

# Closing Disclosure Flowchart

NOTE: This document does not constitute legal advice

Applies to Loans that require a Loan Estimate and that proceed to closing (Applies to most closed-end consumer credit transactions secured by real property).

TILA-RESPA Integrated Disclosure Rule (TRID)

2 Effective Date: October 3, 2015

CD generally must contain the actual terms and costs of the transaction. Creditors must act in good faith and use due diligence in obtaining the information. Creditors may rely on the representations of other parties in obtaining the information, including, for example, the settlement agent. **7**

Consummation is not the same as closing, consummation occurs when the consumer becomes contractually obligated to the creditor on the loan. **8**

CD must be given separately to all those who have a right to rescind under TILA but in non-rescindable transactions, the CD may be provided to any consumer with primary liability on the obligation. **9**

Generally, amount imposed on consumer for any settlement service must not exceed the amount the provider actually received however, in certain instances, an average charge may be imposed as long as the average charge satisfies certain conditions (see detail). **10**

Creditors and closing agents can agree to divide responsibility for completing the CD with settlement agent assuming responsibility to complete some or all of the CD. **16**

**HOWEVER**, the creditor must maintain communication with the settlement agent to ensure that the CD is correct and properly delivered -- **CREDITOR IS LEGALLY RESPONSIBLE FOR ANY ERRORS OR DEFECTS.** **17**

Settlement Agent can comply by providing the Seller a copy of the CD if it also contains information relating to the seller's transaction or a separate disclosure can be provided with the information from the CD applicable to the seller's transaction; BUT if a separate document is used, the settlement agent must provide the creditor with a copy of this separate disclosure that was provided to seller. **22**

With respect to SELLER, the settlement agent is required to provide the seller with the CD reflecting the actual terms of the seller's transaction no later than the day of consummation. **18**

Settlement Agents must provide a revised CD if an event related to the settlement occurs during the 30-day period after consummation that causes the CD to become inaccurate and results in a change to an amount actually paid by the seller. **20**

Creditors may contract with settlement agents to have the settlement agent provide the CD to the consumer on the Creditor's behalf. **15**

The post-consummation corrected CD must be delivered or placed in the mail not later than 30 calendar days after receiving the information requiring the corrected CD. **20**

No later than three (3) Business Day before Consummation **3**

Creditor is responsible for ensuring that the consumer receives the Closing Disclosure (CD) form no later than 3 business days before consummation. **3**

If the actual terms or costs of the transaction change prior to consummation, the creditor is required to provide corrected disclosures containing the actual terms of the transaction at or before consummation. **23**

Creditor is responsible for ensuring that the CD meets the content, delivery and timing requirements. **1**

No fee can be charged for preparing the CD. **1**

Business Day, for purposes of providing the CD, means all calendar days except Sunday and legal public holidays (different definition than for the LE). **4**

Generally, the creditor is required to ensure that the consumer receives the CD no later than 3 business days before consummation of the loan - results in the 3 business day waiting period, meaning the loan may not be consummated less than 3 business days after the CD is received by the consumer. **11**

Three-Business-Day Waiting Period can be waived or modified by the consumer when: **12**

1. The extension of credit is needed to meet a bona fide personal financial emergency; AND  
2. The consumer has received the CD; AND  
3. The consumer gives the creditor a dated written statement that described the emergency, specifically modifies or waives the waiting period and is signed by all consumers who are primarily liable on the obligation.  
**NOTE:** Creditor is prohibited from providing the consumer with a pre-printed waiver form **12**

Creditors must redisclose terms or costs on the CD if certain changes occur to the transaction after the CD was first provided that cause the disclosures to become inaccurate. There are 3 categories of changes that require a corrected CD containing ALL changed terms: **23**

1. Changes that occur before consummation that require a new 3 business day waiting period - if the creditor provides corrected disclosures when there are: **24**

1. Changes to the loan's APR (APR becomes inaccurate);  
2. Changes to the Loan Product; or  
3. The addition of a prepayment penalty. **24**

2. Changes that occur before consummation and DO NOT require a new 3-business-day waiting period - BUT creditor must still provide a corrected CD at or before consummation. **25**

Any other changes before consummation that do not fall under the three categories requiring a new three-business -day waiting period. **25**

3. Changes that occur after consummation.

For these other changes (other than change to APR, loan product or addition of a prepayment penalty) the creditor is not required to provide the consumer with the revised CD until the day of consummation. **25**

To ensure the consumer receives the CD on time, creditors must arrange for delivery by: **13**

Revised CD must be provided to correct non-numerical clerical errors (errors that do not affect a numerical disclosure and does not affect the timing, delivery, or other requirements related to the CD) and document refunds for tolerance violations no later than 60 calendar days after consummation. **27**

Creditors must provide a corrected CD if an event in connection with the settlement occurs during the 30-calendar-day period after consummation that causes the CD to become inaccurate and results in a change to an amount paid by the consumer from what was previously disclosed. **26**

The post-consummation corrected CD must be delivered or placed in the mail not later than 30 calendar days after receiving the information requiring the corrected CD. **26**

**HOWEVER**, the consumer has the right to inspect the CD during the day before consummation. **25**

Providing it to the consumer in person.

If CD is provided in person, it is considered received by the consumer on the day it is provided. **14**

Mailing, or by other delivery methods, including email (creditors may use electronic delivery methods subject to compliance with the consumer consent and applicable provisions of the Electronic Signatures in Global and National Commerce Act).

If the CD is mailed or delivered electronically, the consumer is considered to have received the CD three business days AFTER it is delivered or placed in the mail. **14**

However, if the creditor has evidence that the consumer received the CD earlier than 3 business days after it is mailed or delivered, the creditor may rely on that evidence and consider it to be received on that date. **14**

Creditors must retain copies of the CD, and all documents related to the CD for 5 years after consummation. If the creditor sells, transfers, or otherwise disposes of its interest in a mortgage and does not service the mortgage, the creditor shall provide a copy of the CD to the new owner or servicer, and BOTH the originating creditor and new owner or new servicer shall retain the CD for the remainder of the five-year period. **29**