MORRISON | FOERSTER

TILA/RESPA INTEGRATED DISCLOSURES (TRID) RULE
CFPB WEBINAR Q&A INDEX

INTRODUCTION

Through 2014 and 2015, the Consumer Financial Protection Bureau (CFPB) hosted five webinars to discuss the new TILA-RESPA Integrated Disclosures (TRID) Rule. These webinars consisted of presentations from CFPB-prepared slide decks, in both lecture and question-and-answer formats. The CFPB selected the questions and developed scripted responses in advance of the respective webinars.

In August 2015, the CFPB published a full list of the questions posed during the five webinars, but the list did not include the CFPB's responses to the questions. The CFPB posted recordings of the webinars on its website, however. This document sets forth the questions asked and relevant excerpts from CFPB oral responses. For each question, the relevant webinar date and segment are provided. To link to the relevant archived webinar, hold "Control" and click the date.

The CFPB's responses are not transcribed verbatim, but are edited for relevance and clarity. This document is provided for general informational purposes only and should not be relied upon as legal advice. Moreover, as the CFPB made clear in each webinar:

> "[T]his presentation is not a substitute for the rule. Only the rule and its Official Interpretations can provide complete and definitive information regarding requirements. This [presentation] does not bind the [CFPB] and does not create any rights, benefits, or defenses, substantive or procedural, that are enforceable by any party in any manner."

In addition, it is possible the agency has modified its informal views of the issues covered since the respective webinars or will do so in the future.

Unless otherwise noted, all citations and references to a "Section ##" are to Regulation Z, 12 C.F.R. § 1026.##.

WEBINAR QUESTIONS & ANSWERS

	Question/Topic	Webinar Date	Webinar Segment
Topic 1. Pre-application activity.			
Q	Can a creditor review detailed written documentation of income and assets prior to delivering a Loan Estimate?	May 26, 2015	Pre-application Activity
A	Yes. Consistent with the preamble to the Final Rule, a creditor can review documentation voluntarily provided by the consumer. *See* 78 Fed. Reg. 79816. Section 19(e)(2)(iii) prohibits requiring a consumer to submit documents verifying information related to the consumer's application before providing the Loan Estimate. As comment one to Section 19(e)(2)(iii) explains, a creditor or other person may collect from the consumer additional information prior to providing a Loan Estimate before or at the same time as collecting the six elements of an application. For example, a mortgage broker may ask for the names, account numbers, and balances of the consumer's checking and		

	savings accounts. However the creditor or other person is not permitted to require—before providing the Loan Estimate—that the consumer provide documentation, like a bank statement, to verify that information. The creditor cannot explicitly or implicitly represent to the consumer that it will not provide a Loan Estimate without the consumer first providing verifying documentation. As long as the creditor does not represent such, if a consumer voluntarily provides documentation and requests a creditor to review that documentation, the rule does not prohibit the creditor from accepting and reviewing that documentation. Under those circumstances, the creditor's obligation to provide a Loan Estimate is not triggered until it receives from the consumer the six specific elements of an application, as defined in Section 2(a)(3). So, if a consumer requests a pre-approval or pre-qualification and provides five of the six elements of an application, the creditor is not yet obligated to provide a Loan Estimate. As the preamble for the Final Rule explains, the CFPB does not believe that the definition of application will restrict creditors' ability to provide pre-qualification cost estimates, or grant pre-approvals, because creditors can provide pre-qualification estimates and grant pre-approvals without obtaining all of the six elements of information that make up the definition of application. See 78 Fed. Reg. 79767. So long as the consumer does not provide the sixth element (e.g., the property address), the creditor is not required to provide a Loan Estimate, and it may simply provide a pre-approval or pre-qualification in compliance with its current practice and other applicable law. However, if a consumer provides all six elements of application, Section 19(e)(1)(iii) requires creditors to provide a Loan Estimate. The fact that a consumer requested a pre-approval or pre-qualification does not change the creditor's obligation to provide a Loan Estimate.		
Topic 2. Definition of "application."			
Q	Does the new definition of "application" under the rule apply to home equity lines of credit (HELOCs)? Will the previous definition of "application" still apply to HELOCs and other products?	May 26, 2015	Application
A	The new definition of "application" under the rule does not apply to open-end HELOCs. The TILA-RESPA integrated disclosure rule does not change the definition of "application" for open-end credit. Section 19(g) lists all the brochures and booklets required as part of RESPA and TILA. The placement of this provision is not a modification of the definition of application for open-end credit. As under current RESPA, creditors are required to provide the disclosures pursuant to Section 40 for home equity plans and the reference HELOC booklet. Just as creditors are not currently required to provide the current RESPA disclosures for HELOCs, creditors will not be required to provide the integrated disclosures for HELOCs.		
Q	May an institution collect more information than the six pieces of information that would constitute an application before issuing a Loan Estimate?	June 17, 2014	Questions Addressed
A	Yes. The Final Rule defines a set universe of information—six pieces of information—that, once they are received, constitute an application, but it does permit creditors to seek other		

	information before providing the Loan Estimate. There's nothing in the rule that says creditors are not allowed to ask other questions or seek additional information from the consumer, of course with a few caveats. There are predisclosure restrictions in Section 19(e)(2); so, for example, prior to the consumer receiving the Loan Estimate and indicating an intent to proceed with the transaction, creditors are not allowed to require consumers to submit verifying documents, and they're not allowed to charge the consumer anything other than a reasonable fee to obtain a credit report. This does extend to a creditor taking a check or a credit card number and holding it until the consumer indicates an intent to proceed with the transaction and a Loan Estimate has been provided. That's not allowed under the new rule. And that's laid out specifically in the Commentary at 19(e)(2) 1A-5. But, to the specific question, the CFPB does expect that creditors will seek additional information along with the six pieces, and generally that's going to be fine subject to the applicable caveats and restrictions. As the question notes, the CFPB does assume that in most cases creditors are going to seek information about specific things like the loan product or products that the consumer is considering before providing the Loan Estimate.		
Q	Does a creditor have to collect all six pieces of information at once or can they strategically collect it to better control when they have to generate the Loan Estimate?	June 17, 2014	Questions Addressed
A	The latter. The Final Rule only requires that creditors provide the Loan Estimate after the consumer provides the sixth piece of information. The rule does not say that all six pieces of information must be gathered at once, nor does it specify any kind of ordering. The preamble to the amendments to 2(a)(6), the application section, explains that the CFPB anticipated creditors will sequence or order the application information, but nonetheless thought there was a benefit in removing the catch-all element to ensure creditors operate under a uniform definition of application. Creditors may, and probably will, hold off on collecting certain information, like the consumer's social security number (SSN) to run a credit report, until other information is in hand, such as whether a consumer is interested in an ARM or a fixed-rate loan.		
Q	Do the disclaimer requirements for pre-disclosure estimates of loan costs and terms apply to general advertisements?	June 17, 2014	Questions Addressed
A	No. The regulatory text makes clear that the pre-disclosure disclaimer requirement applies to written disclosures of costs that are specific to a consumer, which generally will not include advertisements. In addition, Comment 19(e)(2)(ii)-1 states clearly that the pre-disclosure disclaimer requirement does not apply to an advertisement as defined by Section 2(a)(2). As long as an advertisement satisfies the definition of that term under Section 2(a)(2), the pre-disclosure disclaimer requirement does not apply.		
Q	The definition of application does not include loan term or product type. What if a consumer submits the six elements listed in the rule, but does not specify the type of product or term?	August 26, 2014	Application Definition
A	Creditors have a degree of flexibility that enables them to collect, in the vast majority of cases, additional information, such as a loan term or product type, that the consumer is		

	interested in for purposes of producing the Loan Estimate. Namely, the rule permits sequencing or "strategic collection" of the six pieces of information required to constitute an application and trigger the Loan Estimate obligation. Thus, in the vast majority of circumstances, creditors will be able to obtain additional information, such as loan term or product type, prior to being obligated to produce the Loan Estimate. That said, once the sixth element of an application has been submitted to the creditor, the creditor is obligated to produce the Loan Estimate in three (3) business days. While the rule does provide a great deal of flexibility, it does not endorse outright refusal of information to delay completion of the application, even where the creditor has not obtained other information it would prefer to have, or would require today, beyond the six elements. In some instances, it is possible that this could include basic items, like loan product or terms. If that occurs, nothing prevents a creditor from trying to collect that information prior to providing the Loan Estimate, but the creditor must still produce a Loan Estimate within three (3) business days, even if it is unable to collect the desired additional information. Remember that the estimate is a disclosure that must be made in good faith and consistent with the best information reasonably available to the creditor at the time. Other than those requirements, the general obligation to provide the consumer with a Loan Estimate under Section 19(e) is silent regarding any assumptions the creditors might make regarding elements or features of the loan, such as product or term. Therefore, the creditor would have discretion regarding what product, term, or other features it uses to produce the Loan Estimate, so long as the disclosures are made in good faith and consistent with the best information reasonably available to the creditor at the time. The creditor would not be required to produce multiple Loan Estimates to cover different product types, although it could provide different options if it so chooses. Likewise, our rule does not require the creditor to default to any specific type and/or term (e.g., 30-year fixed) if those variables are unknown.		
Q	What if the consumer starts filling out an online application and saves it with the six pieces of information entered, but does not formally submit it to the creditor?	August 26, 2014	Application Definition
A	The treatment of online application systems is expressly addressed in the preamble to the Final Rule. See 78 Fed. Reg. 78768. There, it says, "Because the definition of application refers to the submission of the six pieces of information, if the consumer starts filling out a mortgage application form online, enters the six pieces, and then saves the mortgage application form to complete at a later time, the consumer has not submitted the items of information." In other words, as long as the consumer has not submitted the six application elements to the creditor for purposes of obtaining an extension of credit, the creditor is under no obligation to produce a Loan Estimate. As the Preamble notes, this would include an online application where the six pieces are entered and saved, but the consumer has not yet submitted the application to the creditor.		
Q	What if the loan is a refinance and the creditor already has certain particular information relevant to an "application" on file?	August 26, 2014	Application Definition

A	In order to constitute an application and trigger a Loan Estimate obligation, a consumer must submit to a creditor the requisite six pieces of information. A creditor having information on file from a previous or existing loan, or a previous or existing loan application, does not mean that a new application has been submitted. This would hold true if a consumer contacts the creditor and expresses an interest in applying for a refinance or a new loan and the six pieces of information that comprise an application exist on the creditor's system or on a file. The definition of application is satisfied and the Loan Estimate obligation is triggered only upon submission of the requisite six pieces for purposes of obtaining credit. The information is not deemed resubmitted just because it exists on a creditor's system or in its file. In this example, the creditor could require the consumer to submit a new application prior to providing a Loan Estimate.		
Q	May an online application system reject an application submitted by a consumer if the application contains the six elements but other preferred information is not included?	August 26, 2014	Application Definition
A	No. The Final Rule provides creditors a great deal of flexibility in terms of collecting additional information at or before the time the creditor collects the six elements of an application. This flexibility includes an ability to sequence or strategically collect information, as well as an ability to encourage consumers to submit additional information that would be helpful to developing the Loan Estimate. Commonly, this may include saving a specific piece of information, such as a consumer's SSN, for last, but the rule does not contemplate refusal of any of the six informational elements of an application because the creditor would prefer to have additional information before being required to produce the Loan Estimate. Whether the application is submitted online, in person, on the phone, or by other means, a consumer's submission of the six elements of an application for purposes of obtaining an extension of credit is the critical legal threshold with respect to the application and the Loan Estimate. As a matter of policy, there is a degree of consumer empowerment in play here. The rule contemplates the use of online application systems, but it does not provide special treatment for them in this regard, other than to clarify how the principle of submission translates to online applications that are stored, as discussed in the previous question. Therefore, the same principle that applies to oral applications would have to apply to online applications. Through this logic, an online application system designed to reject or refuse to accept applications on the basis that they lack information beyond the six elements that a creditor normally would prefer to have, or requires today, would not comply with the rule.		
Topic 3. Scope and coverage of the rule.			
Q	Do the new disclosure requirements apply to assumptions?	August 26, 2014	Scope of Rule
A	Yes, if by "assumption," the questioner means a new, post-consummation closed-end credit transaction under Section 20(b), which was not added by the TRID rule.		
Q	Would a successor-in-interest be considered a "subsequent	August 26, 2014	Scope of Rule

	purchaser" for the purpose of the assumption disclosure?		
A	This question relates directly to the CFPB's July 11th, 2014, interpretive rule, which discusses successors-in-interest who (1) previously acquired title to a dwelling, and (2) later agree to be added as an obligor (or to be substituted for an existing obligor) on that dwelling. According to the interpretive rule, the creditor's written acknowledgement of such a successor-in-interest as an obligor is not subject to the ability-to-repay rule (i.e., Section 43 of Regulation Z, because such a transaction does not constitute an assumption, as the term is defined in Section 20(b)). Notably, the interpretive rule clarified applicability of the ability-to-repay rule, and it did not directly relate to the integrated disclosures. However, it did provide an interpretation of Section 20(b), where the term assumption is defined, and this section is not unique or exclusive to the ability-to-repay rule. Section 20 explains when certain post-consummation events—namely, a refinancing (Section 20(a)) or an assumption (Section 20(b))—constitute new transactions requiring new disclosures to consumers. The integrated disclosures rule and the requirement to provide new disclosures to consumers will, like the existing disclosure rules used today, be tied to these definitions.		
Q	Section 3(h) exempts certain down payment assistance loans from the new rules. Do creditors still need to provide the existing TILA disclosures for those loans?	August 26, 2014	Scope of Rule
A	Yes. Section 3(h) sets forth the criteria for exemption of certain down payment assistance loans from the integrated disclosure requirements, and there is a corresponding exemption from RESPA disclosure requirements. One of the conditions for satisfying the exemption is that disclosures under Section 18 (i.e., existing TILA disclosures) are provided to the consumer. *See* Section 3(h)(6).		
Q	Construction-to-permanent loans can be structured to have a single closing at the beginning of the process, or to have two closings, one at the beginning and then another at the end of the construction phase before the loan converts into permanent financing. How should a creditor disclose terms in a single-close construction-to-permanent loan transaction?	May 26, 2015	Construction
	Before reaching the substantive response, an important point should be made clear: The Loan Estimate and the Closing Disclosure are governed by Regulation Z and its Commentary. As such, many of the existing general provisions of Regulation Z apply to both of these new disclosures. Under existing Regulation Z, creditors have a choice when making disclosures for construction loans, and this was not modified by the integrated disclosures rule. Section 17(c)(6)(ii) permits creditors to disclose transactions with a construction phase and a permanent phase either as a single transaction or as two separate transactions. This is not dependent on the number of closings that occur under state law, but it still must reflect the terms of the legal obligation between the creditor and the consumer. Comment 2 to Section 17(c)(6) specifically states that the permissions in this rule are		

	available whether the consumer is initially obligated to accept only the construction financing, or whether the consumer is obligated from the outset to accept both construction and permanent financing. Accordingly, in circumstances where there is a single closing, a creditor may still disclose two separate transactions with two Loan Estimates and two Closing Disclosures. If the creditor chooses to disclose a single-close construction-to-permanent transaction and has two transactions on the disclosure, Comment 2 to Section 17(c)(6) states that disclosures for both transactions must be given to the consumer initially because both transactions would be consummated at that time. Appendix D to Regulation Z contains different ways to calculate the APR and certain other disclosures on the forms based on the creditor's decision to disclose the construction-to-permanent loan as a single transaction or as multiple transactions.		
Topic 4. Record retention.			
Q	For a seller Closing Disclosure provided on a separate document by the settlement agent pursuant to 38(t)(5) and 19(f)(4), are creditors required to collect and retain documents related to the seller that were provided only to the settlement agent?	August 26, 2014	Record Retention
A	Generally, according to Section 25(c), creditors must retain evidence of compliance with the disclosure requirements of Section 19(e) and (f) for three (3) years. According to Section 25(c)(1)(ii), creditors must retain each completed disclosure and all related documents for five (5) years after consummation. However, Section 19(f)(4)(i) provides that for transaction with a seller where the creditor may commonly have no relationship with the seller, the settlement agent shall provide the seller with the Closing Disclosure required by Section 38. While it is possible that the settlement agent and the creditor could be the same entity, the CFPB recognizes that, in most cases, the settlement agent is an independent third party. Section 38(t)(5) permits a third-party settlement agent to provide the seller with a Closing Disclosure on a different document than that provided by the creditor to the consumer. Concomitantly, Section 19(f)(4)(iv) provides that when the consumer and seller disclosures are provided on separate documents (as permitted by Section 38(t)(5)), the settlement agent shall provide to the creditor a copy of the disclosures provided to the seller. In the CFPB's view, creditors are obligated to obtain and retain a copy of a completed Closing Disclosure provided separately by a third-party settlement agent to a seller under Section 38(t)(5), but creditors are not obligated to collect underlying seller-specific documents and records from that third-party settlement agent to support the disclosures. Section 25(c) does not state that settlement agents are required to supply the creditor with specific records about the seller that the settlement agents used to prepare the seller's disclosures, which may include copies of agreements between the seller and buyer outside the purchase contract or invoices or bills related to fees and costs paid by the seller not on behalf of the borrower. Accordingly, the CFPB does not interpret the rule to require creditors to collect or retain seller-specific records from a third-party settlement agent along with the Closing Disclosure.		

	To the extent the creditor does in fact receive documentation related to the seller's Closing Disclosure (e.g., when the creditor is also the settlement agent, or when a third-party settlement agent provides seller-specific documents along with the completed disclosure), the creditor should adhere to the normal record retention requirements set forth in Section 25(c). But, as noted above, the rules do not mandate that creditors collect and retain this underlying information. The same would hold true for seller-related documents that the settlement agent used to make its own disclosures, even where the disclosures were not made on separate documents.		
Topic 5. Tolerances.			
Q	Is owner's title insurance not required by the creditor subject to the 10% cumulative tolerances?	August 26, 2014	Variations / Tolerances
A	Generally, no. The 10% cumulative tolerance category only includes (1) recording fees and (2) service charges paid to unaffiliated third-party service providers where a consumer is permitted to shop and choose the provider from a written list provided by the creditor. *See* Section 19(e)(3)(ii). Owners title insurance, per se, is not enumerated or otherwise included among charges subject to categorical treatment under the tolerance rules, including the 10% category. Therefore, its treatment depends on the other rule of tolerance (i.e., whether the service is required by the creditor and, if so, whether shopping is permitted and/or occurs). Owner's title insurance commonly is not required by the creditor. To the extent owner's title insurance is not required by the creditor and is disclosed as optional, the rule text states that charges for services not required by the creditor (even though they are paid to affiliates of the creditor) are "variations permitted charges," or charges that are not subject to tolerance. *See* Section 19(e)(3)(iii)(b). This requirement makes no distinction between owner's title insurance and other charges. Therefore, owner's title insurance that is not required by the creditor will be a Section 19(e)(3)(iii) "variation permitted charge" that is not subject to tolerance. The CFPB is aware that there is some potentially conflicting or confusing language in the preamble to the final rule that could be read to imply that the CFPB intended to subject owner's title insurance categorically to the 10% cumulative tolerance, even where it is not required by the creditor. The rule text as adopted does not subject owner's title to any specific treatment, and therefore, owner's title insurance that is not required by the creditor would not be subject to a tolerance according to 19(e)(3)(iii)(b). Again, there may be a slight inconsistency between the preamble and the rule text, but the rule text is clear.		
Q	In a scenario where the creditor's estimate of closing costs changes, but the prior estimates remains "in good faith" for purposes of Section 19(e)(3), is the creditor prohibited from providing the consumer with a revised Loan Estimate?	May 26, 2015	Revised Disclosures
A	No. As stated in Comment 1(ii) to Section 19(e)(3)(iv)(a), the rule does not prohibit the creditor from issuing revised disclosures for informational purposes. When estimates change, Section 19(e)(3)(i) – (iii) governs the determination of whether the charges are "in good faith."		

	The Loan Estimate is a disclosure to the consumer. The Loan Estimate alone will not indicate whether estimates are in good faith. To determine whether estimates are in good faith, the creditor must perform the analysis under Section 19(e)(3)(i-iii). If a creditor performs that analysis and determines the changed estimates are not in good faith, then, under certain circumstances, Sections 19(e)(3)(iv) and (e)(iv) allow the creditor to reset the estimates in order to be in good faith. When resetting those estimates under those circumstances, the rule requires the creditor to provide the consumer with a revised Loan Estimate or, in certain instances explained in Comment 1 to Section 19(e)(4)(ii), a revised Closing Disclosure. But, even if the creditor determines the changed estimates remain in good faith, the rule does not prohibit the creditor from issuing an updated disclosure reflecting the changed estimates. A creditor has the option of doing so. However, in that case, the updated disclosure would not impact the good faith analysis under Section 19(e)(3)(i-iii). Further, the creditor must have a mechanism for tracking risk and disclosure controls for purposes of determining good faith. Consider the example in Comment 1(ii) to Section 19(e)(3)(iv)(a), which assumes that a creditor previously provided a $400 estimate of title fees. For purposes of determining good faith, title fees are generally included in the category of fees that, in aggregate, may not increase by more than 10%. This scenario further assumes that a changed circumstance increased the title fees from $400 to $500, and that the sum of all costs subject to the 10% tolerance category has not increased by more than 10%. Under Section 19(e)(3)(ii), the prior estimate remains in good faith. Therefore, the rule does not permit the creditor to reset the estimate, since the total charges in the 10% tolerance category are still in good faith. However, the creditor has the option of providing the consumer with an updated disclosure reflecting the increase in title fees. And, when the creditor performs the good faith analysis under Section 19(e)(3)(i-iii), the actual title fees of $500 may not be compared to the revised estimate of $500. Instead, they must be compared to the originally estimated title fees of $400 because the changed circumstance did not cause a sum of all costs subject to the 10% tolerance category, to increase by more than 10%.		
Topic 6. Disclosure/redisclosure timing.			
Q	Does the 7-day waiting period before consummation that applies to Loan Estimates apply to revised disclosures?	August 26, 2014	Disclosure / Redisclosure Timing
A	No. The 7-day waiting period before consummation, articulated in Section 19(e)(1)(iii), is a TILA statutory waiting period that, today, applies to initial TILA disclosures and, after the TRID rule becomes effective, will apply to the Loan Estimate provided to the consumer after application. It does not apply to revised disclosures. In most cases where a creditor is providing a revised Loan Estimate and relying on the 3-day mail option, the creditor will need to place the revised disclosure in the mail no later than the 7th business day before consummation in order for the revised disclosure to be received by the consumer four (4) business days prior to consummation, as is required by Section 19(e)(4). This issue is explored further in a later question. The statutory waiting period in Section 19(e)(1)(iii) only applies to the Loan Estimate provided to the consumer after the		

	application. This question arises from a glitch in the small entity guide issued last spring, and the CFPB has since repaired the glitch.		
Q	Are creditors required to provide revised Loan Estimates on the same business day that a consumer or loan officer requests a rate lock?	August 26, 2014	Disclosure / Redisclosure Timing
A	Not necessarily. To provide a bit of background, Section 19(e)(3)(iv)(d) states that a creditor may redisclose interest rate attendant charges (i.e., reset the tolerance level for those charges) by providing a revised disclosure, but, to do so, the creditor must provide the revised disclosure on the same business day that the rate is "locked." Locked is not a term that is expressly defined in Regulation Z or the Final Rule. As such, the definition of what it means to lock depends on state law or contract. *See* Section 2(b)(3). However, Comment 19(e)(3)(iv)(d)-1 provides examples and additional explanations that imply or illustrate that, in the CFPB's view, the revised disclosure must be provided on the business day on which the rate lock is agreed to between the creditor and the consumer, not necessarily the date that a rate lock is requested. The preamble to the Final Rule further states that, in the CFPB's view, by the time the Final Rule is issued, the creditor should be able to meet a same business day requirement because "the [CFPB] does not believe the creditors need that much time for the situation where the interest rate is locked, because the creditor controls when it executes the rate lock agreement." 78 Fed. Reg. 79833. The preamble further explains that redisclosure is not triggered when the interest rate has been set, but a rate lock agreement does not yet exist. "The [CFPB] intended that [Section] 19(e)(3)(iv)(d) only applies in situations where a rate lock agreement has been entered into between the creditor and the borrower or where such agreement has expired." *Id.* Numerous stake holders have identified potential operational challenges, as well as potential consumer disadvantages that could result for this approach, and this is an issue that the CFPB is closely considering in response to the extensive feedback that it has received to date. [The CFPB amended this portion of the Final Rule in January 2015, and the rule now allows creditors to issue the redisclosure within 3 days of when the rate is locked. *See* 80 Fed. Reg. 8767. –RJR]		
Q	May a Closing Disclosure be provided early and revised Closing Disclosures used in place of revised Loan Estimates for redisclosing estimates that change due to changed circumstances?	August 26, 2014	Disclosure / Redisclosure Timing
A	No. The redisclosure rules (i.e., Sections 19(e)(3)(iv) and 19(e)(4)) provide very precise timing mechanisms, which are designed to allow creditors to redisclose charges that increased due to changed circumstances or other triggering events. Based on such triggering events, a creditor may "redisclose" by providing one or more revised Loan Estimates, and it may do so until it provides the Closing Disclosure. After the creditor provides the Closing Disclosure, these provisions allow creditors some flexibility to redisclose charges through a revised Closing Disclosure. As explained further below, however, the timing rules that relate to using a Closing Disclosure to redisclose charges are tied to consummation, and they do		

	not account for early delivery of the Closing Disclosure. So, while creditors may provide a Closing Disclosure earlier than required, the rule does not provide a mechanism for redisclosure using revised Closing Disclosures in place of revised Loan Estimates, in the event the Closing Disclosure is provided earlier than required. To explain, a step-by-step walk through of the redisclosure and redisclosure timing requirements is helpful. First, similar to the good faith estimate rule that the industry is using today, the integrated disclosures rule generally allows creditors to redisclose estimates and rely on those revised estimates to determine good faith if one or more estimated charges change due to certain circumstances or triggering events. These triggering events are spelled out in Section 19(e)(iv)(a) – (f). Section 19(e)(4) in turn requires creditors to provide a revised Loan Estimate within three (3) business days of receiving information sufficient to establish that one of the triggering events has occurred. The rules do not prohibit voluntary redisclosure where a tolerance is not being reset, but creditors currently may only reset the applicable tolerance levels upon occurrence of one of the triggering events. Section 19(e)(4)(ii) provides an additional timing restriction to revise Loan Estimates when a transaction approaches consummation. This provision was designed to address a historical practice commonly called the Magic TID and to prevent creditors from issuing revised Loan Estimates after they have provided the Closing Disclosure. In the CFPB's view, this better ensures finality of the Closing Disclosure that the consumer receives prior to consummation. Specifically, Section 19(e)(4)(ii) says that a creditor shall not provide a revised Loan Estimate on or after the date it provides the Closing Disclosure, and the consumer must receive the revised Loan Estimate no later than four (4) business days prior to consummation. Because the Closing Disclosure must be received no later than three (3) business days prior to consummation, Section 19(e)(4)(ii) ensures that a consumer will not receive a revised Loan Estimate after the consumer receives the Closing Disclosure. The rule does recognize the creditor may receive information sufficient to establish the grounds for redisclosure at a point in time that is too late to provide a revised Loan Estimate. In the Final Rule, the CFPB acknowledged this possibility and provided some flexibility to creditors through Comment 19(e)(4)(ii)-1. In the event that there are less than four (4) business days between the time the revised Loan Estimate would be required to be provided under Section 19(e)(4)(i) and consummation, Comment 19(e)(4)(ii)-1 allows creditors to comply with the timing requirements of Section 19(e)(4). In other words, in such a circumstance, creditors may redisclose if the revised disclosures are reflected on the Closing Disclosure. To state the full rule: In circumstances where there are less than four (4) business days in between the time the revised disclosures would be required to be provided and consummation (and that is generally going to be within three (3) business days of receiving information sufficient to establish the grounds for redisclosure), then the Closing Disclosure may be used to redisclose any estimates that increase due to a triggering event. Some examples are weighed out in the commentary. Returning to the original question, the rule does not provide for the Closing Disclosure to be used or redisclosed (and applicable tolerance levels reset) in any other circumstance, including when the Closing Disclosure is provided earlier than it is required to under the rules. That is, unless that circumstance would fit within the window that is prescribed in Comment 19(e)(4)(ii)-1.

Q	Is an additional 3-business-day waiting period required if the APR decreases by more than 1/4 or 1/8 percentage points?	August 26, 2014	Disclosure / Redisclosure Timing
A	Section 19(f)(2)(ii) requires an additional 3-business-day waiting period before consummation if the annual percentage rate, or APR (disclosed under Section 38(o)(4)), on the Closing Disclosure becomes "inaccurate," as defined in an existing provision of Regulation Z, Section 22. The Final Rule did not change these existing accuracy requirements in Section 22, so this additional waiting period is triggered by the same APR tolerance rules that exist today for current TILA disclosures. Accordingly, creditors may continue to use existing guidance on this subject from both the CFPB and the Federal Reserve. The CFPB recommends Federal Reserve Bank of Philadelphia's guidance on this subject in their Fall 2011 consumer compliance outlook publication. That guidance notes that a new waiting period is not required where APRs have been over disclosed due to an over disclosed finance charge. It explains that Section 22(a)(4) contains special accuracy rules for mortgages and states that (1) if the APR is over disclosed, and (2) the reason for over disclosure is a finance charge, but (3) the finance charge would be considered accurate under Section 18(d)(1), then (4) the APR is not considered inaccurate under Section 22. Section 18(d)(1), for your reference, states that an over disclosed finance charge is considered accurate, so a resulting over disclosure of APR will generally be considered accurate as well. However, as the 2011 guidance cautions, this only applies in situations where the APR was over disclosed due to the finance charge and does not apply in the event that over disclosure resulted from something else. How that would occur is unclear.		
Topic 7. Loan estimate form, generally.			
Q	Where on the Loan Estimate form should a creditor provide the language described in Section 19(e)(3)(iv)(F) for construction loans where settlement may be delayed?	August 26, 2014	Loan Estimate
A	A creditor may provide special language for a new construction loan where the creditor reasonably expects settlement of the new construction loan to occur more than 60 days after the initial Loan Estimate is provided. The notice must be conspicuous and informative, and use of the notice assumes that revised Loan Estimate can be provided at least 60 days before consummation. This is a continuation of current practice in relation to the good faith estimate under RESPA. Section 37 requires this information to be placed on the Loan Estimate, but it does not contain a provision to indicate where this language should be placed. The CFPB is aware of this inconsistency and intends to address this before the effective date. [The CFPB amended this portion of the Final Rule in January 2015, and the rule now allows for this language to be placed in the "Other Considerations" section of the Loan Estimate, on page 3. *See* 80 Fed. Reg. 8767. –RJR]		
Q	For second mortgages issued simultaneously with first mortgages as part of the purchase transaction (or "simultaneous seconds") is the creditor allowed to use the alternative Loan Estimate for	August 26, 2014	Loan Estimate

	transactions without a seller?		
A	The new disclosure rules allow creditors to use an alternative Loan Estimate and an alternative Closing Disclosure with fewer entries for transactions without a seller. Two portions of the traditional Loan Estimate are abbreviated in the alternative Loan Estimate: the cash to close amount on page 1 and the calculating cash to close table on page 2. *See* Section 37(d)(2), (h)(2). These modifications to the Loan Estimate are discretionary in transactions without a seller. Generally, the alternative form may be used for refinances, home equity loans, or other credit transactions that do not involve a seller, as well as real estate transactions. The question here is whether the alternative form may be used in a purchase transaction that includes a simultaneous second lien loan. In the CFPB's view, creditors may use alternative forms for simultaneous seconds when (1) the seller is not contributing to the cost of the second loan, and (2) the entirety of the seller's transactions, and any other costs related to the transaction between the seller and consumer, are reflected on the Closing Disclosures provided to the seller and consumer in connection with the first lien transaction. To explain: The CFPB expects that in typical transactions with a simultaneous second will involve two separate transactions and two separate creditors. However, even in the case of the same creditor providing the first lien loan and the simultaneous second, the CFPB expects that the transaction would be structured to be a separate transaction with a separate note and security instrument. Regarding whether or not a simultaneous second is appropriately classified as a transaction without a seller, in the CFPB's view, a simultaneous second only includes a seller insofar as certain proceeds may go to the seller. Practically speaking, if the seller is not contributing to the cost of the second transaction, the seller is more akin to a third party receiving the loan proceeds because there is no additional information to disclose regarding the transactions between the consumer and seller that was not provided on the Closing Disclosure for the first transaction. Therefore, a creditor may use the alternative Loan Estimate for transactions without a seller for closing in simultaneous seconds, but is not required to do so. Even though the simultaneous second will be disclosed separately, the proceeds from any simultaneous second will be included in the Closing Disclosure for the primary transaction with the seller in the amounts disclosed pursuant to Section 38(j)(2)(vi), per Comment 38(j)(2)(vi)-2. These conclusions assume that the simultaneous second is a closed-end credit transaction, and not an open-end transaction that would be disclosed pursuant to Section 40, or a home equity line of credit subject to Section 6(a). Also, please note that there are some simultaneous second transactions that are exempt from providing the Loan Estimate or Closing Disclosure under Section 38. For those transactions, creditors still need to provide disclosures under Section 18.		
Q	If there is more than one applicant/consumer, what needs to be disclosed on the Loan Estimate?	August 26, 2014	Loan Estimate
A	Section 37(a)(5) requires disclosure of a name and mailing address of each consumer applying for that credit. If the names and mailing addresses of all consumers applying for		

	credit do not fit in the space allocated, an additional page with this information may be appended to the end of a Loan Estimate. For purposes of delivery, when two consumers are to be jointly obligated, the Loan Estimate may be delivered to either one of the consumers. *See* Comment 17(d)(2)-1. But, there is a difference related to delivery of the Closing Disclosure in rescindable transactions. The Closing Disclosure must be provided to each consumer that has the right to rescind in a rescindable transaction. *Id.* This is discussed in greater detail in questions from a later webinar.		
Q	Is there a required font size for the Loan Estimate?	October 1, 2014	General Questions
A	There are required font sizes, but no specific font type is required for the new integrated disclosures. As the preamble explains, for federally related mortgage loans covered under RESPA, the forms are standard, mandated forms, not model forms. Therefore, for these transactions, Sections 37(o)(3) and 38(t)(3) require the use of the forms H-24 and H-25, including all of their elements (e.g., various font sizes, bolding, shading, and underscoring). This is explained in the preamble and section-by-section analysis of Section 37(o)(3). According to the analysis, various font sizes used in appendices H-24 and H-25 must be used for the Loan Estimate and Closing Disclosure, respectively. However, the Final Rule does not describe the font type to be used on the form.		
Q	Can the disclosure be completed by hand printing?	May 26, 2015	Formatting
A	Yes. Comment 2 to Section 37(o)(5) states that creditors are not required to use any particular method, be it by hand, computer, type writer, or other word processor, to complete the Loan Estimate. The rule only requires that (1) the information must be clear and legible and (2) the information must comply with the required formatting, including replicating bold font where required. Comment 2 to Section 38(t)(5) provides similar guidance for completing the Closing Disclosure. Given that those Commentary provisions do not require the use of any particular method to complete the forms, the CFPB construes this also to mean that no specific font size is required for completing the disclosures. Nonetheless, Section 37(o)(1)(i) and 38(t)(1)(i) require making the disclosures clearly and conspicuously. A disclosure violates that rule if it is so small that it becomes illegible. This rule for completing the forms is different from the rule for printing the blank forms themselves, which was discussed in the October 1st 2014 webinar. In the October webinar, the CFPB stated that for federally related mortgage loans, blank forms H-24 and H-25 are standard, mandated forms, and the font size of the headings, labels, and other texts on the blank forms cannot be changed.		
Q	Can the designation "N/A" be used where no value is to be disclosed on the Loan Estimate?	October 1, 2014	General Questions
A	No, the designation "N/A" cannot be used where no value is to be disclosed. As Comment 37-1 makes clear, the designation "N/A" may not be used on the Loan Estimate in general.		

	When a disclosure is not applicable, that disclosure should either be omitted from the Loan Estimate or left blank.		
Q	Is there a required naming convention used for charges on the Loan Estimate?	October 1, 2014	General Questions
A	No, the CFPB did not prescribe a uniform naming convention outside of the general labels set forth in the rules (e.g., taxes and other government fees, pre-paids, and so on). The CFPB also did not create a standard or prescribed list of fee names. However, there are some specific types of charges that must be identified in a prescribed manner on the form. For example, points paid to the creditor. According to Section 37 (f) (1), creditors must itemize and label points paid to the creditor to reduce the interest rate separately and as a percentage of the loan analysis, and creditors must title that charge "___% percentage of Loan Amount (Points)." The Commentary to Section 37 (f) (1) provides further instruction on how to apply this provision. Another example is title insurance services. Sections 37 (f) (2) and (f) (3) require the description "Title –" to precede any charges for title billing services.		
Q	Does the creditor have to disclose an itemization of the amount financed with the Loan Estimate?	October 1, 2014	General Questions
A	No, the creditor would not disclose the itemization of the amount financed on the Loan Estimate. Some disclosures are required only on the Closing Disclosure and not the Loan Estimate. These include some of the "Fed Box" disclosures, such as the amount financed and the finance charge. These disclosures are required on the Closing Disclosure, pursuant to Section 38(o) (2) and (o) (3). They are not required on the Loan Estimate. Note that, even for the Closing Disclosure, the amount financed is not itemized. Section 38(o) (3) and Comment 38(o) (3)-1 require only the amount financed in sum, which is calculated in accordance with Section 18(b) and its associated commentary. The itemization of amount financed, which currently may be required pursuant 18(c), is not required for transactions disclosed using the Loan Estimate and Closing Disclosure.		
Topic 8. Loan Estimate, Page 1.			
Q	When the Sale Price of the property is not yet known, does the creditor disclose a label other than "Sale Price" for the Sale Price on the Loan Estimate?	October 1, 2014	General Information
A	No. For transactions with a seller, i.e., a purchase transaction, Section 37 (a) (7) is clear that the label should be "Sale Price." The label does not change when a creditor uses an estimated sale price, as described in Comment 37 (a) (7)-1. However, for transactions without a seller, e.g., a refinance, because there is no sale, the estimated value of the property is disclosed in place of the sale price and labeled "Prop. Value."		
Q	If a loan product consists of a combination of two product types—e.g., a step rate for a set period of time, followed by an adjustable	October 1, 2014	General Information

	rate for the remaining term of the loan—how is the product to be described? Should it be described as an Adjustable Rate loan or as a Step Rate loan?		
A	The product described, which consists of a step rate followed by an adjustable rate, should be disclosed as an adjustable rate. The product provision in Section 37(a)(10) does not provide for hybrid or makeshift product descriptions. It requires the creditor to choose one and only one among adjustable, step, or fixed. A loan is only disclosed as a step rate when the rates and periods that apply for each step period are known at the time of consummation. In this example, there will be periods for which the interest rate is not known at consummation. Therefore, even though the loan has a set rate period, because there are rates that will apply that are not known at consummation, the product must be disclosed as an adjustable rate.		
Q	Is the mailing address for each applicant the U.S. postal mailing address or can it be some other type of address?	October 1, 2014	General Information
A	The mailing address disclosed on the Loan Estimate must be the loan applicant's U.S. postal mailing address. Section 37(a)(5) requires disclosure of the name and U.S. postal mailing addresses of the consumer or consumers applying for the credit. No other type of address, such as an applicant e-mail address, may be used.		
Q	If a broker is issuing a Loan Estimate but does not know the creditor, may the broker put its name in place of the creditors?	October 1, 2014	Brokered Transactions
A	No. Section 37(a)(3) requires the name and address of the creditor. A broker would not put its name and address here if the name of the creditor is unknown. Comment 37(a)(3)-2 addresses situations where mortgage brokers are making the disclosure and the creditor has not yet been determined. According to that Comment, the broker must make a good faith effort to disclose the name of the creditor, but when the name of the creditor is not known at the time the Loan Estimate is required to be delivered or placed in the mail, the mortgage broker may leave the creditor's name blank.		
Q	Section 37(a)(12) indicates the creditor must disclose a unique loan ID number. If the creditor is unknown, is the broker required to generate and disclose a unique loan ID number?	October 1, 2014	General Information
A	No. A broker would not be required to generate and disclose a unique loan ID. If the creditor's loan ID is not reasonably available to the broker, the disclosure could be left blank. Per Comment 37(a)(12)-1, the loan ID number must be a unique alphanumeric identifier the should be determined by the creditor. Creditors could outsource this function and allow brokers to generate and assign IDs on their behalf. Creditors also could provide the unique loan ID to brokers in advance of the disclosures for brokers to include on the Loan Estimate. In those circumstances, the loan ID would be reasonably available to the broker and should be included on the Loan Estimate. However, in circumstances where the creditor has not been determined and the loan ID is not reasonably available to the broker at the time the disclosure is being made, this disclosure could be left blank. This conclusion is consistent		

	with Comment 37(a)(3)-1, which states that a creditor's name may be left blank when not known at the time the Loan Estimate is being provided. It is also consistent with Comment 37-1, which states that when any information necessary for an accurate disclosure is unknown, then the disclosure shall be made in good faith and based in the best information reasonably available.		
Q	Is the creditor required to disclose its own unique loan ID once there is a creditor for the loan?	October 1, 2014	General Information
A	Yes. The creditor would be required to include a unique loan ID on any subsequent disclosures it provides, such as revised Loan Estimates or the Closing Disclosure. *See* Sections 37(a)(12) and 38(a)(5)(iv). Note that the creditor is ultimately responsible for the disclosures, including broker-generated disclosures.		
Q	What interest rate should be disclosed where the initial interest rate is calculated using a different formula than that used for subsequent rate adjustments?	October 1, 2014	Loan Terms Section
A	When the initial interest rate is calculated using a different formula than that used for subsequent rate adjustments, the creditor should disclose the initial interest rate. Section 37(b)(2) states that the interest rate disclosed is the rate that will be applicable to the transaction at consummation. A different calculation is only used when the interest rate at the time of consummation is not known at the time the Loan Estimate is completed. The preamble to Section 37(b)(2) includes a discussion of multiple interest rates applying to different portions of a loan principal balance. That portion of the preamble could be read to imply that the rule requires disclosure of one interest rate, but calculated as a composite of the different interest rates applicable to the transaction. The rule text is clear, however, that the disclosure required is the initial rate that will be applicable to the transaction at consummation.		
Q	How does a creditor disclose items in the Loan Terms table where the applicable dates for changes to interest rate, periodic payments, balloon payments, or prepayment penalties are not in whole years? (Sections 37(b)(8) and 37(a)(10))	October 1, 2014	Loan Terms Section
A	All of the time periods described in the loan terms table are disclosed as whole years, except when the relevant time periods are shorter than 24 months. When a time period is shorter than 24 months, then it should be disclosed as whole months followed by the designation months, abbreviated "Mo."		
Topic 8(A). Loan Estimate, Projected Payments Table.			
Q	Can the amount disclosed for Estimated Taxes, Insurance, & Assessments be for a time period of other than monthly?	October 1, 2014	Projected Payments Table
A	Yes. The amount disclosed for Estimated Taxes, Insurance, and Assessments can be for a time period other than monthly if the transactions term provides for other-than-monthly		

	periodic payments. Section 37(c)(4) provides for Estimated Taxes, Insurance, and Assessments to be disclosed as a monthly amount. However, Section 37(o)(5) provides that wherever the word monthly is used to described the frequency of any payments, then creditors shall substitute the appropriate terms to reflect the fact that the transaction terms provide for other-than-monthly periodic payments. For example, if the transaction terms call for bi-weekly payments, the Estimated Taxes, Insurance, and Assessments should be disclosed in the bi-weekly payment amount. If the transactions term provides a monthly payment, the transaction amount disclosed for Estimated Taxes, Insurance, and Assessments must be disclosed as a monthly amount.		
Q	If mortgage insurance will automatically terminate in the time period that would be included in the 4th column, how do I indicate that mortgage insurance will terminate before the end of the loan?	October 1, 2014	Projected Payments Table
A	In this situation, the automatic termination of mortgage insurance would not be disclosed. Section 37(c)(1)(2) states that the Projected Payments Table shall not contain more than four separate periodic payments or ranges of payments. Generally, a creditor discloses the first four separate periodic payments or ranges of payments that occur during the loan term. However, Section 37(c)(1)(2)(b) provides a special rule for the disclosure of the automatic termination of mortgage insurance under applicable law. That section says that the automatic termination of mortgage insurance is only disclosed if there are no more than three other, separate periodic payments or ranges of a payment. If there are more than three other, separate periodic payments or ranges of payments, meaning the four available columns are already used up to show changes to periodic principal and interest payments (regardless of when those changes occurred during the loan term), the creditor would not disclose the automatic termination of mortgage insurance on the projected table. Additionally, Comment 37(c)(1)(3)-1 clarifies that mortgage insurance premiums are not disclosed as a range of payment. So, in the situation you just described, all four columns on the Projected Payments Table will show a single dollar amount for mortgage insurance.		
Q	Must the Escrow Row be shown if no Escrow Account is established?	October 1, 2014	Projected Payments Table
A	Yes. If no Escrow Account is established, the Escrow Row should still be disclosed. The amount disclosed on that row will be zero.		
Q	Are flood insurance premiums included in Homeowner's Insurance for purposes of the Escrow disclosure and the Taxes and Insurance & Assessments disclosure on the Projected Payments table?	October 1, 2014	Projected Payments Table
A	Yes. Flood insurance is included in Homeowner's Insurance. Under Section 37(c)(4)(2), the items included in Homeowner's Insurance are those charges identified in Section 4(b)(8). The charges identified in Section 4(b)(8) are premiums or other charges for insurance against loss of or damage to property, or against liability arising out of the ownership or use of property, written in connection with the credit transactions. This would include flood		

	insurance.		
Topic 8(B). Loan Estimate, Costs at Closing Table.			
Q	Alternative for transactions without a seller: Are the modifications to the Loan Estimate for transactions without a seller required?	October 1, 2014	Costs at Closing Table
A	No. From modifications to the Loan Estimate under Section 37(d)(2) and 37(h)(2), for transactions without a seller are not required. They are optional. A creditor could choose to disclose transactions without a seller with the standard Loan Estimate instead. However, both of the modifications must be used when using the alternative Loan Estimate for transactions without a seller. *See* Comment 37(d)(2)-1.		
Topic 9. Loan Estimate, Page 2.			
Q	If a creditor charges an origination fee that is a percentage of the loan amount, but it is not a "point paid to the creditor to reduce the interest rate," may the creditor identify it as a point in some way to preserve its tax deductibility for the consumer?	October 1, 2014	Loan Costs
A	No. Section 37(f)(1)(i) is clear that only points paid to the creditor to reduce the interest rate and charged as the percentage of the loan amount may be labeled "points" on the form. The Loan Estimate form is meant to provide accurate disclosures to consumers, not document eligibility for tax benefits or other purposes. Comment 37(f)(1)-3 states that "other than for points charged in connection with the transactions reduce the interest rate, for which specific language must be used, the creditor may use a general label with terminology that clearly, conspicuously describes the service that it disclosed as an origination charge." It seems that only those points charged as the percentage of the loan amount in connection with the reduction in the interest rate would be disclosed in the terminology point. Comment 37(f)(1)-4 provides further support, stating: "[I]f there are no points charged in connection with the transaction to reduce the interest rate, the creditor leaves blank the percentage of points to use in the label in the dollar amount disclosed."		
Q	Assume the creditor will pay a Loan-Level Price Adjustment (LLPA) to the secondary market purchaser. If the creditor does not charge the consumer an upfront fee, but passes the cost of the LLPA on to the consumer through interest, is the creditor required to disclose the LLPA?	October 1, 2014	Loan Costs
A	No. In this scenario, the creditor is not charging the consumer an upfront fee to recover the cost of the LLPA or the adjustment, but presumably is recovering the cost through the interest rate. This is commonly how pricing adjustments are factored into loan prices. In those circumstances, there is no settlement cost to disclose, and this is consistent with general disclosure rules that require the disclosure of charges based on the terms of the legal obligation between the parties and on the best information reasonably available to the		

	creditor at the time that the disclosures are made.		
Q	If the creditor does charge the consumer an upfront fee, should it be disclosed as a "point" or an "origination charge"?	October 1, 2014	Loan Costs
A	Comment 37(f)(1)-5 provides some clarification on this question and the response to the previous question, i.e., a charge paid by the creditor and recouped in interest could not be disclosed. The Comment states that "the following charges should be itemized separately: a charge imposed to pay for a loan level pricing adjustment assessed on the creditor, which the creditor passes on to the consumer as a charge of consummation and not as an adjustment to the interest rate." With respect to this question, specifically, the answer depends on how the upfront fee is charged. If the creditor charges the consumer upfront for the price of the LLPA adjustment as a flat origination charge, then the LLPA would be itemized and labeled as an origination charge in accordance with 37(f)(1) and Comment 37(f)(1-5). However, the creditor could, if it chooses, include the cost of the LLPA in the rate and then allow the borrower to subsequently take a "point," as the term is defined, to lower the rate. This point would essentially be different than the pricing adjustments, but would be an actual point. Assuming the creditor is charging the consumer as a percentage of the loan amount to reduce the rate instead of just in a flat fee, then the consumer would be paying a point and the charge would be disclosed as a percentage point and not an LLPA.		
Q	If the creditor offers the borrower a zero or lower point option, and the consumer chooses to pay for discount points in an amount greater than the LLPA to obtain a lower rate, may the creditor disclose the amount paid as discount points rather than as an origination charge?	October 1, 2014	Loan Costs (continued)
A	Yes. This ties directly into the answer to the last question. Creditors have some degree of flexibility in how they factor in the loan level pricing adjustment (LLPA), specifically in situations where the creditor is including the LLPA cost in the rate and the rate is subsequently discounted through the payment of a point. As noted, the rule does allow flexibility here, assuming the cost of the LLPA is not being charged to the consumer upfront but is included in the rate that the point is being paid to reduce. If that's the case, the point being paid could be separate from, and not necessarily equal to, the costs of the LLPA—essentially, a different type of charge. This is consistent with guidance the CFPB has provided in the past on bona fide discount points, which generally permits the undiscounted rate, the rate that is going to be discounted, to include loan level pricing adjustments. However, determining whether to classify a charge as a point for disclosure purposes does not require the same analysis as for bona fide discount point test. Whether or not the discount satisfies the bona fide discount point test under 32(3), and therefore is excludible from points and fees, does not matter for purposes of determining whether or not the discount is a "point" for disclosure on the Loan Estimate.		
Q	Must a creditor disclose fees that are not allowed by FHA/VA? If so, where?	October 1, 2014	Loan Costs (continued)

A	The disclosures the creditor must make in the Loan Estimate must reflect the terms of the legal obligations between the parties. If any information necessary for an accurate disclosure is unknown to the creditor, the creditor must make the disclosure in good faith and based on the best information reasonably available, as required by Sections 17(c) and 19(e). Where a legal obligation between the parties is an FHA or VA loan that prohibits the particular fee, then the best information reasonably available to the creditor is that the disallowed fees would not be charged. In that circumstance, the creditor should not disclose the charge. If the loan in question allows the creditor to charge the fee and offset it with a lender credit, then the lender credit should be disclosed because the consumer will pay it. The creditor will have to discuss whether the charge violates FHA or VA requirements with the FHA or the VA. The CFPB does not weigh in on whether creditors can charge the consumer for those charges.		
Q	How does the creditor disclose charges for third-party administrative and processing fees that are currently rolled up into Block 1 of the GFE?	October 1, 2014	Loan Costs (continued)
A	A creditor generally decides the extent of the itemization of origination charges on the Loan Estimate, except where charges require to be disclosed in a specific manner, e.g., points under Section 77(f)(1)(i), and loan level pricing adjustments charged to or passed on to the consumer as a charge per Comment 37(f)(1)-5. To the extent that these charges are settlement services the consumer will pay for, the charges are itemized pursuant to Section 37(f)(2) as services for which the consumer cannot shop. In other words, if the creditor requires the consumer to pay for the third party settlement service in order to originate the loan, the charge must be itemized. The question of whether an origination service that a creditor contracts out to a third-party is to be separately disclosed is determined on whether the creditor requires the consumer to pay for that charge or if the creditor treats the charge as normal business overhead expenses such as rent, utilities, wages, etc.		
Q	Can a creditor change the number of lines for each category of costs if there are more or fewer charges in each category?	October 1, 2014	Loan Costs (continued)
A	No, a creditor cannot change the number of lines for each category of cost on the Loan Estimate. The Loan Estimate has a prescribed number of lines for each category of loan costs and other costs. In the event that more lines are needed for a particular category, generally the charges in excess of that number are totaled into one charge and described as "Additional Charges." *See* Section 37(f)(6)(i). Only the services totaled in the consumer-can-shop-for section can be itemized on an addendum. *See* Section 37(f)(6)(ii).		
Q	How should premium rate creditor or "negative points" be disclosed? May the creditor add a separate addendum to detail the offset?	October 1, 2014	Loan Costs (continued)
A	"Negative points" is not defined in Regulation Z or the Final Rule, but is presumed to mean lender credit provided to the consumer to offset closing costs. The credit provided may result in a higher interest rate, but it still involvs a payment from the creditor to the		

	consumer. As such, it should be disclosed as a lender credit pursuant to Section 37(g)(6). Comment 37(g)(6)(ii)-2 directly addresses this question. It states that rebates or credits that the creditor paid to offset the consumer's closing costs for no cost loans should be disclosed as lender credit under Section 37(g)(6)(ii). Negative points as the CFPB understands them are exactly this type of lender credit. A creditor may not add a separate addendum to detail the negative point; however, these are considered general lender credit and are disclosed as an aggregate sum pursuant to Section 37(g)(6)(ii). On the Loan Estimate, the lender credit offsets the total of all closing costs. The CFPB made a policy decision not to have such credit itemized. See Section 37(g)(6)(ii).		
Q	Recording fees and other taxes appear to encompass all government taxes that are not transfer taxes. Does this include taxes on separate services, such as title insurance?	October 1, 2014	Other Costs
A	No. The types of government fees and taxes encompassed by Section 37(g)(1)(i) are limited to those associated with the recording of documents. For example, government taxes and fees can include a technology service or other type of additional fee on top of the reporting fee; a charge for each reported mortgage paid by the creditor on a semi-annual basis (based on the total numbers of mortgages recorded by the creditor); and other recently used charges associated with the reporting of instruments. Sales taxes, or other types of taxes that are assessed against individual services provided during the real estate closing process and are paid by the individual service provider are included in the cost of the individual recording service and are not disclosed as recording fees in other taxes.		
Q	Credit life insurance is usually paid on a monthly basis, but is only mentioned in the "Other" section of "Other Costs." Is that where I should disclose the premium?	October 1, 2014	Other Costs
	No. Assuming that this question is about optional credit insurance premiums that are charged to the consumer monthly after consummation, they would not be disclosed in this section of the form pursuant to Section 37(g). Comment 37(g)(4)-3 provides some reference to optional items charged for, among other things, credit life insurance and debt cancellation coverage, when written in connection with the credit transaction. However, any amount disclosed pursuant to this section of the rule would be an amount paid in connection with the transaction as a closing cost. The CFPB recognizes that lump sum credit insurance premiums are limited in light of Section 36(i), which was adopted through the loan originator rule as amended last summer. This section prohibits the financing of credit insurance premiums. The CFPB also recognizes that credit insurance is commonly paid on a monthly basis after consummation. For purposes of answering this question, Section 37(g) would only include amounts paid upfront to the extent permissible.		
Topic 10. Loan Estimate, Page 2, Calculating Cash to Close Table.			
Q	How does a creditor determine the "third party" payments to be deducted from the loan amount to calculate the Closing Costs	October 1, 2014	Calculating Cash to Close

	Financed?		
A	The amounts deducted from the loan amount are third-party payments not otherwise disclosed as closing costs under Section 37 (f) or 37 (g). They would include the payoff of the existing loan with the same creditor if the creditor did not include the payoff in the "other" category of other costs under Section 37 (g) (4) due to the creditor not knowing the payoff amount based on the best information available to the creditor when the Loan Estimate was provided, such as the creditor not knowing that the existing obligation is held by the creditor.		
Q	Is the deposit or down payment subtracted as part of the calculation of Closing Cost Financed?	October 1, 2014	Calculating Cash to Close
A	No. The calculation of the Closing Cost Financed line item is not affected by the deposit. The deposit has its own line item in the calculating cash to close table.		
Q	Is the calculation of the Closing Costs Financed line item affected by a seller credit?	October 1, 2014	Calculating Cash to Close
A	No. The calculation of the Closing Cost Financed line item is not affected by a seller credit. Seller credits are disclosed as a separate line item in the calculating cash to close table.		
Q	For the "Downpayment/Funds for Borrower" line item, does the "existing debt" being satisfied include any type of debt, other than debts disclosed under 37 (g), whether or not the creditor required it to be repaid?	October 1, 2014	Calculating Cash to Close
A	Yes, any type of debt would be included in the funds from borrower line item except for purchase transactions, which have special rules. *See* Comment 37 (h) (1) (v-i). Note that the creditor is responsible for completing this section based on the best information reasonably available at the time of issuing the Loan Estimate. *See* Section 17 (b).		
Q	What debt is disclosed under 37 (g) instead of as part of Payoffs and Payments under the alternative Calculating Cash to Close table?	October 1, 2014	Calculating Cash to Close (cont.)
A	To the extent that the creditor discloses debts that the creditor knows about (based on the best information reasonably available at the time the Loan Estimates are delivered or are placed in the mail), the creditor may disclose these amounts in the "other" category of the "other cost" under Section 37 (g) (2). If the creditor does not disclose the debt in the "other" category of the "other costs," then its approximate value is included as part of the payoff and payments line item on the alternative calculating cash to close table.		
Q	Is the payoff of any outstanding debt of the consumer included as part of Payoffs and Payments or only those debts of the consumer that are required to be paid as a condition of the extension of credit?	October 1, 2014	Calculating Cash to Close (cont.)

A	The Payoffs and Payments line item includes any amount paid for a payoff or payment based on the best information reasonably available to the creditor at the time of the Loan Estimate is made. The amount is not limited to those debts that are required to be paid by the creditor. *See* Comment 37(h)(2)(iii)-1.		
Q	Can the alternative Cash to Close table be used for multiple loan transactions without a seller? There is no line for the application of subordinate financing in the alternative Cash to Close table.	October 1, 2014	Calculating Cash to Close (cont.)
A	Yes. The alternative table can be used. To the extent that there are multiple transactions, each loan covered by the rule will have a separate Loan Estimate and Closing Disclosure. At consummation, each Closing Disclosure will indicate the cash due to or from the consumer for each loan. In the rare scenario with a cash-out refinance and a subordinate lien consummating at the same time, the settlement agent can total up the amounts due to and from the consumer across all of the loans to determine the final amount that is due from or payable to the consumer. This is a change from the existing use of the HUD-1A form, which had a line for subordinate financing to provide a master transaction record. However, the current GFE and the current early TIL statement do not have a requirement to provide a calculation of cash to close or the total cash to close number. There is no equivalent provision in the alternative Calculating Cash to Close table for one of the transactions to be a master transaction record from one of the loans on the Loan Estimate or the Closing Disclosure in this scenario.		
Q	Can the standard Calculating Cash to Close table disclose the Estimated Cash to Close amount as a negative number?	October 1, 2014	Calculating Cash to Close (cont.)
A	Yes. When the calculation in Section 37(h)(1)(viii) (i.e., the sum of all of the amounts disclosed in the Calculating Cash to Close table) results in a negative number, a negative number is disclosed as the Estimated Cash to Close. It is also disclosed as a negative number as Estimated Cash to Close on page 1 of the Loan Estimate pursuant to Section 37(d)(1)(ii). The negative number would indicate that the consumer is receiving that amount at consummation.		
Q	Comment 1 to Section 37(h)(1)(ii) indicates that the amount disclosed is determined by subtracting the estimated total amount of payments to third parties not otherwise disclosed as Loan Costs or Other Costs. Some fees that are considered to be financed are already disclosed as Loan Costs. However, if these amounts are not considered financed, then the Cash to Close would be too high because the financed fees are not subtracted. Please clarify.	May 26, 2015	Calculating Cash to Close
	The standard Calculating Cash to Close table is very specific as to how the amounts, such as closing costs financed, are calculated. As correctly stated in the question, Comment 1 to Section 37(h)(1)(ii) indicates that the closing cost financed is determined by subtracting the estimated total amount of payments to third parties not otherwise disclosed as loan costs or other costs. Accordingly, the closing cost financed must first determine which payments are applied to the loan amount. It does so by deducting from the loan amount the amount of		

	payments to third parties that have not been disclosed on the Loan Estimate. Third party charges not disclosed on the Loan Estimate can include the sales price in a purchase transaction, a construction contract for a construction loan, state tax liens, credit card balances, loan payoffs, and any other third-party charges that may not be fully known to the creditor at the time the Loan Estimate is provided. They would not be disclosed pursuant to the best information reasonably available standard. If the amount is disclosed as a loan cost or other cost, it would not be included as part of this calculation. If there are no amounts left over to pay those charges that are disclosed, then zero is disclosed as closing cost financed, and the result of the calculation would be a negative number. When there are amounts that exceed these charges, then the closing costs finance is equal to that difference, that amount, capped by the amount of total closing costs. Note that amounts disclosed in the Calculating Cash to Close table are not subject to the analysis under Section 19(e)(3). They are only subject to the basic standard that the creditor makes the disclosures based on the best information reasonably available at the time the Loan Estimate is provided. *See* Section 17.		
Q	Are the adjustable payments and adjustable interest tables disclosed for a fixed rate loan? (Sections 37(i) and 37(j))	October 1, 2014	AP & AIR Tables
A	The adjustable payments table is used only when there are adjustable payments features. If there are no such features in the legal obligation, the adjustable payments table is not disclosed at all. Accordingly, the adjustable payment table will be disclosed if the fixed rate loan has adjustable payment features. The AIR table, or adjustable interest rate table, is only disclosed when interest rates can change, which would be contrary to the definition of a fixed rate loan, and therefore the adjustable interest rate table could never be disclosed with a fixed rate loan.		
Topic 11. Loan Estimate, Page 3.			
Q	In a loan with a mortgage broker, must both a creditor's loan officer and a mortgage broker's loan officer be listed on Contact Information?	October 1, 2014	Contact Information
A	Yes, assuming that both are known based on the best information reasonably available to the party making the disclosures. In this case, the party making the disclosures would be the broker. In a loan with a mortgage broker, both the creditor's loan officer and the mortgage broker's loan officer must be disclosed. Section 37(k) provides for the disclosure of names and NMLSR IDs of the closing creditor and the broker, where applicable, and the individual loan officer for each. However, this is assuming that both the names and IDs are reasonably available to the party making the disclosures—again, in this case, the broker—at the time the disclosures are being made. A creditor or broker making the disclosures must make these disclosures according to the general good faith and best information reasonably available standard, which does include an obligation to exercise due diligence to determine names and IDs.		

	The CFPB does not interpret this provision to require that a loan officer be assigned prior to making the disclosures so an ID may be disclosed. In the CFPB's view, that is consistent with Comment 37-1, which states that "if any information necessary for an accurate disclosure is unknown to the creditor, the creditor shall make the disclosure in good faith based on the best information reasonably available to the creditor." In sum, creditors or brokers making the disclosure could leave the information blank provided that the name and ID is not known or reasonably available to the party.		
Q	Should we use the same person's NMLSR identification number that will be identified on the note and other documents?	October 1, 2014	Contact Information
A	Yes, creditors should use the same person's NMLSR ID that is being identified on the note and other documents pursuant to the loan originator rules. For your reference, Section 36(g) requires that the NMLSR ID of the person with primary responsibility to originate the loan be included on specific loan documents, including the note. Section 37(k) contains the requirements to include the NMLSR ID on the Loan Estimate and describes this person as the consumer's primary point of contact. Notably, this section of the form relates to contact information. Section 36(g) describes the person as the individual loan originator with primary responsibility for the origination. The CFPB acknowledges that the wording is slightly different, but the two provisions should be read consistently. Therefore, the person and ID identified on the Loan Estimate should be the same as is required under Section 36(g) and its commentary. For further guidance: Section 36(g)(2)(ii) is currently reserved; it will include a reference to the integrated disclosures when the new rules take effect this August. That provision will be updated with references to the disclosures required by Sections 19(e) and (f), i.e., the Loan Estimate and the Closing Disclosure, and it will provide further indication that the two provisions should be read consistently.		
Q	For the Comparison Table, is the Annual Percentage Rate (APR) disclosed as a rounded amount or is it truncated at three decimal places?	October 1, 2014	Comparisons Table
A	The APR is not rounded and it should be disclosed up to three decimal places. However, if the APR is a whole number, then the amount disclosed is truncated at the decimal point. For example, an APR of 7% would be disclosed using the numeral 7 with no decimal point or zeros added. If the APR has only two numerals past the decimal point, a zero is added to the amount to bring the figure to three decimal points. For example, an APR of 7.25 would be disclosed as 7.250. This is unlike other percentage disclosures on the Loan Estimate that are not rounded and that are disclosed up to two or three decimal points. For example, a total interest percentage of 7.25% would be disclosed as 7.25 without adding a 0 to the end to bring it to three decimal places.		
Q	Does the creditor need to disclose on the Loan Estimate that it will transfer servicing if the transfer is not immediate but will happen at some later point in time during the life of the loan?	October 1, 2014	Other Considerations

A	Yes. The creditor must disclose that it will transfer servicing at some point later during the life of the loan if that is the creditor's intent at the time of the Loan Estimate is issued. Section 37(m)(6) requires disclosure of a statement of whether the creditor intends to service the loan or transfer the loan to another servicer. This means the creditor is required to disclose whether it intends to service the loan directly or transfer servicing to another servicer at any time after consummation. As Comment 37(m)(6)(1) explains, a creditor complies with Section 37(m)(6) if a disclosure reflects the creditor's intent at the time the Loan Estimate issues.		
Q	Does the creditor need to disclose on the Loan Estimate that it will transfer servicing if the transfer is to the creditor's subsidiary or affiliate?	October 1, 2014	Other Considerations
A	Yes. The creditor must disclose any transfer servicing to a subsidiary or affiliate if that is the creditor's intent at the time the Loan Estimate is issued. As noted above, Section 37(m)(6) requires a creditor to disclose a statement of whether the creditor intends to service a loan or transfer the loan to another servicer. A creditor's subsidiary or affiliate is another servicer (i.e., a person reasonably responsible for receiving scheduled periodic payments from a borrower).		
Q	Does the Appraisal notice satisfy the requirements of Regulation B, or does the creditor need to provide a separate disclosure for that requirement?	October 1, 2014	Other Considerations
A	In general, Regulation B requires the creditor to do two things: First, they have to provide applicants with a notice in writing of the applicant's right to receive a copy of all written appraisals developed in connection with the application. And second, creditors must provide the applicant with those copies of all written appraisals promptly after they are completed. Section 37(m)(1) requires creditors to include the notice required by Regulation B on the Loan Estimate. As a result, the loan is subject to both Regulation B and Regulation Z. Creditors can satisfy their ECOA and TILA notice requirements in a single disclosure. Separately, creditors will still be subject to the independent Regulation B requirement to provide the copies of the appraisals once they are completed. For more information, the preamble of the Final Rules discusses at length how this provision satisfies the requirements of ECOA. *See* 78 Fed. Reg. 79730, 79985-87.		
Topic 12. Loan Estimate, Page 3, Service Provider List.			
Q	How can a creditor communicate to the consumer that the identification of a service provider on a written list is not an endorsement of that service provider?	October 1, 2014	Service Provider List
A	[Response not available in recording. MoFo has contacted Consumer Compliance Outlook.]		
Q	If there is a valid changed circumstance or a borrower requested change that triggers another third-party service that the creditor	May 26, 2015	Service Provider List

	permits the consumer to shop for, should the list of service providers be updated and re-disclosed, or is the written list of service providers required to be provided only once upon providing the initial Loan Estimate?		
A	A creditor may, as a result of a changed circumstance or borrower-requested change, update and redisclose its own list of service providers to reflect a new service. Section 19(e)(1)(vi)(c) requires the creditor to provide a written list of providers to accompany the Loan Estimate for any settlement services that the consumer is permitted to shop for. When an event that would permit resetting of tolerances or variations under Section 19(e)(3)(iv) occurs, and an additional settlement service is required, the creditor may disclose service providers of that additional service on the written list at the same time as issuing the revised Loan Estimate. Although the regulation does not expressly address this scenario, the CFPB recognizes that a creditor may want to permit the consumer to shop for the new service. There are two ways that a creditor may approach adding this new service to the written list. First, the creditor may include the additional service and provide an updated written list. Or second, because the rule does not require the written list to be updated and accompany a revised Loan Estimate, the creditor may provide a written list showing only service providers of the additional service. Either would comply with the rule. Note, however, that if the creditor intends to allow the consumer to shop for the additional service, but fails to provide an updated or revised written list of service providers, that service would be subject to zero tolerance.		
Topic 13. Closing Disclosure, generally.			
Q	What should creditors do if the information required to be disclosed does not fit in the space allotted on the form?	November 18, 2014	General Questions
A	When required information does not fit in the space provided on the Closing Disclosure form, additional information may be disclosed on a separate page with the Closing Disclosure. This is not in the general rule. You must look to each provision in 38 to see when the rule requires the information to be provided on the additional page. Additionally, there is a provision for customary recitals and information used locally in real estate settlements. *See* Section 38(t)(5)(ix). The Commentary to this provision lists several examples of this type of information, one of which is a breakdown of a loan payoff amount into components of principal, interest, and other fees. *See* Comment 38(t)(5)(ix-i) for more examples.		
Q	Is there a model or sample of an addendum?	November 18, 2014	General Questions
A	No, there are no required, model, or sample forms for an addendum. Since there are many possible combinations of additional information on a Closing Disclosure, there is no sample or model that has been provided in this rule or in other documents.		
Q	Is there anything creditors are required to include on the	November 18, 2014	General Questions

	addendum?		
A	What information is included on the addendum will depend on what the requirements are for the original disclosure of the information. For example, if you are using an additional page to list several other sellers that could not fit onto the first page of the Closing Disclosure (See Comment 38(a)(4-1)), the name and address of the sellers that would not fit would be included on the additional page with the label "Sellers." The creditor may want to include information or statements to indicate that the additional pages are linked to the Closing Disclosure, so that the information in the additional pages is clear and conspicuous to the consumer pursuant to Section 17(a)(1).		
Q	The current HUD-1 has a comparison chart to show the applicable tolerance levels and how the charges compare. Where is the equivalent chart on the Closing Disclosure?	May 26, 2015	Closing Disclosure
A	There is no chart on the Closing Disclosure equivalent to the HUD-1 comparison chart. The creditor is responsible for tracking charges "off sheet" to ensure that the amounts disclosed on the Loan Estimate were made in good faith and that the charges at closing do not exceed the applicable tolerances. To the extent there are any refunds from the creditor to the consumer for violation of the good-faith standard, the refund should be disclosed with lender credits on page 2 of the Closing Disclosure. Any refund should be itemized on form H-25(f) of Appendix H.		
Q	If the owner's title policy disclosed on the Closing Disclosure is not the same amount of the premium quoted by the title underwriter, how does a creditor show that a seller has agreed to pay for the owner's title insurance?	May 26, 2015	Owner's Title Policy
A	The basic approach of the integrated mortgage disclosure rule is to disclose the charges that the creditor requires the consumer to pay. In the context of title insurance, the creditor typically requires the consumer to pay for the cost of a lender's title policy. The creditor's requirement is not predicated on whether the consumer obtains an owner's title insurance policy. Thus, the consumer is always responsible to the creditor to pay for a lender's policy of title insurance. Whether a consumer purchases an owner's policy does not change this responsibility to the creditor. In developing a uniform approach for the integrated disclosure forms, the CFPB ultimately determined that the most transparent way of disclosing the cost to consumers is to require that lenders' and owners' insurance policies be disclosed as separate items with any discount applied to reduce the cost disclosed for the owner's title policy. Note that this may actually make the cost of the owner's title policy on the Loan Estimate Closing Disclosure appear to be less expensive than it does on some state disclosures, but the sum of the disclosed amount of lenders' and owner's title insurance, as disclosed on the integrated mortgage disclosure forms, should equal the sum disclosed on any state mandated disclosures. *See* Comment 2 to 37(g)(4). Note that if the simultaneous issuance calculations were disclosed in the same manner as they are in some states, the amount disclosed for a lender's title insurance policy would be		

negligible, or zero. In circumstances where the consumer declines an owner's title insurance policy, the lender's title insurance cost can then increase substantially, resulting in a higher amount of closing costs than can be anticipated by the creditor or the consumer. Consumers may thus be led to believe that the incremental cost of the owner's title insurance is much higher than disclosed on the Loan Estimate. This approach could lead to consumer confusion. For a thorough discussion of this analysis, please see the preamble to the Final Rule. *See* 78 Fed. Reg. 79963 – 79965.

The CFPB believes that the approach adopted in the Final Rule is the most practical method of providing concise and accurate disclosures to consumers, in all 50 states, of the incremental costs on the optional owner's title insurance. The CFPB has had extensive conversation over the past year with title industry trade groups, the National Association of Insurance Commissioners, and has talked to representatives from state insurance commissions in Texas, New Jersey, Louisiana, and Florida, among other states. None of the responses to these outreach efforts have provided new information, proposed an alternative that would solve the basic dilemma more cleanly, and clearly, for consumers, were indicated insurmountable implementation challenges.

The CFPB does recognize that consumers need additional information concerning issues surrounding title insurance. The first way in which the CFPB has addressed these concerns is included in the "your home loan" tool kit, which was released in early April. Information about the nature of title insurance and the possible different ways of disclosing title insurance costs are included in the tool kit. The CFPB will continue to assess and include helpful information to consumers in future consumer educational information as appropriate. The CFPB also expects that states may also provide additional educational information to consumers about title insurance as part of their regulatory duties in relation to the business of insurance.

Coming back to the question posed, how does the creditor show the allocation of costs when the seller has agreed to pay for the owner's title insurance cost as part of the purchase and sale contract with the consumer? Because the Final Rule provides that the incremental cost of the owner's title insurance is to be disclosed on the Loan Estimate and the Closing Disclosure, simply shifting the incremental cost of the owner's title insurance to the seller on the Closing Disclosure may not completely reflect the amount that the seller has agreed to pay for the owner's title policy.

If there is an additional amount from the seller's credit, there are at least three (3) ways in which the additional credit between the seller and consumer may be disclosed on the Closing Disclosure. First, the remaining credit could be applied towards any other title insurance costs, including the lender's title insurance cost. *See* Section 38(f), (g). Second, the remaining credit can be considered to be a general seller credit and disclosed as such in the "summaries of transactions" table on page 3 of the Closing Disclosure. *See* Section 38(k)(2)(vii). Third, some in industry have suggested proving a credit specifying the remaining amount for the owner's title insurance cost, also in the "summaries of transactions" on page 3 of the Closing Disclosure. *See* Section 38(t(2)(viii). Any one of these three methods to disclose the remaining amount of a seller's credit for an owner's title policy is permissible under the Final Rule.

Topic 14. Closing Disclosure, Page 2.

Q	How does the disclosure of recording fees differ between the Loan Estimate and Closing Disclosure?	November 18, 2014	Other Costs
A	The Loan Estimate requires the sum of all recording fees to be disclosed as one item. *See* Section 37(g)(1)(i). The Closing Disclosure also requires the recording fees to be disclosed as one item, but also requires that the amount paid to record the deed and mortgage be itemized separately. The itemized recording fees for the deed and the mortgage should only include the amounts needed to record each of those documents. Recording fees associated with any other documents except for the deed and the mortgage are included as part of the total recording fees and are not separately itemized. *See* Section 38(g)(1)(i). Note that the total recording fees are allocated between the consumer, seller, and others in their applicable column pursuant to the agreement among those parties.		
Q	How should creditors disclose the name of the government entity to which a transfer tax fund is distributed?	November 18, 2014	Other Costs
A	Creditors should disclose the name of the entity assessing the transfer tax, even if that is different from the payee of the check cut by the settlement agent. State and local governments collect transfer taxes in many different ways, and sometimes the checks for the payment of transfer taxes are not made out to the entity actually assessing the transfer tax. However, this fact is irrelevant for purposes of the Closing Disclosure. The governing authority assessing the transfer tax must be disclosed along with the amount paid by the consumer, the borrower, seller, and others. *See* Section 38(g)(1)(ii).		
Topic 15. Closing Disclosure, Page 4.			
Q	How a lender applies a partial payment may vary depending on the circumstances. Is a lender required to choose only one option for the Partial Payments disclosure required by Section 38(l)(5), or is it possible to check multiple boxes?	November 18, 2014	Questions
A	The lender may check multiple boxes for the partial payment disclosure in some circumstances. The check boxes allow the lender to disclose whether it accepts partial payments and applies them; it accepts partial payments and holds them in a separate account; or it does not accept partial payments. A lender should check the first box indicating that partial payments are accepted and applied and also check the second box indicating that partial payments are accepted and held in a separate account if the lender (1) in some circumstances accepts partial payments and applies them to the loan balance, and (2) in other circumstances accepts partial payments and holds them in a separate suspense account until the consumer makes the rest of the payment. Note however, that the lender should not check the third box and disclose that it does not accept partial payment if it accepts partial payments under any circumstance that may be applicable to the consumer's loan. In other words, if a lender checks a third box under the partial payment disclosure indicating that it does not accept partial payment in any circumstance, the lender should not		

	also check either the first or second box under the partial payment disclosure.		
Topic 16. Closing Disclosure, Page 5.			
Q	What constitutes an anti-deficiency law for purposes of the Closing Disclosure?	November 18, 2014	Page 5 Closing Disclosure
A	For purposes of the Closing Disclosure, an anti-deficiency law is a state law that protects the consumer against liability for the unpaid balance of the loan after a foreclosure. This includes, for example, state laws that forbid creditors from seeking deficiency judgments, state laws that may limit the amount a creditor may collect or limit the availability of deficiency judgments to certain circumstances, as well as other state law protections available to consumers against liability for the unpaid balance.		
Q	Do statutes of limitations on obtaining or collecting a deficiency judgment count as anti-deficiency protections for purposes of the Closing Disclosure?	November 18, 2014	Page 5 Closing Disclosure
A	No. Comment 38(p)(3)-1 makes clear that a statute of limitations that only limits the time frame in which a creditor may seek redress is not considered an anti-deficiency protection for purposes of this disclosure. Therefore, state laws that allow for deficiency judgments that require creditors to file a motion or otherwise seek a deficiency judgment within a prescribed time would not be considered anti-deficiency protections for purposes of this disclosure solely because of the time limitation on obtaining or collecting a deficiency judgment. If said statutes otherwise provide protections to consumers from liability for the unpaid balance, those provisions must be separately analyzed in order to determine if they are an anti-deficiency protection for purposes in this disclosure.		
Q	Are state laws that limit how much a creditor may collect in an anti-deficiency judgment considered anti-deficiency protections for purposes of the Closing Disclosure?	November 18, 2014	Page 5 Closing Disclosure
A	Generally, yes. State laws that limit the amount of deficiency that a creditor may collect in any deficiency judgment are considered anti-deficiency laws for purposes of this disclosure. These state law anti-deficiency protections may limit the amount of the deficiency that a creditor may collect based on factors such as the difference between the outstanding debt and the fair market value of the property at the time of foreclosure.		
Q	How should a creditor make this disclosure if a state anti- deficiency law could apply to the loan, but whether it ultimately would apply depends on facts and circumstances at the time of foreclosure?	November 18, 2014	Page 5 Closing Disclosure
A	Generally, if the state anti-deficiency law could apply at the time of a foreclosure, but whether or not it will apply is unknown, the creditor should disclose that as an anti-deficiency protection that may apply. The rule does not require creditors to predict future facts in circumstances and whether anti-deficiency law ultimately applies to a loan		

	may indeed depend on facts and circumstances that would not be known until there is a foreclosure. This may include factors such as the fair market value or appraised value at the time of foreclosure, or whether the property is owner occupied at the time of the foreclosure. Section 38(p)(3) requires a disclosure to the consumer that a state anti-deficiency law may apply to the loan, that is, whether it could apply at some future date. If it could, then the first box on the form should be checked with the caveat that the consumer should consult an attorney for more information.		
Topic 17. Your Home Loan Toolkit/Settlement Booklet.			
Q	Can market participants place their logo on the Toolkit cover?	May 26, 2015	How to Get the Toolkit
A	Yes. Market participants may place their cover on the logo of the special information booklet, also known as the Toolkit. Section 19(g)(2)(iv) explains the cover of the booklet may be in any form and may contain any drawings, pictures, or artwork, provided that the title appearing on the cover may not be changed. Names, addresses, and telephone numbers of the creditor or others, and similar information, may appear on the cover.		
Q	If a creditor makes the toolkit available on its website, does that satisfy the rule's delivery requirement?	May 26, 2015	How to Get the Toolkit
A	No. By simply making the special information booklet, also known as the Toolkit, available on its website, a creditor does not satisfy the rule delivery requirement. Section 19(g)(1)(i) requires that the creditor deliver or place in the mail the Toolkit not later than three (3) business days after receiving the consumer's application. As that section also explains, if a consumer uses a mortgage broker, the mortgage broker shall provide the special information booklet and the creditor need not do so. The CFPB encourages all market participants to provide the booklet to consumers at any other time, preferably as early in the home or mortgage shopping process as possible.		

Contact:

Donald C. Lampe
(202) 887-1524
dlampe@mofo.com

Ryan J. Richardson
(202) 887-8761
rrichardson@mofo.com