It's Gut-Check Time for TILA/RESPA Compliance

By Jon Bundy

Now that Spring has almost broken out in much of the country, you have probably noticed all the signs of the coming season; the birds are chirping, spring flowers are struggling to break ground, and everyone is starting to talk about TILA/RESPA. By now you have probably already read a few articles, taken a look at the model disclosures on the CFPB website, and you may have even attended a webinar or two. While these activities are a good start, the hard work put in this Spring will determine whether your credit union's TILA/RESPA compliance plan succeeds or fails. With less than five months to go until the August 1st compliance date, now is the time to make sure your credit union is well positioned to be ready at the end of the summer. Here are a couple of questions that you should ask yourself to determine if your plan is in good shape or needs some additional work this Spring.

1. Is your credit union's Loan Origination System (LOS) provider ready to support your lending goals?

Those of you who have inspected the new TILA/RESPA disclosures, the Loan Estimate and Closing Disclosure, have already determined that the new documents are entirely new and contain additional disclosures than the old Good Faith Estimate and HUD-1 they are designed to replace. The end result of this complexity is that LOS providers have a lot of mapping, programing and calculation capacity to build before the effective date.

It is not enough to ask your LOS provider if they will be ready for the TILA/RESPA rule. Instead, your credit union needs to make sure the LOS will support the credit union's specific loan programs. For instance, most first mortgage LOS providers will be ready to support purchase money mortgage transactions because it is part-in-parcel to their entire business. However, not all first mortgage LOSs will support closed-end home equity. Similarly, not all consumer LOS systems will support closed-end home equity lending and of those that will, not all will support all programs. For example, some may support fixed rate, but will not support adjustable rate. Ultimately, credit unions should be asking some detailed questions of their LOS to determine if the programs the LOS will support meet the credit union's lending goals.

2. Is there someone at your credit union who understands the new Loan Estimate and Closing Disclosure timing requirements?

The new TILA/RESPA disclosures have multiple, overlapping and confusing timing requirements that will necessarily change your credit union's loan origination process from application to closing. The Loan Estimate needs to be delivered or placed in the mail within three business days of application and received by the borrower seven business days before consummation. On the Closing Disclosure side, the document must be received by the borrower no later than three business days before consummation. Oh, and by the way, the definition of "business day" differs depending on which rule you are following. Finally, you can consider a disclosure delivered to the consumer three business days after mailing, unless you have actual proof of receipt. Got that! I didn't at first either.

It will take some heavy lifting for someone on the credit union's staff to master these new rules. Spring should mark the time when that new TILA/RESPA expert moves from mastering the rules to understanding the implications for the credit union's policies and procedures. Most notably, how the closing information is going to be finalized three business days before closing as opposed to the current day of delivery for many lenders.

As your credit union starts spring cleaning in the branch, be sure to dust off that TILA/RESPA compliance plan and make sure you are still on track for mortgage lending this summer.

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