

Mandatory Compliance, Good Faith Efforts and Safe Harbors – Breaking Down TRID

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The Mandatory Compliance Date

On July 21, the Consumer Financial Protection Bureau (CFPB) issued a Final Rule extending the looming mandatory compliance date for the TILA/RESPA Integrated Disclosure Rule (TRID) to October 3, 2015. If you were among the credit unions challenged to meet the August 1 compliance date, you may have breathed a sigh of relief at this welcome news. It is imperative, however, that you continue to work diligently to integrate the new disclosures onto your existing or new systems, update your policies and procedures, and train your front-line staff for the new go-live date. Come October 3, the regulation is effective and compliance is required. As a practical matter, you should note that early compliance is not permitted. Even if you were ready to go-live on August 1, the “switch” to the new disclosures cannot be flipped until October 3.

Good Faith Efforts

The National Credit Union Administration (NCUA) and CFPB have each stated they will consider credit unions’ “good faith efforts” to comply with the Rule. As discussed by staffers at the agencies, this provides a bit of flexibility for you if you’re working toward compliance, but just don’t quite have the ducks in order. Officials from CFPB have stated that credit unions and other financial institutions should be able to showcase that they are working diligently toward compliance. Importantly, while this flexibility is helpful from a credit union examination standpoint, it does not relieve you of civil liability – put simply, members can still sue for lack of compliance with the law. Come October 3, TRID is the law of the land.

Safe Harbor

In order to enjoy a true safe harbor – no CFPB enforcement actions or private lawsuits – congressional action must occur. At the time of this writing, a number of bills are pending within the House or Senate that would provide this safe harbor. Unless and until a bill is passed by both Houses and is signed by the President, a true safe harbor will not be in effect come October 3.

For the last 20 months, the financial services industry has been preparing for implementation of TRID. As we approach the October 3 mandatory compliance date, it is important to turn your attention toward potential liability. To that end, it is critical to understand regulator risk and litigation risk, as well as the impact of “good faith efforts” and potential new safe harbor legislation.

LOANLINER® users with access to Lending Resource Center can sign up now for two new TILA/RESPA educational webinars and our bi-weekly TRID talks. We created these sessions to provide a forum for you to learn details and ask questions.

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