



TILA-RESPA Integrated Disclosure Rule FAQs for Wholesale Brokers

DEFINITIONS AND ACRONYMS

TRID: TILA-RESPA Integrated Disclosure “Know Before You Owe” Rule, text of the rule and more information available at: <http://www.consumerfinance.gov/regulatory-implementation/tila-respa/>

APPLICATION: under TRID, an application is complete for TRID purposes when the following information is provided:

1. Social Security Number
2. Property Address
3. Income
4. Name
5. An estimate of property value
6. Loan amount

LE: Loan Estimate form (replaces GFE and TIL); additionally, the appraisal and servicing disclosure language (part of the Other Considerations section on LE) can be included as long as the LE has been completed and disclosed with the model form verbiage

CD: Closing Disclosure form (replaces final TIL and HUD Settlement Statement)

Consummation: when the consumer becomes contractually obligated to HOMEXPRESS on the loan and not, for example, when the consumer becomes contractually obligated to a seller on a real estate transaction. The point in time when a consumer becomes contractually obligated to the creditor on the loan depends on applicable State law. HOMEXPRESS considers consummation to occur when all borrowers sign the note and security instrument, regardless of funding date.

General Business Days: the days HOMEXPRESS is open for substantially all of its business, generally Monday thru Friday excluding federal holidays.

Specific Business Days: the days the mail is delivered by the U.S. Postal service, generally Monday thru Saturday, excluding federal holidays.

Mailbox Rule: LE or CD placed in U.S. mail is deemed to be received by the borrower 3 Specific Business Days after it is mailed.

GENERAL QUESTIONS

When was TRID effective? TRID was effective for all new Applications dated on or after October 3, 2015. Note that pre-TRID applications pending prior to October 3, 2015 require the GFE, TIL and HUD-1.

What types of loans are covered by TRID? TRID applies to all “closed-end consumer credit transactions secured by real property”:

1. Primary Residence
2. Second home
3. Investment/Non-Owner Occupied
4. Construction-Only loans
5. Loans secured by vacant land
6. Loans secured by 25 or more acres

What types of loans are NOT covered by TRID?

1. Reverse Mortgages
2. HELOCS
3. Unsecured mobile home loans (not attached and no security in the real estate)

Can I still give a consumer a pre-application disclosure? Yes, but it may not look like the GFE or LE forms. It must state in 12-point font at the top of the first page “Your actual rate, payment, and costs could be higher. Get an official ‘Loan Estimate’ before choosing a loan.”

Does TRID replace any current forms? Yes, the new Loan Estimate (LE) form replaces the GFE and early TIL (but only for Applications dated on or after October 3, 2015!). The Closing Disclosure (CD) replaces the HUD and final TIL.

LOAN ESTIMATE (LE)

When is the LE required? The LE must be issued within 3 General Business Days of Application. HOMEXPRESS requires the loan officer to sign and date the 1003 when the 6th piece of information is provided. This date will be the TRID Application date.

Who can provide the LE? If the broker provides the LE on the creditor’s behalf, the creditor is bound by the broker’s LE. Therefore, HOMEXPRESS will not permit the broker to issue the LE to the Borrower.

Can I over-estimate or ‘pad’ fees and charges on the LE? NO. A good faith estimate is required. Good Faith is established when the final amount charged the borrower does not exceed the amount originally disclosed. This is called the ‘Good Faith Standard’. Further, all charges must be estimated using the best information available. This is called the ‘Best Information Available Requirement’. Because of the Good Faith Standard and the Best Information Available Requirement, fees and charges may not be overestimated or ‘padded’.

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Are there any exceptions to the Good Faith Standard? Yes. Generally, if there is a valid Changed Of Circumstance (“COC”), an increase in fees or charges may be processed subject to tolerance limitations.

What are the tolerance limitations on the LE? The tolerance limitations on the LE are more restrictive than the GFE. There are specific requirements for whether fees and costs can change. There are three categories of fees and charges:

1. No tolerance. No tolerance fees cannot change without a valid COC. No tolerance fees include:
 - a. Transfer taxes
 - b. Fees paid to HOMEXPRESS or the broker
 - c. Fees paid to an affiliate of HOMEXPRESS or its broker
 - D. Fees paid to an unaffiliated third party if HOMEXPRESS did not permit the consumer to shop for the third party. NOTE: THIS CATEGORY INCLUDES THE APPRAISAL!

2. 10% aggregate tolerance. These are fees that, when grouped together, cannot increase by more than 10% without a valid changed circumstance. HOMEXPRESS will issue a revised LE when any fee in this category increases, even if the aggregate has not increased by more than 10%. Aggregated fees include:
 - a. Recording fees paid to governmental entities
 - b. Services the consumer can shop for and selects a provider from the creditor’s list
 - c. Services the consumer can shop for and does not select a provider (creditor selects a nonaffiliated third party)

3. No limits. These are fees which are not subject to any tolerance limits but must be disclosed in good faith. No limit fees include:
 - a. Prepaid interest
 - b. Property insurance premiums
 - c. Amounts paid in to escrow
 - d. Charge paid to third-party service providers selected by the consumer who are not on HOMEXPRESS’s list of service providers

Who must receive the LE? The LE must be delivered to at least one borrower who will sign the note.

Are there other timing restrictions related to the LE? Yes, the loan cannot be consummated sooner than 7 Specific Business Days after the initial LE is issued.

Is a written list of service providers still required? Yes. HOMEXPRESS must list at least one service provider for each fee which HOMEXPRESS requires and permits the borrower to shop. If a service provider is NOT listed, the fee is subject to a 0 tolerance!

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Can the LE be sent electronically? Yes, the LE can be sent electronically under procedures that comply with the federal E-sign Act.

Must the borrower sign the LE? No. The borrower's signature on the LE is not required. However, if the LE is signed, the signature statement must exactly state, as per the model LE form, "By signing, you are only confirming that you have received this form. You do not have to accept this loan because you have signed or received this form." HOMEXPRESS will require borrower signature on the LE.

What about the "intent to proceed"? As under existing requirements, the consumer must evidence intent to proceed before any fees (except an actual credit report fee) are charged or collected. It is important to note a new rule under TRID prohibits HOMEXPRESS or the broker from collecting the credit card information or ordering the appraisal before the intent to proceed is received from the borrower. HOMEXPRESS will require that the consumer sign the Intent to Proceed statement sent by HOMEXPRESS with the LE.

REVISED LE AND CHANGED CIRCUMSTANCES

What if application information changes after the initial LE is sent? TRID allows a new or revised LE when the following information changes on the application:

1. Locking in the loan's interest rate
2. Expiration of the LE with no intent to proceed (expiration period remains 10 General Business Days)
3. Permanent financing of construction loan more than 60 calendar days after the original LE was issued with the construction loan disclosure.
4. Valid changed circumstances increasing a fee paid to the creditor, mortgage broker or affiliates of either, a fee for which the consumer is not permitted to shop or transfer taxes (aka zero tolerance fees) by any amounts (more restrictive than current requirements which allow a new GFE when any cost increases)
5. Valid changed circumstances increasing the sum of fees for charges the consumer is permitted to shop for or recording fees (aka 10% tolerance fees) by more than 10%

What are "changed circumstances"? TRID allows the following changed circumstances:

1. Changed circumstances affecting settlement charges
2. Changed circumstances affecting eligibility
3. Borrower requested changes
4. Expiration of the LE (10 General Business Days) with no intent to proceed
5. Delayed settlement date on a construction-permanent loan, if notice is provided
6. Interest rate dependent charges

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When is a revised LE required to be sent? A revised LE must be sent within 3 General Business Days of receiving information sufficient to establish that a changed circumstance has occurred. EXCEPT, a revised LE cannot be received by the borrower on the same day as the CD and an LE is never sent after the CD is issued. Therefore, the last LE must be placed in the mail at least 7 Days before the scheduled closing date (3 Specific Business Days for Mailbox Rule and 4 Specific Business Days before closing).

CLOSING DISCLOSURE (CD)

Who will prepare the CD? The creditor is responsible for the accuracy of the CD. Therefore, HOMEXPRESS has opted to prepare the Borrower's CD on loans that it will fund and close.

When is the CD required to be delivered? The CD must be received by the borrower at least three specific business days prior to consummation. This 3 day period is called the CD 3 day wait period.

Who must receive the CD? On a purchase transaction, at least one borrower who will sign the note must receive the CD. For refinance transaction subject to rescission, the CD must be sent to all consumers with a right to rescind the transaction (all vested owners and spouses of borrower in community property states on community property). The CD 3 day wait period starts when the last consumer receives the CD.

Are there changes to the CD that will require a new 3 day waiting period? Yes. The following changes require a new CD 3 day wait period:

1. The disclosed APR increases by more than .125% on a fixed rate or by more than .25% on an ARM.
2. The loan product changes. NOTE: A change in loan term is not a loan product change; however, a change from adjustable to fixed rate is a loan product change.
3. A prepayment penalty provisions is added. (HOMEXPRESS does not currently offer loans with prepayment penalties).

Can the CD be revised prior to or at closing without a new waiting period? Yes. The CD may be revised without a new waiting period for any valid changed circumstance other than those that require an additional CD 3 Day Waiting Period, see above.

What if there are changes after consummation? A revised CD must be prepared if there are any changes to amounts paid by the consumer or seller following consummation or to correct non-numeric clerical errors.

MISCELLANEOUS CONSIDERATIONS

Must the owner's title insurance policy be listed on the LE for purchase transactions? Yes, the charge for an owner's policy must be included on the initial LE (Box H) for all purchase applications, regardless of who will pay for the owner's policy. DO NOT discount the cost of the lender's title insurance policy

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for any reason, the full amount of the lender's title insurance policy without discounts or reductions must be disclosed. DO NOT aggregate title fees, all title fees must be separately listed. You must submit itemized title fees to HOMEXPRESS for preparation of the LE.

What are the disclosure and signing requirements for non-borrowing, non-vested spouses in community property states for refinance transactions? Non-borrowing, non-vested spouses in community property states with a legal right to the property must sign the following documents in refinance transactions:

1. The final CD
2. The REG Z Notice of Right to Cancel
3. A Name Affidavit

What is required before the initial CD may be issued? The initial CD may only be issued when all of the following are present:

1. The loan must be "clear to close"
2. We must have issued the final LE
3. There may be no fewer than 7 days until Consummation
4. We must have received the draft Settlement Statement (or similar document) from title/escrow to confirm fees.

What are the minimum compliance submission requirements from a HOMEXPRESS approved Broker? Under TRID, HOMEXPRESS will require a Disclosure Submission from our approved Brokers within two business day of the broker receiving the 6 pieces of information finalizing a TRID Application. The Broker must submit the following:

1. 1003 application. The date the MLO signs the application will be the TRID Application date.
2. Fee Submission Sheet.
3. A credit report for the borrower(s).

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