they meet the statutory requirements, become entitled to a safe harbor from potential claims under the FCRA of inaccurate reporting for removing a reported default from a consumer's credit report.

The Advisory directs banks wishing to offer these programs to submit a written request to their appropriate regulatory agency; and that respective agency will provide a decision or feedback within 120 days of receiving such a request.

### **CFPB ISSUES TRID RULE FAQs**

On 01/25/19, the CFPB posted a set of [TRID-related Frequently Asked Questions](#) (FAQs) to its website. The topics covered involve corrected closing disclosures and the three business-day waiting period before consummation, as well safe harbor with respect to model forms.

## Good to Know

Send your questions to the [answerperson@mandm.consulting](mailto:answerperson@mandm.consulting)

*Sending requests to the above address gets you a written response to your regulatory compliance questions. Emails sent to the answer person are received and responded to five days a week.*

**Q:** We would like to offer early renewal for our 36M CD and offer a 30M or 42M CD as renewal options; penalty free. While I can't find anything in TISA prohibiting this; as we plan to only offer this option to a select group of consumers, would this be deemed an unfair practice? Any guidance would be appreciated.

**A:** You are correct that there are no TISA prohibitions regarding such a practice. Typically, there are far fewer potential regulatory concerns with deposit products than with loan products.

The only potential UDAAP concern I can envision is if members of a protected class were specifically excluded from the initial selection criteria for receiving this offer. However, you might have a PR concern if members outside the circle of those initially selected for this offer (regardless of whether they are from a protected class) learn of this special offer and want to make the same type of early 36M CD renewal / and transfer the proceeds to a new 30M or 42M CD; and are charged the normal penalty.

**Q:** The regulations state that PMI must automatically be terminated on the date on which the principal balance is first scheduled to reach 78% of the original property value. What if the balance reaches 78% prior to the originally scheduled termination date? Does the bank need to terminate PMI? If not required, is it ok if we do so without the borrower having to request that PMI be canceled?

CFPB Compliance Bulletin 2015-3, dated 08/04/15, appears to prohibit this, stating that the borrower cannot advance the "termination date" by making additional payments to lower the principal balance of the mortgage. Do you agree with this interpretation?

**A:** PMI termination is based solely on the date the LTV ratio for the loan is originally scheduled (per the original amortization schedule) to fall below

78%. The Bank has no obligation to terminate PMI for loans that pay down more quickly than scheduled. Further, given the wording of the termination rule, an institution could be cited for automatically terminating PMI ahead of the original schedule, even though it would be beneficial to the borrower.

As borrowers with PMI are notified annually of their current LTV status, and of their PMI cancellation / termination rights, this borrower had previously received, and will continue to receive annual notifications of their right to request that PMI be cancelled, and how to do so. Cancellation rights, unlike termination rights, are not necessarily contingent on a loan's amortization schedule.

**Q:** We are in the process of reviewing our Certificate of Deposit Truth in Savings Disclosure. Is there a model disclosure that we could use as a reference?

**A:** Perhaps the best guidance I can provide is contained within the Regulation itself; specifically, [Part 707—Truth in Savings](#) and in [Appendix B to Part 707](#) (i.e., *B-9—Sample Form (Term Share (Certificate) Account Disclosures)*). Section §707.4(b) discusses the specific requirements for account disclosures, and the Sample Form in Appendix B provides a good working model / reference.

**Q:** Is it required or recommended that VSI fees charged as part of a collateralized loan transaction be included in the Credit Union's Fee Schedule?

**A:** In my opinion, as this type of charge is really for a third-party product / service, it falls outside the scope of charges intended for inclusion in the Credit Union's Fee Schedule. Looking at the current version of the Fee Schedule on your website, I see that you don't make mention of check fees (Harland, Deluxe, etc.). In my view, the VSI charge would be a somewhat comparable item, and as such need not be included.

**Q:** We would like to lend on mobile homes in parks in Maine and Massachusetts. I understand mobile homes are considered chattel in these states. Can we handle such loans on the real estate side, versus the consumer side, and use a



LE and CD for these transactions? These properties will be the borrowers' primary residences.

**A:** These loans are subject to the provisions of Sections 1026.19(e) (f) of Regulation Z. As the individual units are located in mobile home parks, they are considered "cooperative units". [Comment 1026.19\(e\)\(1\)\(i\)-2](#) states the following (emphasis added):

***“Cooperative units. Section 1026.19(e)(1)(i) requires early disclosure of credit terms in closed-end credit transactions, other than reverse mortgages, that are secured by real property or a cooperative unit, regardless of whether a cooperative unit is treated as real property under State or other applicable law.”***

As the loans are subject to Sections 1026.19(e) and (f) of Reg. Z, the use of the LE and CD is appropriate and required.

**Q:** Is it OK to collect 60 days of prepaid interest to start a loan payment an additional month out? I don't want to accidentally run into a compliance issue that I am not thinking of.

**A:** I've never encountered, nor did I come across anything in my research of Regulation Z, that would prohibit such a practice. In my opinion, if all applicable information (e.g., the first P&I payment date, maturity date, etc.) are accurately reflected on the legal documents and applicable disclosures, there should be no compliance related concerns or issues.

**Q:** The CFPB formatting tool (universal tool for large and small servicers) displays the following for the HMDA LAR fields related to county code and census tracts: County code s/be 5 digits, and census tracts 11 digits. Did these field requirements change for a small servicer as one of the exemptions, and the field character requirements listed above also change back to a shorter code requirement? Please confirm the 2018 requirements for these fields for the HMDA LAR.

**A:** While the reporting of street address, city, state, and zip code information were exempted, the requirements for these fields were not impacted by the exemptions. Pages 5 - 6 of the

*“Reportable HMDA Data: A Regulatory and Reporting Overview Reference Chart for HMDA data Collected in 2018”* dated 08/31/18 provides the following instructions for these two fields:

- **COUNTY.** Enter the five-digit Federal Information Processing Standards (FIPS) numerical code for the county. Do not use commas. Example: Enter 06037 for the FIPS code for Los Angeles County, CA.
- **CENSUS TRACT.** Enter the 11-digit census tract number as defined by the U.S. Census Bureau. Do not use decimals. Example: Enter 06037264000 for a census tract within Los Angeles County, CA.

**Q:** We provide the following disclosures at application to borrower(s) who apply online through Mortgagebot:

- Provider List (when applicable)
- Privacy Policy
- Housing Counselor List
- ARM Disclosure (when applicable)
- Charm Booklet (when applicable)

We also provide these same disclosures again to the borrower(s) with our 3-day disclosure packet (within 3 days of the application date).

We are considering removing these disclosures from Mortgagebot, and just providing them with our initial disclosure packet that gets sent within 3 days of the application date with the Loan Estimate and other applicable disclosures. Is it acceptable, or are any of these disclosures required to be delivered at application?

**A:** Two (2) of the disclosures you listed, the ARM Disclosure and CHARM Booklet, must be provided, when applicable, at the time an application form is provided or before the consumer pays a non-refundable fee, whichever is earlier under [§1026.19\(b\)\(1\)-\(2\)](#). The other three disclosures you listed can be provided within three days of receipt of the application, and thus can be removed from Mortgagebot, should you decide to go that route.

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## Important Dates– Don't Forget!

Generally, we retain the prior month, and go forward for at least a year as known. Dates are either effective dates of Final Rules, or end of the Comment Period for proposed rules.)

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- 03/06/2019 [FDIC, Final Rule Regarding Reciprocal Deposits](#). Effective Date of Final Rule.
- 04/01/2019 [CFPB, Prepaid Accounts Rule](#). New mandatory compliance date for most Reg. E & Reg. Z changes, electronic transaction histories, and for submitting prepaid account agreements to the CFPB, using the "[Collect](#)" electronic platform.
- 04/17/2019 [FDIC, Final Rule to Rescind Part 350 from the Code of Federal Regulations](#). Effective Date of Final Rule.
- 05/06/2019 [FDIC, NPRM on Joint Ownership Deposit Accounts](#). End of Comment Period.
- 05/07/2019 [FDIC, ANPR on Brokered Deposits and Interest Rate Restrictions](#). End of Comment Period.
- 05/07/2019 [CFPB, ANPR on Residential Property Assessed Clean Energy \(PACE\) Financing](#). End of Comment Period.
- 05/13/2019 [FRB, ANPR to Amend Reg. D Lowering Rate Paid on Excess Balances](#). End of Comment Period.
- 05/15/2019 [CFPB, NPRM to Rescind Provisions of 2017 the Final Rule on Payday, Vehicle Title, and Certain High Cost Installment Loans](#). End of Comment Period.
- 05/21/2019 [Department of Labor, Overtime Rule Proposal](#). End of Comment Period.
- 07/01/2019 [Agencies, Final Rule on Acceptance of Private Flood Insurance](#). Effective Date of Final Rule.
- 01/01/2020 [HMDA, Regulation C](#). Quarterly reporting for high volume reporters starts.
- 04/01/2020 [CFPB, Prepaid Accounts Rule](#). Revised mandatory compliance date for providing the full 24 months of written account transaction history upon request.
- 11/20/2020 [CFPB, Delay in the Effective Date for the Underwriting Provisions of the 2017 Final Rule on Payday, Vehicle Title, and Certain High Cost Installment Loans](#). Proposed extension of Mandatory Compliance Date for the underwriting provisions of the Final Rule, originally set for August 19, 2019.

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## REGISTRATION OPEN TO THE 2019 M&M COMPLIANCE SCHOOL

Registration is now open to the 2019 M & M Compliance School, which will be held at the *Doubletree by Hilton* in Milford, Massachusetts (Exit 19 off I-495) on 9/17 & 9/18. The cost for this year's program for clients is \$350 for both days! For those staying overnight, the hotel cost is \$124 per night plus tax.

Please contact Dean Stockford ([dstockford@mandm.consulting](mailto:dstockford@mandm.consulting) / (207) 458-8559) for more information.