

TRID Waiting Periods:

Definitions:

Definitions of Business Day: There are two definitions of business day to keep in mind:

General Definition of Business Day §1026.2(a)(6)-1: is any day on which the creditor's offices are open to conduct substantially all of its business functions.

The Precise Definition of Business Day §1026.2(a)(6)-2: The precise definition of business day means all calendar days except Sundays and the 6 floating and 4 fixed legal holidays (New Year's Day 1/1, Martin Luther King Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day 7/4, Labor Day, Columbus Day, Veterans Day 11/11, Thanksgiving Day and Christmas Day 12/25).

The Disclosure time period ***begins on the business day following receipt of the consumer's application.***

Loan Estimate -Initial disclosure (Delivery): The lender must provide the initial Loan Estimate no later than 3 business days (using the general definition of business day) after application is received.

Delivery vs. Receipt of Disclosures: For purposes of initial the Loan Estimate when the disclosure is delivered to the borrower in person or placed in the mail they have met the requirement for delivery. To meet requirements of receipt, if delivered in person the consumer is deemed to have received disclosures the same day. All other methods of delivery whether mailed, emailed, or fedexed, the consumer is deemed to have received the initial Loan Estimate 3 business days (the precise definition is used here) after mailing. (§1026.19(e)(1)(iv)) **So, if mailed, the time period is 3 days + 3 days**

When Can a Fee be Collected? No fee except for a credit report fee that is bona fide and reasonable may be imposed on a consumer before the consumer receives the initial Loan Estimate disclosure, and has indicated their intent to proceed with the transaction described therein.

The 7 Day Waiting Period: Use the precise definition of Business Day here. Consummation may occur on or after the seventh business day after the delivery or mailing of the initial Loan Estimate.

Example of 7 day Waiting Period: if a creditor delivers the early disclosures to the consumer in person or places them in the mail on Monday, August 10, 2015, consummation may occur on or after Tuesday, August 18, 2015, the ***seventh business day*** following delivery or mailing of the early disclosures.

Redisclosure of Loan Estimate if outside tolerance (4 days)

Reg. Z, 12 C.F.R. §1026.19 (e) Mortgage Loans Secured by Real Property If the annual percentage rate disclosed under paragraph (e)(1)(i) of this section becomes inaccurate, as defined in § 1026.22(a) and 1026.38(o)(2), the creditor **shall provide corrected disclosures with all changed terms. The consumer must receive the corrected Loan Estimate no later than 4 (four) business days before consummation.**

Basis for annual percentage rate comparison. To determine whether a creditor must make corrected disclosures under Sec. 1026.22, a creditor compares (a) what the annual percentage rate will be at consummation to (b) the annual percentage rate stated in the most recent disclosures the creditor made to the consumer.

Redisclosure of Loan Estimate with Change in Circumstance (3 days/4 days)

Reg. Z, 12 C.F.R. §1026.19 (e)(4)(i) If the Loan Estimate is required to be redisclosed due to a valid change in circumstance, it must be delivered to the borrower within 3(three) days of receipt of the information leading to the change. The consumer must receive the corrected Loan Estimate no later than 4 (four) business days before consummation.

Redisclosure of Loan Estimate with Rate Lock (3 days/4 days)

Reg. Z, 12 C.F.R. §1026.19 (e)(3)(iv)(D) If the Loan Estimate is required to be redisclosed due to a Rate Lock it must be delivered to the borrower within 3(three) days of lock in of the interest rate. The consumer must receive the corrected Loan Estimate no later than 4 (four) business days before consummation.

Note: There must be at least 1 (one) business day between the disclosure of the most recent Loan Estimate and the issuance of the Closing Disclosure (§1026.19 (e)(4)(ii)-1).

Closing Disclosure-Final (Receipt): The customer must **receive a final Closing Disclosure at least 3 business days prior to consummation.** The precise definition of business day is used here. The rules of Receipt apply here in that disclosures delivered in person are considered received the same day, whereas any other method of delivery (mail, email, fedex etc...) the additional 3 precise business day waiting period applies. If proof can be substantiated by documentation that the disclosure was received prior to the third day it may be used to start the 3 (three) day count.

So, if mailed, the time period is 3 days + 3 days

Mail delivery: if any disclosures required under § 1026.19(e)(1)(i) or § 1026.19(f)(1)(i) are not provided to the consumer in person, the consumer is considered to have received the disclosures three business days after they are delivered or placed in the mail. The creditor may, alternatively, rely on evidence that the consumer received the disclosures earlier than three business days. For example, if the creditor sends the disclosures via overnight mail on Monday, and the consumer signs for receipt of the overnight delivery on Tuesday, the creditor could demonstrate that the disclosures were received on Tuesday.

Redisclosure of Closing Disclosure if outside tolerance (+3 days)

Reg. Z, 12 C.F.R. §1026.19 (f)(1)(i) Mortgage Loans Secured by Real Property If the annual percentage rate disclosed under paragraph (f)(1)(i) of this section becomes inaccurate, as defined in § 1026.22(a) and 1026.38(o)(2), the creditor **shall provide corrected disclosures with all changed terms.** The consumer must receive the corrected Closing Disclosure no later than 3 (three) business days before

consummation If the corrected disclosures are mailed to the consumer or delivered to the consumer by means other than delivery in person, the consumer is deemed to have received the corrected disclosures three business days after they are mailed or delivered.

As set forth by the CFPB there are only three specified instances in which an additional 3 day waiting period will be required when redisclosing a Closing Disclosure

- 1.) If the Annual Percentage rate has INCREASED more than 1/8% on fixed rate loans; or ¼% on ARM loans;
- 2.) A prepayment penalty is added; or
- 3.) The loan product has changed (example fixed rate to an ARM)

Example – Closing Disclosure With Loan Estimate Corrections Before Closing:

For example, assume a creditor delivers the early disclosures to the consumer in person or places them in the mail on Monday, **August 10, 2015** and the creditor then delivers corrected disclosures in person to the consumer on **Friday, August 14, 2015**. The creditor cannot disclose the final Loan Estimate and the Closing Disclosure on the same day therefore must wait until, **Saturday, August 15, 2015** (one business day following the corrected Loan Estimate) to provide the Closing Disclosure to the consumer. Consummation cannot occur until **Wednesday, August 19, 2015** or 3 (three) days after the final Closing Disclosure is received by the consumer either in person on August 15th, or **Saturday August 22, 2015** with an additional 3 (three) days if any other method of delivery is used.

Waiver of waiting period before consummation

Reg. Z, 12 C.F.R. §1026.19(e)(1)(v) If the consumer determines that the extension of credit is needed to meet a bona fide personal financial emergency, the consumer may modify or waive the seven-business-day waiting period or the four and three-business-day waiting period required by paragraph (e)(2) of this section, after receiving the disclosures required by § 1026.37 and 1026.38. To modify or waive a waiting period, the consumer shall give the creditor a dated written statement that describes the emergency, specifically modifies or waives the waiting period, and bears the signature of all the consumers who are primarily liable on the legal obligation. Printed forms for this purpose are prohibited.

§ 1026.22 Determination of annual percentage rate.

(a) Accuracy of annual percentage rate. (1) The annual percentage rate is a measure of the cost of credit, expressed as a yearly rate that relates the amount and timing of value received by the consumer to the amount and timing of payments made. The annual percentage rate shall be determined in accordance with either the actuarial method or the United States Rule method. Explanations, equations and instructions for determining the annual percentage rate in accordance with the actuarial method are set forth in Appendix J to

this part. An error in disclosure of the annual percentage rate or finance charge shall not, in itself, be considered a violation of this part if:

(i) The error resulted from a corresponding error in a calculation tool used in good faith by the creditor; and

(ii) Upon discovery of the error, the creditor promptly discontinues use of that calculation tool for disclosure purposes and notifies the Bureau in writing of the error in the calculation tool.

(2) As a general rule, the annual percentage rate shall be considered accurate if it is not more than 1/8 of 1 percentage point above or below the annual percentage rate determined in accordance with paragraph (a)(1) of this section.

(3) In an irregular transaction, the annual percentage rate shall be considered accurate if it is not more than 1/4 of 1 percentage point above or below the annual percentage rate determined in accordance with paragraph (a)(1) of this section. For purposes of this paragraph (a)(3), an irregular transaction is one that includes one or more of the following features: multiple advances, irregular payment periods, or irregular payment amounts (other than an irregular first period or an irregular first or final payment).

(4) Mortgage loans. If the annual percentage rate disclosed in a transaction secured by real property or a dwelling varies from the actual rate determined in accordance with paragraph (a)(1) of this section, in addition to the tolerances applicable under paragraphs (a)(2) and (3) of this section, the disclosed annual percentage rate shall also be considered accurate if:

(i) The rate results from the disclosed finance charge; and

(ii)(A) The disclosed finance charge would be considered accurate under §1026.18(d)(1) or § 1026.38(o)(2), as applicable;

§1026.38(o) *Loan calculations.* In a separate table under the heading "Loan Calculations":

(1) *Total of payments.* The "Total of Payments," using that term and expressed as a dollar amount, and a statement that the disclosure is the total the consumer will have paid after making all payments of principal, interest, mortgage insurance, and loan costs, as scheduled.

(2) *Finance charge.* The "**Finance Charge,**" using that term and expressed as a dollar amount, and the following statement: "The dollar amount the loan will cost you." The disclosed finance charge and other disclosures affected by the disclosed financed charge (including the amount financed and the annual percentage rate) shall be treated as accurate if the amount disclosed as the finance charge:

(i) is understated by no more than \$100; or

(ii) is greater than the amount required to be disclosed.