

Advisory Bulletin

Mortgage Disclosure Improvement Act (MDIA)

Early Disclosure Compliance – Effective July 30, 2009

History

On May 8, 2009, the Federal Reserve Board approved final rules that revise the disclosure requirements for mortgage loans under Regulation Z (Truth in Lending). The revisions implement the Mortgage Disclosure Improvement Act (MDIA), which was enacted in July 2008 as an amendment to the Truth in Lending Act (TILA).

The MDIA seeks to ensure that consumers receive cost disclosures earlier in the mortgage process. In several respects, the MDIA is substantially similar to final rules issued by the Board in July 2008. However, the MDIA also broadens and adds to those regulatory requirements. The final rule largely follows a proposal issued by the Board in December 2008. Under the MDIA, creditors must comply with the new provisions on July 30, 2009.

Effective Date

The Board's implementing regulations apply to dwelling-secured consumer loans for which a creditor receives an application on or after July 30, 2009.

Early Disclosure Synopsis

The MDIA requires creditors to give good faith estimates of mortgage loan costs ("early disclosures") within three business days after receiving a consumer's application for a mortgage loan and before any fees are collected from the consumer, other than a reasonable fee for obtaining the consumer's credit history. This is required for loans secured by dwellings other than the consumer's principal dwelling, such as a second home.

The rules also implement the MDIA's requirements that:

- Creditors wait seven (7) business days after they provide the early disclosures before closing the loan; and,
- Creditors provide new disclosures with a revised annual percentage rate (APR), and wait an additional three (3) business days before closing the loan, if a change occurs that makes the APR in the early disclosures inaccurate beyond a specified tolerance.

The rules permit a consumer to expedite the closing to address a personal financial emergency, such as a foreclosure.

Features of Early Disclosure

- **Initial Disclosures:** While creditors must still issue early disclosures within 3-business days of application, the issuance no longer applies only to purchase money and primary dwellings. Excluding HELOCs, the rules now apply to any extension of credit secured by the dwelling of a consumer including refinance and home equity loans.
- **Delivery:** The initial TILA disclosure must be delivered or mailed within three (3) business days of application and at least seven (7) business days before consummation. (A "business day" is any day the creditor is open for standard business operations, excluding Sundays and holidays.)

- **Fee Restrictions:** With the exception of a *bona fide* and “reasonable” credit report cost, no fees may be collected from the consumer by a creditor or other party, prior to issuing the initial disclosures. No fees should be collected by the mortgage broker or a 3rd party loan originator, prior to issuing the initial disclosures.
- **Waiver:** The consumer may waive the seven (7) day and the three (3) day initial disclosure delivery periods if there is a *bona fide* personal financial emergency; however, if the TILA disclosure is out of tolerance, the waiver is no longer effective. The consumer may sign a waiver again after receiving the corrected TILA disclosure.
- **No Completion Requirement:** The following statement is required on all TILA early disclosures: "You are not required to complete this agreement merely because you have received these disclosures or signed a loan application."
- **Corrected Disclosure:** If the APR is out of tolerance (See Regulation Z Section 226.22), a corrected TILA disclosure must be re-disclosed at least three (3) days prior to consummation. The three (3) business days period is considered three (3) business days prior to actual receipt. If the creditor relies on mailing the application, three (3) additional days must be added before consummation (i.e., the consumer is considered to have received the early disclosures three (3) business days after they are mailed.

[Visit our Library](#): Mortgage Disclosure Improvement Act (MDIA), Federal Register Notice (05.19.09)

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