Fidelity National Title®

5 Things Real Estate Agents Need to Know

New mortgage disclosure forms and how they change every transaction.

Five things to know:

- Be able to explain the new Loan Estimate and Closing Disclosure.
- Timing of closings are impacted by disclosure delivery rules.
- Title fees may need to be adjusted at closing and explained.
- Line numbers have been removed and there are now 7 fee areas.
- Your client will likely receive more than one Closing Disclosure.

By now you have heard of CFPB, but the question still remains, "How does it impact me?" While CFPB will not signifantly impact your day-to-day processing of sales, your seller and buyer clients will be looking to you for general information about the new rules and forms, as well as the impact on both the loan process and the closing of the transaction. As a primer, here are five items you will need to know.

1. Be able to explain the new Loan Estimate and the Closing Disclosure

After the 2008 financial meltdown, Congress established the Consumer Financial Protection Bureau (CFPB). Among its first tasks was the combination of forms provided to borrowers at both the beginning and end of their loan transaction. In 2013, CFPB published its final rule revealing these two new combined forms.

The Loan Estimate

Prior to August 1st, 2015, borrowers received two separate forms from their lender at the beginning of the transaction: the Good Faith Estimate (GFE), a form required under the Real Estate Settlement Procedures Act (RESPA), and the initial disclosure required under the Truth in Lending Act (TILA). For loan applications taken on or after August 1st, 2015 the creditor will instead use a combined Loan Estimate form intended to replace the two previous forms.

The new three-page Loan Estimate form must be provided to borrowers on a timetable similar to the past receipt of the GFE.

The Closing Disclosure

The combination of forms continues at the end of the transaction as well, with the HUD-1 Settlement Statement and the final TILA forms now combined into a single Closing Disclosure form. This new five-page form is used not only to disclose many terms and provisions of the loan, but also the financial transaction of the closing of the sale.

2. Timing Of A Closing Will Be Impacted By Closing Disclosure Delivery

As part of the final rule creating these two new combined forms, the CFPB determined that borrowers would be better served by having a short time to review the new Closing Disclosure prior to signing their loan documents. As a result, in its rule CFPB mandated borrowers have three days after receipt of the Closing Disclosure to review the form and its content. However, note that the three-day review period starts upon "receipt" of the form by the borrower. Unless some positive confirmation of the receipt of the form (i.e., hand delivery), the form is "deemed received" three days after the delivery process is started (i.e. mailing). As a result, the combination of the "delivery time period" and the "review time period" results in six business days from mailing to loan signing.

3. Title Fees May Need To Be Adjusted At Closing And Explained

Both the new Loan Estimate and Closing Disclosure forms require any listing of a settlement service involving title insurance or closing activities to be preceded by the phrase "Title - ". In doing so, a borrower can clearly see all such charges in the same area. However, that is where the clarity ends.

In most jurisdictions, title insurers offer a discount (often called a simultaneous-issue discount) on the loan policy premium when purchased at the same time as an owner's policy. However, in some parts of the country, the standard purchase of an owner's policy of title insurance is not as well established. As a result, CFPB determined consumers were better served by showing the full, not discounted, loan policy premium in all situations on both the Loan Estimate and the Closing Disclosure instead of, where applicable, the discounted premium. If an owner's policy is also purchased in the transaction, a formula is used to discount the owner's policy.

In those areas where custom and practice provide that a buyer/borrower pay for both the owner's and lender's policies, the total actual amount paid for both policies is the same, even though the actual premium amounts are incorrect on the form.

More problematic are those areas where custom provides the seller pay for the owner's policy and the buyer purchase the lender's policy. In these areas, the policy premium for the lender's policy will be overstated and the owner's policy premium understated. As a result, look for an adjustment to be made on page 3 of the new Closing Disclosure form to correct premium amounts to those contemplated by the parties in their contract.

4. Line Numbers Have Been Removed And There Are Now Seven Fee Areas On The Disclosure

Yes, it's true. The line numbering on the HUD-1 familiar to most of us is gone. Instead, the fees and charges are placed on the Closing Disclosure in one of seven areas:

- Origination Charges
- Services Borrower Did Not Shop For
- Services Borrower Did Shop For
- Taxes and Other Government Fees
- Pre-paids
- Initial Escrow Payment at Closing
- Other

Individual charges within each of these major groupings are listed alphabetically. Columns are provided to separate charges of buyer, seller and others, as well as columns for both payments before and at closing.

5. Your Client Will Likely Receive More Than One Closing Disclosure

Since the buyer/borrower will receive a Closing Disclosure several days before the closing (and likely a few days before a walk-through on the property), buyers/borrowers will likely receive a new, adjusted Closing Disclosure at the closing showing any changes that occurred between the initial disclosure and the closing, walk-through adjustments and other matters. But changes may not end there and CFPB mandates that changes in financial disclosure numbers (i.e. changes in a recording fee) in any amount must be re-disclosed, even post-closing.

Changes to the Closing Disclosure Timing