

Insights

Regulatory Agencies Issue Last Minute Guidance Regarding Implementing the Truth in Lending Act and Real Estate Settlement Procedures Act Integrated Disclosure Rule

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The Truth in Lending Act (Regulation Z) and Real Estate Settlement Procedures Act (Regulation X) Integrated Disclosure Rule ("TRID" or the "Rule") became effective on October 3, 2015. In the weeks leading up to this already once delayed effective date, several financial services trade associations expressed concerns⁽¹⁾ about the industry's ability to comply with the Rule given the significant systems and operational changes required, in addition to the extensive coordination with third party vendors involved.

On October 1, 2015 the Office of the Comptroller of the Currency on behalf of the members⁽²⁾ of the Federal Financial Institutions Examination Council (the "FFIEC") responded to these concerns in a letter⁽³⁾ providing in part:

The member agencies of the Federal Financial Institutions Examination Council recognize that the mortgage industry has needed to make significant systems and operational changes to adjust to the requirements of the rule, and that implementation requires extensive coordination with third parties. We recognize that ... additional technical and other questions are likely to be identified once the new forms are used in practice after the effective date.

During initial examinations for compliance with the Rule, the agency's examiners will evaluate an institution's compliance management system and overall efforts to come into compliance, recognizing the scope and scale of changes necessary for each supervised institution to achieve effective compliance. Examiners will expect supervised entities to make good faith efforts to comply with the rule's requirements in a timely manner. Specifically, examiners will consider: the institution's implementation plan, including actions taken to update policies, procedures, and processes; its training of appropriate staff; and, its handling of early technical problems or other implementation challenges.

Consistent with this statement, on October 2, 2015 the Federal Deposit Insurance Corporation also released Financial Institution Letter 43-2015 titled Supervisory Expectations for Financial Institutions Implementing the Truth in Lending Act (Regulation Z) and Real Estate Settlement Procedures Act (Regulation X) Integrated Disclosure Rule.⁽⁴⁾

While these comments should provide a degree of comfort to financial institutions with respect to potential regulatory scrutiny from their prudential regulators, it is important to remember that failure to comply with the Truth in Lending Act and/or the Real Estate Settlement Procedures Act may still expose financial institutions to civil penalties.

Krieg DeVault Financial Institutions attorneys are closely monitoring developments associated with both this Rule and the wide range of other federal regulatory changes currently underway, and are able to answer any questions you may have to ensure your financial institution can manage any associated risk with the rapidly changing regulatory environment.

⁽¹⁾ See September 8, 2015 joint association letter to Federal Financial Institutions Examinations Council members requesting

guidance, available by clicking ^{here}.

[2] The FFIEC is comprised of the principals of the following agencies: American Land Title Association, American Escrow Association, The Appraisal Firm Coalition, Appraisal Institute, Collateral Risk Network, Consumer Bankers Association, Community Home Lenders Association, Consumer Mortgage Coalition, Community Mortgage Lenders, Credit Union National Association, Housing Policy Council, Independent Community Bankers of America, Mortgage Bankers Association, National Association of Home Builders, National Association of Mortgage Brokers, National Association of REALTORS, Real Estate Services Providers Council, Inc. (RESPRO)

[3] See October 1, 2015 letter from members of the FFIEC to the American Bankers Association available by clicking ^{here}.

[4] <https://www.fdic.gov/news/news/financial/2015/fil15027.pdf>

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