



Announcement 15-48

Date: September 21, 2015

Topic: Updates to Delivery Requirements Regarding TILA RESPA Integrated Disclosures

In our previous TRID Announcement, we provided correspondents with resources to help you meet PennyMac's delivery requirements. In response to your feedback, we updated our "PennyMac TRID FAQ" document posted on gopennymac.com (Tools & Resources → Reference Guides), and we are providing additional guidance regarding TRID-related PennyMac delivery requirements.

As always, it is important to remind you to consult with legal counsel regarding compliance with applicable regulatory and statutory requirements, as PennyMac's purchase requirements do not constitute legal advice.

Updates

Evidencing the Borrower's Intent to Proceed

The Official Commentary to section 1026.19(e)(2)(i)(A) of TILA indicates that the borrower(s) are not limited in the manner that the intent to proceed may be communicated, unless otherwise restricted by the lender. To that end, PennyMac will not restrict lenders with a prescriptive list of acceptable forms of evidence documenting the borrower's intent to proceed.

Examples of acceptable communication methods from the Official Commentary include oral communication provided in person or over the phone; written communication via email; or, on paper and in writing. A correspondent's method of documenting the borrower(s)' communication of the intent to proceed may include, for example:

- An email or other electronic document from the borrower(s);
- A printout or screen shot from a Loan Origination System;
- An acknowledgement signed by the borrower(s);
- A letter from the borrower(s).

Closing Disclosure and Change of Circumstance

The Closing Disclosure may document fee changes (and other changes) related to a valid change in circumstance within 7 business days from consummation, and on that basis may be used to reset fee tolerances under 1026.19. Changes in circumstance that occur more than 7 business days from

consummation may not be documented on a Closing Disclosure, for the purposes of resetting fee tolerances under 1026.19.

Signature Requirement on the Final Closing Disclosure

As a clarification to our previously indicated delivery requirement, PennyMac will require the borrower(s)' signature (wet or electronic) on the Closing Disclosure provided to the borrower(s) at closing. All other TRID disclosures must be provided to PennyMac with some form of evidence of delivery or receipt, as applicable.

Evidencing the Borrower's Receipt of the Closing Disclosure

Section 1026.19(f)(1)(ii) indicates the borrower must receive the Closing Disclosure at least 3 days before closing. Evidence of the borrower(s)' receipt of the initial Closing Disclosure, or any other revised Closing Disclosure provided before consummation, includes but is not limited to the following:

- Evidence of mailing and/or delivery confirmation, via the mailbox rule;
- Acknowledgement of receipt signed by the borrower(s)
- Evidence of delivery via document prep company;
- Electronic delivery confirmation of an email, assuming the borrower(s) have consented to electronic delivery.

Please note that delivery confirmation, i.e., confirmation that documents have been delivered to the borrower(s)' door, and signature receipt by anyone other than the borrower(s) to the mortgage transaction constitute evidence of delivery, not receipt, for the purposes of the receipt requirements under 1026.19.

Affiliates Disclosure

As a reminder to our correspondents, each loan file delivered must include an affiliate disclosure, if applicable, as required under RESPA. This is required in order for PennyMac to accurately calculate both QM points and fees and TRID fee tolerances. Providing the affiliate disclosure in the loan package, when applicable, will help ensure the review and purchase of loans occurs in a timely manner.

Alternate (Optional) Loan Estimate and Closing Disclosure Forms

Per 1026.37(d)(2) and (h)(2), as well as 1026.38(d) and (e), the "alternative" forms for transactions without a seller are optional. Therefore, refinance transactions using either the standard or alternative form are eligible for purchase by PennyMac. As of this publication date, Fannie Mae has clarified that the alternative form is not required on seller transactions. If any agency changes the requirements applicable to a PennyMac loan program, PennyMac will align with that requirement.

Waiver of Waiting Period

1026.19 does provide for the borrower to waive the various waiting periods associated with the TRID disclosures in the case of a bona fide financial emergency. However, the CFPB has indicated that whether a particular situation constitutes a financial emergency may vary depending on the particular

facts, and the application of this waiver should be exercised in very limited circumstances. Given the challenge in determining whether each set of circumstances does or does not qualify as a bona fide financial emergency, PennyMac will not purchase loans if a waiting period under 1026.19 was waived by the borrower(s).

Consummation and Closing Disclosure Timing Requirement

The final Closing Disclosure must be provided at least 3 days from consummation. However, consummation is defined under 1026.2 as “the time that a consumer becomes contractually obligated on a credit transaction.” Further, the Official Commentary to this section indicates that when the borrower(s) becomes obligated on a credit transaction is defined according to state law. We understand that, in most instances, state law indicates that the borrower(s) become obligated for the transaction when the Note is signed, and we will generally use that date to determine whether the Closing Disclosure timing requirement has been met.

Final Closing Disclosure

We would like to remind our correspondents that the CFPB has strongly suggested that the Closing Disclosure provided at closing be marked “Final.” Although this is not a requirement, marking the Closing Disclosure as Final will ensure that loans are reviewed and purchased by PennyMac in a timely manner.

Resources to Help You Comply

Please note that while this communication is based on the most recent CFPB published rule and guidance, it is possible that further clarifications or other amendments may be issued that impact our policies and procedures. We will continue to announce any future, substantive changes made to PennyMac delivery requirements.

Please visit our updated “PennyMac TRID FAQ” document posted on gopennymac.com (Tools & Resources → Reference Guides) for PennyMac delivery requirements.

Other TRID implementation resources, such as examples of the Loan Estimate and Closing Disclosure, are available at the [CFPB’s Website](#).

[CFPB Webinars](#) provide helpful but unofficial guidance on numerous TRID implementation topics.

If you have any questions or need clarification on PennyMac’s purchase requirements related to TRID compliance not answered in the resources above, please email your inquiry to pcgcompliancepolicy@pnmac.com.