


# Hot Topics and Lessons Learned in TRID, TILA, and RESPA

Shaun Harms, CRCM  
Bankers Assurance, LLC



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## Agenda

- TILA
- RESPA
- TRID
- Bonus

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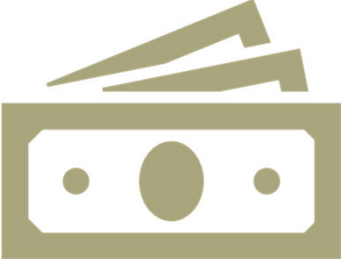
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Issues in Truth in Lending

- Finance Charges
  - What we are seeing
  - Examiners
  - Controls needed
- Comparable cash transactions
  - Certain exemptions
- How is your system set to handle prepaid finance charges?



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### Rescission

Applicable to open-end and closed-end credit  
All titled parties and secured by primary residence



### Recent issues noted

- Funds disbursed prior to period
- No notice provided
- Notice is not dated
- Customer signs cancellation line
- Not all applicable parties given rescission rights

## Issues in Truth in Lending

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## Issues in Truth in Lending

- HELOCs
  - Inaccurate initial disclosures
  - "Name your own" products
  - Financing fees with first draw
  - Setting up statements
  - Ensuring rates are correct



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## Issues in Truth in Lending

- Ability to repay
  - Still important!!!
  - Banks are not stressing this enough now
  - Must satisfy this requirement
  - Changes in July 2018 regarding escrow for small banks
  - First challenge brought in Ohio (March 2019)
    - Defense of foreclosure (*Elliot v. First Federal Community Bank of Bucyrus*)

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## Issues in Truth in Lending

- Required Deposit
  - Secured by deposit account (CD/Savings)
  - Language in the Fed Box
- ARM Loans
  - Adequate disclosures
  - Correct index
  - Tables updated as required
  - Booklets available???
  - Is system set up correctly to produce notices?

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## RESPA Hot Topics

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### Servicing Rules

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### Home Loan Toolkit

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### Homeownership Counseling Notice

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### Section 8 Issues

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## Servicing Rules

- ARM Notices
- Prompt Crediting of Payments
- Forced Placed Hazard Insurance
- Error Resolutions
- Foreclosure Provisions
  
- Large Servicer (over 5,000 mortgage loans serviced)
  - Periodic Statements
  - Intervention
  - Continuity of Contact
  - Loss Mitigation

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## Home Loan Toolkit

- Don't forget about this rule!!!!
- Required for purchase transactions
- What we need to do



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## Home-ownership Counseling Notice

Is the notice correct?

How are you documenting compliance?

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## Section 8

- Section 8(a) – “Thing” of value
- Section 8(b) – Splitting of charges
- More banks looking for fee income and “broker” transactions
  - Have to “earn” the fee imposed and retained

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## Section 8 - Fees

Fees must be for compensable services that are legitimately earned.  
For example:

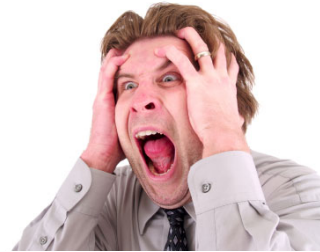
- Taking applications
- Ordering inspections
- Providing disclosures
- Helping clear credit problems
- Collecting financial information
- Maintaining regular contact
- Verifying employment and deposits
- Ordering flood determination
- Ordering appraisals
- Participating in closing

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## TRID Issues

- What's up with TRID?
- What are the regulators doing here?



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## TRID Poll

- 1 - Centralized procedures
- 2 - Just have a few MLOs or processors that can do it
- 3 - Anybody and their mother can do or process a TRID loan
- 4 - We quit!



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## Issues in TRID

- Application date
  - Don't let loan officers work the system!
  - There are no "pre-quals" for a refi where the address is the only item they "say" is missing
  - Info provided vs. verified (strengthened in 7/31/19 FAQs)
- Providing LE
  - Still having trouble with early disclosures
  - Serious issue if pattern or practice
  - Leads to violations and potential reimbursements (no fee loans)
  - Also could be determined to be an unfair practice
  - Backdating to "make it work" won't work!
  - Utilize change circumstances
    - Don't be scared of it!! Just document!
    - Good faith standard and challenges

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## Issues in TRID

- Providing the CD
  - Three days is not optional
  - Remember the extension of time for mailed disclosures
    - Includes when emailed and no E-sign compliance
  - Check the Title Companies work!
  - Don't forget additional waiting periods if necessary
    - Only three things extends the period
  - Good faith standard applies here as well!

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## Completion of Disclosures

- Purpose on Disclosure
  - Purchase/Refi/Construction/Home Equity
  - Waterfall effect
- Loan terms on LE/CD
- Closing Cost Expiration Date
  - Must be 10 business days (watch out for holidays)
  - Why limit to be so close?
  - Needs to be blank on any revised when ITP is obtained
- Make sure disclosure matches product
- Payments
  - Taxes and insurance section

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## Completion of Disclosures

- Fees
  - Make sure they are in right place
  - NO ABBREVIATIONS!!!!
  - Don't separate title fees
  - Payees go on CD not on LE
    - Providers lists dictates tolerance
- Prepays and number of months
- Other fees
  - Non-required services
- Watch out for reimbursements!

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## Completion of Disclosures

- Cash to close
  - Columns incorrect from LE
  - Construction loans
  - Showing payoffs and payments correctly
  - If different from LE table should reflect as such
- Contact table on CD
  - Make sure this is correct
  - Person, address, phone number, email

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## SAFE Act

- Become a big deal for safety and soundness reviews
- Stay on top of renewals
- Have procedures for changes of personal info
- NMLS numbers on required documents



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## Payday Lending Rule

- Covered short-term loans that require repayment within 45 days of consummation or an advance. Such loans are covered loans regardless of the cost of credit;
- Covered longer-term loans that have certain types of balloon-payment structures. These loans are also covered loans regardless of the cost of credit; and
- Covered longer-term loans that have a cost of credit exceeding a 36 annual percentage rate (APR) and that have a leveraged payment mechanism giving the lender the right to initiate transfers from the consumer's account without further action by the consumer.

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## Payday Lending Rule

### Exclusions

- Purchase money security interest loan
- Real estate secured credit
- Credit card account
- Overdraft services, LOC

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## Payday Lending Conditional Exemption

- Accommodation loans
  - Provided the lender together with its affiliates do not originate more than 2,500 **covered loans** in a calendar year and did not derive more than 10 % of their receipts from covered loans during the previous tax year.

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## Payday Provisions

- One provision is important
- We should process all payments within one business day of payment

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Questions?

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