



Wells Fargo

## Settlement Agent Communications

News for Wells Fargo Settlement Agents

September 24, 2014

Effective August 1, 2015, our industry will be required to provide a new Closing Disclosure to our customers, as required by the TILA-RESPA Integrated Disclosure Rule. Now that this date is less than a year away, we're hearing more questions from you about this topic, including:

- *Who will prepare the Closing Disclosure?*
- *Who will deliver the Closing Disclosure?*
- *How will processes change to enable delivery of the Closing Disclosure to the customer for receipt at least three business days prior to closing?*

We've been listening to your feedback and understand that you want to know how we plan to meet these new requirements – particularly related to the new Closing Disclosure. Over the next year we will use this newsletter and other communications to provide you with answers to the above questions, as well as additional information to help guide you through these changes.

- **Responsibility of Wells Fargo and how we plan to meet the new requirements.** The previous edition of this newsletter (June 23, 2014) focused on important details about “evidence of compliance” requirements for the Closing Disclosure. Examples include; the ability to retain and recall all versions of generated Closing Disclosures, retaining images and supporting data for all versions, maintaining system of record data for delivery timing and method, and the ability to prove both delivery and receipt of the Closing Disclosure. We've closely reviewed these and all other requirements of the TILA-RESPA Integrated Disclosure Rule and explored a variety of options to ensure we consistently meet our internal compliance requirements as well as those of our regulators. We would like to share our views with you about these changes, and also hear your feedback via the optional survey link at the end of this article.
- **Determining the content of the Closing Disclosure.** At Wells Fargo, we believe that we must continue to work closely with you to jointly determine the fees and other content required on the Closing Disclosure form. How and when we collaborate to develop this content is where we have significant opportunity to improve our processes.

We've already heard feedback from many settlement agents voicing concerns that this collaboration must take place earlier in the loan process than is typical today in order to avoid the rush closings that have become so common. In a future issue of this newsletter, we'll discuss the process changes that are being developed to support timely preparation and delivery of the

## Closing Disclosure.

- **Generating the Closing Disclosure.** The new Closing Disclosure is a blend of the existing Truth-in-Lending (TIL) disclosure and the Settlement Statement (HUD-1). It's important to note that the new Closing Disclosure is governed by the Truth-in-Lending Act (TILA), not the Real Estate Settlement Procedures Act (RESPA). TILA provides different accuracy expectations and enforcement provisions than RESPA, as well as some differences in definitions, with associated risks and penalties for us that are much more severe than RESPA.

Today, Wells Fargo generates the TIL disclosures for all originated loans; we do not allow settlement agents to modify the content of this important compliance document. Looking forward, the same TILA scrutiny will be applicable for the new Closing Disclosure - and the lender is accountable for compliance. Therefore, after assessing all requirements and options, it has been determined that Wells Fargo needs to control the generation and delivery of the borrower's Closing Disclosure to consistently meet internal compliance and regulator expectations.

- **Delivering the Closing Disclosure.** Evidence of delivering the borrower's Closing Disclosure with receipt at least three business days prior to closing are critical requirements for us. The data to support this must be readily accessible for internal and external audit. We considered many factors, such as the large number of settlement agents who close Wells Fargo loans in local markets, their closing volumes, limited integration capabilities to provide compliance data to us, and the evolving use of electronic delivery within the Wells Fargo loan process.

At this point in time, we believe that this critical compliance evidence can only be provided if Wells Fargo delivers the Closing Disclosure directly to our borrowers to meet the three-day requirement, including when a change occurs that requires the three-day clock to be restarted. We still must work closely with you to ensure we have accurate information on this disclosure, and because of the early collaboration needed, we are hopeful that this will create a smoother closing for everyone.

For purchase transactions, our view is that the settlement agent continues to be responsible for the seller's information and will prepare and deliver the seller's Closing Disclosure. A copy must be provided to Wells Fargo for our loan file in order to comply with the final rules.

- **Scheduling the closing.** Scheduling the closing must remain a collaboration between all involved parties, just as it is today. But the new three-day delivery requirement for the Closing Disclosure will impact everyone involved in this process.

In a recent meeting with settlement agents, an example was used that really brings this impact into focus. Imagine you have three linked sale/purchase transactions that all need to close by the end of the month, each with a different settlement agent, different real estate agent, and different lender involved. Not meeting the three-day delivery requirement on one of these linked transactions may delay the others. This scenario emphasizes how important it will be for us to work together to develop solutions that meet our customers' needs and our compliance expectations.

- **Conducting the closing.** Conducting the closing will continue to be the responsibility of the settlement agent, but with increasing focus on compliance with our closing instructions. As we have shared in previous newsletters, as expectations on lenders increase, so do expectations on

our third party service providers.

### **Let' s work together to meet our customers' needs**

We continue to support the customer' s choice for their title and settlement service provider, as long as that choice enables us to consistently meet all applicable requirements. At Wells Fargo, we enjoy doing business locally and value our local relationships. With these new regulations, it is essential for you to understand the expectations of the regulations and of Wells Fargo, so we can consistently deliver high levels of quality and service to our customers.

### **Tell us what you think**

We invite your feedback on the information contained in this newsletter via the following survey link:

[www.surveymonkey.com](http://www.surveymonkey.com)

Please share this important information with your colleagues and management teams. If you have any comments, questions, suggestions for future newsletters, or requests for copies of previous editions, contact us at:

[WellsFargoSettlementAgentCommunications@wellsfargo.com](mailto:WellsFargoSettlementAgentCommunications@wellsfargo.com)

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