



**Summary – Federal Reserve Rule Implementing
Mortgage Disclosure Improvement Act of 2008, as amended
74 FR 23289; May 21, 2009**

Background – This final rule published by the Board of Governors of the Federal Reserve (Board) on May 19, 2009 amends Regulation Z (Truth in Lending) to implement the Mortgage Disclosure Improvement Act (MDIA), as amended.¹

Overview – (1) Extends the requirement for transaction-specific good faith estimate or early TILA disclosures that include, for example, the amount financed and the Annual Percentage Rate (APR), to all dwelling-secured credit transactions except Home Equity Lines of Credit (HELOCs); (2) Establishes waiting periods between the time when disclosures are given to consumers and consummation or closing of the transaction; and (3) Establishes procedures for consumers to waive or shorten such periods based upon a *bona fide* financial emergency.

Effective Date – Becomes effective on July 30, 2009, two months before the Board's pending regulatory changes to its TILA/Home Ownership and Equity Protection Act (HOEPA) rules which become effective October 1. MDIA also includes provisions requiring additional disclosure language for adjustable loans but these provisions will be implemented later.

Coverage (§ 226.19(a)) – Extends TILA's requirements that consumers be provided good faith estimates or early disclosures to "any extension of credit secured by the dwelling of a consumer" to include home refinance loans and home equity loans as well as loans to finance the purchase or initial construction of the consumer's principal dwelling. Rule also applies to loans secured by dwellings other than the consumer's principal dwelling. This final rule does not revise the disclosure requirements for home equity lines of credit (HELOCs).

Timing Requirements –

Early Disclosures (§226.19(a)(1)(i)) – Maintains requirement under Regulation Z that creditors deliver or mail to consumer early TILA disclosure no later than three business days after receiving consumer's loan application and extends coverage of requirement (above). Adds requirement that creditor deliver or mail the early disclosures at least seven business days before consummation. If a consumer withdraws a loan application within three business days after a creditor receives it, the creditor need not make the early disclosures.

Early Disclosure Fee Restrictions (§226.19(a)(1)(i)) – Consistent with July 2008 final HOEPA rule, requires early disclosures be given before the consumer pays any fee, other than a fee for obtaining the consumer's credit history. Expands this requirement to mortgages secured by a dwelling other than the consumer's principal dwelling such as a second home and makes them

¹ On July 30, 2008, Congress enacted the Mortgage Disclosure Improvement Act of 2008 (MDIA) as part of the Housing and Economic Recovery Act (HERA) to amend the Truth in Lending Act. MDIA was further amended as part of the Emergency Economic Stabilization Act of 2008 (EESA) on October 3, 2008.

effective for covered loans for which the creditor receives an application on or after July 30, 2009, consistent with the MDIA.

Seven-Day Period (§226.19(a)(2)) – Requires seven-business-day waiting period between the times the TILA disclosure is delivered or mailed to the consumer and loan consummation. Period begins when creditor delivers or places the early disclosures in the mail, not when the consumer receives or is deemed to receive the disclosures. Consummation may occur any time on the seventh business day following delivery or mailing.

Three-Day Period (§226.19(a)(2)) – Requires three-business-day waiting period between the times an APR is redisclosed to a consumer as required by TILA and consummation. Also, where corrected disclosures have been given and the APR subsequently changes, creditor should compare the APR at consummation with the APR in the most recently provided corrected disclosures (not the first set of disclosures provided) to determine whether the creditor must provide another set of corrected disclosures.

Definition of Business Day (§226.19(a)(6)) –

Early Disclosures – Applies “general definition” of “business day,” under Reg Z, which is a day on which a creditor’s offices are open to the public for carrying on substantially all of its business functions, to determine that the creditor delivers or mails the consumer disclosures within three business days after application. RESPA also requires creditors provide disclosures within three business days, using the general definition.

Seven-Day and Three-Day Periods – Applies the “precise definition” of “business day,” that is all calendar days except Sundays and specified legal public holidays, to satisfy seven-day “waiting period requirement” and to satisfy three-day “waiting period requirement” that consumers receive corrected disclosures no later than the third business day before consummation.

Waiver of Waiting Periods (§226.19(a)(3)) – Allows consumer to shorten or waive both the seven-business-day waiting period or the three-business-day waiting period after receiving accurate TILA disclosures, if the consumer determines that an extension of credit is needed to meet a *bona fide* personal financial emergency. If the APR subsequently increases by more than the specified tolerance, the consumer’s previous waiver is no longer effective and a new “final” disclosure must be given. After receiving the new “final” disclosure, a consumer may decide whether to provide another signed waiver statement.

Requirements for Waiver (§226.19(a)(3)) – Requires consumer give creditor dated written statement, not pre-printed, that specifically describes the emergency and specifically modifies or waives the waiting period, signed by each consumer who will be primarily liable on the legal obligation and who are entitled to receive the disclosures required by TILA. Requirements are consistent with regulatory requirements for waiver of a rescission period or of the waiting period before consummation of a HOEPA loan.

Notice of No Requirement to Complete Transaction (§226.19(a)(4)) – Requires early disclosures and any corrected disclosures to consumer contain a clear notice stating: “You are not required to complete this agreement merely because you have received these disclosures or signed a loan application.” Creditors also may include statement on the disclosures provided at consummation and may group the notice together with other TILA disclosures.

Timeshare Transactions (§226.19(a)(5)) – Requires creditors to deliver or place in the mail early disclosures within three business days (using the general definition of “business day”) after the creditor receives the consumer’s application or before the credit is extended, whichever is earlier. Does not apply seven-business-day and three-business-day waiting periods before consummation to timeshare transactions. Rather, for timeshare transactions, if APR stated in the early disclosures changes beyond the specified tolerance, creditor must disclose changed terms no later than consummation or settlement of transaction.

Forthcoming Disclosures – Note: Board anticipates proposing new model disclosure forms and clauses during 2009 as part of comprehensive rulemaking on closed-end mortgage disclosures.

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