

Closing Dates Thrown Off by New Regs

The mortgage industry is undergoing changes to help provide homebuyers better information when financing a home. This information helps us understand some of the new regulations and investor requirements that are taking effect—especially those that impact timelines. But first, here's the bottom line, REO Nationwide style.

- These changes only apply to residential transactions - first and second homes purchased with mortgage financing (and for refinances).
- The EARLIEST date a contract can close is **7 business days AFTER** a Buyer receives mortgage initial written disclosures from the lender. (truth in lending, good faith estimate, fair credit, etc.).
- Lenders are not be allowed to collect upfront fees for appraisals (no upfront fees other than for credit reports) until the next business day AFTER the initial disclosures are received.
- Closings cannot take place until 3 business days after buyers receive a copy of the appraisal (this can be waived).
- New Truth in Lending disclosures are required if a buyer's interest rate (the APR) changes by more than 1/8th% from the initial disclosure. Closing cannot take place until 3 business days after it is received. If the lender mails the new TIL, it is considered "received" 3 business days AFTER the mailing date.

So what does this mean? Well, a contract is still a binding set of promises and obligations undertaken by the buyer and seller. It specifies a closing date and if the buyer's loan is not ready to go, the seller has a right to sue the buyer for breach of contract. In reality, the seller just wants to sell and wants to know when that sale is going to happen. If it cannot happen until the loan is ready, the seller is going to have to wait for the loan. Sellers are at the mercy of the buyers, lenders and title companies in terms of this regulatory compliance. Now, the official word.

HERA and HVCC-background information

In 2008, amendments to the Home Ownership and Equity Protection Act (HOEPA) and the Housing and Economic Recovery Act (HERA) were passed by Congress, and the Federal Reserve Board published the regulations under the Truth in Lending Act. These regulations were written to provide a more transparent, level and fair regulation of the real estate industry; to add additional steps to help prevent deceptive lending practices; and to protect consumers by making them more informed and therefore more confident in their home financing choices. In addition, FNMA and FHLMC adopted the Home Valuation Code of Conduct (HVCC) in 2009 to reinforce appraiser independence, valuation protections and enhance the overall integrity of the valuation process.

Effective May 1, 2009 HVCC



Promotes the accuracy of appraisals by shielding appraisers from undue influence and ensuring that borrowers have sufficient notice of appraisal content by requiring that borrowers receive a copy of their appraisal reports no less than 3 days prior to the closing of their loan absent a borrower waiver of this requirement.

Effective July 30, 2009 HERA

Amends the Truth in Lending Act (TILA) implements through Regulation Z. Has a number of provisions including the Mortgagee Disclosure

Improvement Act, which changes the Truth in Lending Act requirements surrounding early and final disclosures to homebuyers and addresses the timing of when fees can be charged.

1. If a homebuyer is financing the property, these new regulatory and investor guidelines can dictate the closing date.

Historically, homebuyers and sellers agreed on a closing date

"Closing Dates" continued on page 2



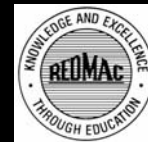
377 E. Coast Highway
Newport Beach, CA
92660 Suite 250
(888) 700-0868
ext. 326

www.reonationwide.com
info@reonationwide.com

The Resource is published
monthly by REO Nationwide, Inc.

Please direct correspondence to:
CJ Geblike
Editorial Director

©2009 REO Nationwide, Inc.



INSIDE THIS ISSUE

**Closing Dates Thrown Off
by New Regs
1-3**



“Closing Dates” continued from page 1

and then service providers—including lenders — would work toward meeting that date. Going forward, purchase contracts can still be written with a specific closing date in mind, but the earliest any home purchase transaction can close is 7 business days after a homebuyer is issued his or her initial mortgage disclosures from the lender. At some lenders, Saturdays, with the exception of federal holidays, do count as a business day for the purpose of disclosures only.

- 2. Upfront fees cannot be collected by the lender (except for credit report fees) until the initial disclosures are received. If the disclosures are overnighted, they are considered “received” the next business day (excluding Saturdays) allowing fees to be collected the following business day.

Historically, upfront fees could be collected immediately at the time of application for both in person and phone applications. Moving forward, the homebuyer must receive the initial disclosures before upfront fees can be collected. The only exception to this is the credit report fee which can be collected at time of application.

- 3. The homebuyer must be provided with a copy of the appraisal a minimum of 3 business days prior to the mortgage closing. If the homebuyer believes the 3-business-day required review period is not necessary for whatever reason, he or she has the right to waive that requirement.

To help expedite the process, some lenders have elected to have a copy of the appraisal issued directly to the homebuyer— and the homebuyer must receive the appraisal at least 3 business days prior to the mortgage closing.

- 4. An increase of more than .125% in the Annual Percentage Rate (APR) from the initial Truth in Lending disclosure (TIL) requires the TIL disclosure to be revised and reissued to the homebuyer. The homebuyer must receive a revised TIL disclosure at least 3 business days before the closing, providing the homebuyer with the time required to determine if the homebuyer is comfortable with his or her loan choice. If mailed, the TIL disclosure is considered “received” 3 business days after mailing.

A typical contract date may be 30-45 days or even longer (such as with a new construction loan). Considering that many things occur and may be changed or finalized throughout the course of the transaction, a number of things can impact the homebuyer’s APR. Therefore it is critical on the front end to ensure that estimated fees are as accurate as possible.

Potential Impacts to the APR

- Unlocked rate
• Change in loan amount
• Product change
• Rate re-lock due to market improvement
• Change in closing date
• Changes to fees, inclusive of settlement agent fees.

The easiest way to understand the new process and timelines required by these regulations for a primary residence or a second home purchase transaction is with a calendar. Since most transactions are not “rush” deals, but rather close in a 30-45 day timeframe, the calendar on the next page illustrates a desired 30 day close. It is wise to allow at least 30 days to close.

Other Assumptions in the Calendar





- The homebuyer applies on the first day of the month.
• The application is taken over the phone.
• The homebuyer locks in the interest rate at least 10 business days prior to the desired close date of September 30.
• A home equity loan was not added to the transaction. (doing so would require the same disclosure timelines to start for the home equity loan).
• The estimated fees increased the APR more than .125% requiring a re-disclosure of the TIL which some lenders call the Pre-Closing TIL. (The revised APR was final)
• The appraisal was ordered and came in at or above value, and the homebuyer received his or her copy at least 3 business days prior to the desired close date of September 30.
• The homebuyer signs and closes on September 30 (the last day of the required final disclosure review period).

Note: If the application was taken in person instead of a phone application in the example on the calendar, then the closing could occur sooner because the initial disclosures are issued and the upfront fees can be collected at the time of the application.

To summarize, the first change that you may notice is that you can still write in a specific closing date into the contract; however, the earliest any home purchase transaction can close is 7 business days after the homebuyer is issued his or her initial disclosures from the lender. Saturdays (except for federal holidays) are considered a business day! This means loan applications need to be made as soon as possible AND interest rates locked in quickly in order to be able to make sure the closing will be timely. The lender cannot make the initial mortgage disclosures to the Buyer until the rate and terms is locked in.

Next, upfront fees cannot be collected by the lender (except for a credit report fee) until the initial disclosures are received. Normally, a loan application is made, the lender will collect the appraisal fee as well as the credit report fee. As of July 30, the upfront fees can only be collected after the buyer has made loan application AND the initial disclosures have been received by the buyer! Since the initial disclosures cannot be received until the buyer has locked in rate & terms, this means that if the buyer is trying to hold off on locking in the rate until they think they can get the best deal this means the lender cannot collect the appraisal fee until after that time, AND if the fee for the appraisal is not collected, the lender cannot order the appraisal. Keep in mind that under the HVCC law which went into effect May 1, 2009, lenders can no longer call up their favorite appraiser & order a rush appraisal. They must now order the appraisal from a third party company who will choose the appraisal, in order to shield the appraiser from undue influence of the lender or Realtor. If the buyer

Closing Dates” continued on page 3

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				July 30 Homebuyer finalizes purchase contract	July 31 Homebuyer completes application over phone  Initial disclosures mailed to homebuyer	August 1 Upfront fees Wait Day 1 Initial disclosures Day 1
2	3 Upfront fees Wait Day 2  Initial disclosures Day 2	4 Upfront fees Wait Day 3 Earliest date upfront fees may be collected unless application taken in person	5 Initial disclosures Day 4	6 Initial disclosures Day 5	7 Initial disclosures Day 6	8 Earliest date to close if appraisal is not required Initial disclosures Day 7
9	10	11  *Revised disclosures mailed to homebuyer APR FINAL	12 APR exceeds tolerance so must redisclose	13 Revised disclosures Mail Day 1	14 Revised disclosures Mail Day 2 If possible lock rate at least 10 days prior to closing	15 Revised disclosures Mail Day 3
16	17 Revised disclosures Wait Day 1	18 Revised disclosures Wait Day 2 	19 Revised disclosures Wait Day 3 Appraisal must be completed and mailed to the homebuyer 7 days prior to closing	20 Appraisal Mail Day 1	21 Appraisal Mail Day 2	22 Appraisal Mail Day 3
23	24 Appraisal Wait Day 1	25 Appraisal Wait Day 2	26 Appraisal Wait Day 3 Homebuyer can sign/close	27	28	29
30	31	* If revised disclosures are sent by e-mail or by a courier other than the postal service <u>either</u> proof of actual delivery <u>or</u> the mailing rule may be relied on for purposes of determining whether the 3-business-day waiting period has begun.				

“ Closings Dates ” continued from page 2

decides to hold off on locking in a rate, this could delay the payment of the appraisal fee, which could delay the ordering of the appraisal, which could delay the actual appraisal and therefore, closing.

Next, the homebuyer must be provided a copy of the appraisal a minimum of 3 business days prior to closing. This means that the buyer must receive the appraisal before or simultaneous to the lender receiving their copy. The homebuyer has the right to waive this review period, but if they don't then the closing must be delayed until the appraisal has been reviewed. And remember, the appraisal may be snail mailed to the buyer, which adds additional time to the process. What happens in the case where an appraisal comes in with conditions that need to be satisfied prior to closing? The appraiser must go back out for a re-inspection to check if the repairs have been done. If there is a re-inspection, there is a new review period before closing. What happens if the underwriter makes the appraiser go back and correct an error on the report? Again, another 3 day review period.

Finally, an increase of more than .125% in the Annual Percentage

Rate (APR) from the initial Truth in Lending Disclosure requires that this disclosure be revised & reissued to the homebuyer, who then has a 3 business day review period. Any number of things can occur that can cause a change in the APR: change in closing date, change in product, change in closing costs, changes in fees (including the settlement agents fee). *Therefore, it is very important that the closer be designated at the time of the contract AND that the buyer's lender calls the settlement agent to verify what the fees are so that the disclosure the buyer is given, is accurate.*

The bottom line here is that this new law has some review periods attached to it that weren't there previously. When considering a contract, know what the changes are and what they mean for you and make sure that the Realtor and lender also understand how these things will impact the timeline and the closing date.

Sources include:
 Wells Fargo, the Wasserblawg, Wordpress, Dewey Financial, esign Mortgage, Realtor.com, The Appraisal Institute, the Web.



Place
Stamp
here

377 E. Coast Highway, Suite 250
Newport Beach, CA 92660
(888) 700-0868 X326
www.reonationwide.com
info@reonationwide.com

...BPOs & REO Disposition for nearly 30 years.

2009 Best Customer Service Accurate, Responsive.



The **resource**

....unparalleled expertise for nearly 30 years

- REO Disposition
- BPOs/Appraisals
- Preservation
- Residential, Com'l, Estates, Agri, Multi, Mobile
- Oldest Independently Owned National Firm
- Not a "mill"-personal service; one file at a time.

REO Nationwide, Inc.
(888) 700-0868 X326
www.reonationwide.com -
info@reonationwide.com