



# Considerations for Residential Real Estate Transactions

## Post October 3, 2015 TILA-RESPA Integrated Disclosure Rule

First American Financial Corporation makes no express or implied warranty respecting the information presented and assumes no responsibility for errors or omissions. First American and the eagle logo are either registered trademarks or trademarks of First American Financial Corporation and/or its affiliates.

This presentation is for training purposes only and is not and may not be construed as legal advice. No third party entity may rely upon anything contained herein when making legal and/or other determinations regarding its practices, and such third party should consult with an attorney prior to embarking upon any specific course of action.



# Questions Impacting Your Business

1. As a real estate professional, are you prepared to vet the lenders and the closing/settlement agents you typically recommend to ensure they are ready for transaction changes?
  - TRID is a significant change to how residential transactions are closed. Lenders will be much more involved before and after closing.
2. Initially, as lenders and closing/settlement agents learn to work in this new environment, is your buyer's mortgage rate lock long enough to carry them through a closing delay?
3. Have you coached your buyers to avoid making any major changes to their financing within a **MINIMUM** of 10 days of closing that could change their APR?
4. Will the buyer or seller be able to select a closing/settlement agent or will the lender have to approve the closing/settlement agent?
5. What about listing agents? How will the new Rule impact them?



# Are the Mortgage and Closing/Settlement Agents You Refer Business To Ready to Handle These Transactions?

## Is your closing/settlement agent ready to begin closing loans under the new Rule?

- Have they migrated to software that enables them to work collaboratively with the lenders?
- Have their employees gone through training on the new forms?
- Will the closing/settlement agent issue a separate settlement statement (not a HUD-1), at or after closing, in addition to the lender Closing Disclosure?
- Is the closing/settlement agent you typically use following, or well under way toward implementing, ALTA Best Practices.
  - Some lenders will be asking that same question and some may opt to not allow a company to close their mortgage transactions. Each lender will be different.



# Is Your Buyer's Mortgage Rate Lock Long Enough to Carry Them Through A Closing Delay?

This new Rule is a big change for the lending and settlement industry. Initially, the new Rule will have a learning curve which may cause closing delays. If the closing is delayed, can the transaction (buyer and seller) tolerate the delay and allow the transaction to proceed? Expect frustration and plan for it to continue your success.

- For example, in a rising interest rate environment, if a transaction is delayed past the rate lock expiration, the buyer's new interest rate may increase. This could cause a buyer to back out of a transaction, or worse; an increased interest rate could impact the buyer's ability to be approved for the mortgage.
- The probability of closing delays is high, don't jeopardize your transaction with a short rate lock.
- Do your closings occur back-to-back? Consider adding several days between closings as a cushion.
- Are you working on or have you considered revising your standard purchase contracts and/or review letters?
- Consider scheduling closings at the beginning of the month rather than the end so extra per diem interest is built in.



# Have You Coached Your Buyers to Avoid Making Any Major Changes to Their Financing within 5-7 Days of Closing that Could Change their APR and Delay Closing?

The TRID Rule states a corrected Closing Disclosure must be issued and a new 3 business day waiting period applies if:

1. Annual Percentage Rate (APR) (Clarified by CFPB as 'increase')
2. The Loan Product changes
3. A Pre-payment penalty is added

## Items that may change the APR:

- Adding or removing origination points or discount points
- Changing the loan amount
- Special credits paid outside of closing (POC)
- Changes to the loan type

**Suggested Practice** - Set your buyer's expectation up-front.

*"If Aunt Sally wants to give you money to buy more points so you can get a near-zero interest rate 3 days prior to closing, you will need a new CD and it will extend the closing date."*



When Your Buyer Uses a Lender You Are Unfamiliar With, Will That Lender Have Documentation Requirements For The Closing/Settlement Agent You Are Accustomed To Using?

- Ask the closing/settlement agent if they have ever closed loans for the lender your buyer has selected.
- Ask the lender's mortgage processor if they are able to work with your closing/settlement agent and, if not, what is required to make it possible.



# What About The Seller/Listing Side?

Is there anything the seller should be concerned about that might affect the buyer or the transaction?

Listing agent may want to:

1. Advise the seller to accept offers only if the buyer has a 30+ day rate lock.
2. Advise the seller to allow several days between closings and avoid back-to-back transactions.
3. Reinforce what items are to be removed from the property and verify if all inspection items have been addressed. Last minute POC (paid outside of closing) items could impact the need for a corrected Closing Disclosure to be issued and a new 3 day waiting period to start.





# Thank You!

# Questions

First American Financial Corporation makes no express or implied warranty respecting the information presented and assumes no responsibility for errors or omissions. First American and the eagle logo are either registered trademarks or trademarks of First American Financial Corporation and/or its affiliates.

This presentation is for training purposes only and is not and may not be construed as legal advice. No third party entity may rely upon anything contained herein when making legal and/or other determinations regarding its practices, and such third party should consult with an attorney prior to embarking upon any specific course of action.

