



## TRID FAQs

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### GENERAL

1. **QUESTION:** Section 8.4 of the TRID Small Entity Compliance Guide allows for the re-disclosure of a Loan Estimate if the cumulative effect of the changed circumstance(s) exceeds the 10% tolerance.

What if you have multiple changed circumstances that individually wouldn't cause an increase of more than 10%, but collectively they would exceed the 10% and the events are more than 3 days apart? For example, the 10% tolerance limit is \$200. Event A occurs on Monday and is a \$150 charge. On Friday, Event B occurs and it's a \$100 charge. The cumulative effect of these 2 events would now exceed the 10% and allow for re-disclosure, but Event A is now outside of the 3 day window. What do we do in this scenario?

**RESPONSE:** *This issue is governed by §1026.19(e)(3)(iv)(A) and its comment 19(e)(3)(iv)(A)-1.ii., which provide that while one changed circumstance involving a settlement charge increase that does not increase the settlement charges previously disclosed beyond the 10% tolerance level and will not result in a revised 10% tolerance baseline, it does permit providing a revised LE to be issued. What is not stated, but implied by comment 19(e)(3)(iv)(A)-1.ii., is that if a creditor timely issues a revised LE each time this occurs, eventually the 10% tolerance threshold of the original LE will be exceeded and the Closing Disclosure will then be compared, not to the original LE, but to the latest revised LE that cumulatively captures all the individual settlement charges that were the subject of the previous revised LEs. See below:*

§1026.19(e)(3):

(3) *Good faith determination for estimates of closing costs.* (i) *General rule.* An estimated closing cost disclosed pursuant to paragraph (e) of this section is in good faith if the charge paid by or imposed on the consumer does not exceed the amount originally disclosed under paragraph (e)(1)(i) of this section, except as otherwise provided in paragraphs (e)(3)(ii) through (iv) of this section.

(ii) *Limited increases permitted for certain charges.* An estimate of a charge for a third-party service or a recording fee is in good faith if:

(A) The aggregate amount of charges for third-party services and recording fees paid by or imposed on the consumer does not exceed the aggregate amount of such charges disclosed under paragraph (e)(1)(i) of this section by more than 10 percent;



(B) The charge for the third-party service is not paid to the creditor or an affiliate of the creditor; and

(C) The creditor permits the consumer to shop for the third-party service, consistent with paragraph (e)(1)(vi) of this section.

(iv) *Revised estimates.* For the purpose of determining good faith under paragraph (e)(3)(i) and (ii) of this section, a creditor may use a revised estimate of a charge instead of the estimate of the charge originally disclosed under paragraph (e)(1)(i) of this section if the revision is due to any of the following reasons:

(A) *Changed circumstance affecting settlement charges.* Changed circumstances cause the estimated charges to increase or, in the case of estimated charges identified in paragraph (e)(3)(ii) of this section, cause the aggregate amount of such charges to increase by more than 10 percent.

*19(e)(3)(iv)(A) Changed circumstance affecting settlement charges.*

1. *Requirement.* For the purpose of determining good faith under §1026.19(e)(3)(i) and (ii), revised charges are compared to actual charges if the revision was caused by a changed circumstance. See also comment 19(e)(3)(iv)(A)-2 regarding the definition of a changed circumstance. The following examples illustrate the application of this provision:

ii. *Charges subject to the ten percent tolerance category.* Assume a creditor provides a \$400 estimate of title fees, which are included in the category of fees which may not increase by more than 10 percent for the purposes of determining good faith under §1026.19(e)(3)(ii), except as provided in §1026.19(e)(3)(iv). An unreleased lien is discovered and the title company must perform additional work to release the lien. However, the additional costs amount to only a five percent increase over the sum of all fees included in the category of fees which may not increase by more than 10 percent. A changed circumstance has occurred (*i.e.*, new information), but the sum of all costs subject to the 10 percent tolerance category has not increased by more than 10 percent. Section 1026.19(e)(3)(iv) does not prohibit the creditor from issuing revised disclosures, but if the creditor issues revised disclosures in this scenario, when the disclosures required by §1026.19(f)(1)(i) are delivered, the actual title fees of \$500 may not be compared to the revised title fees of \$500; they must be compared to the originally estimated title fees of \$400 because the changed circumstance did not cause the sum of all costs subject to the 10 percent tolerance category to increase by more than 10 percent.

*19(e)(4)(i) General rule.*

1. *Three-business-day requirement.* Section 1026.19(e)(4)(i) provides that subject to the requirements of §1026.19(e)(4)(ii), if a creditor uses a revised estimate pursuant to §1026.19(e)(3)(iv) for the purpose of determining good faith under §1026.19(e)(3)(i) and (ii), the creditor shall provide a revised version of the disclosures required under §1026.19(e)(1)(i) reflecting the revised estimate within three business days of receiving information sufficient to establish that one of the reasons for revision provided under §1026.19(e)(3)(iv)(A) through (C), (E) and (F) has occurred. The following examples illustrate these requirements:



ii. Assume a creditor receives information on Monday that, because of a changed circumstance under §1026.19(e)(3)(iv)(A), the title fees will increase by an amount totaling six percent of the originally estimated settlement charges subject to §1026.19(e)(3)(ii). The creditor had received information three weeks before that, because of a changed circumstance under §1026.19(e)(3)(iv)(A), the pest inspection fees increased by an amount totaling five percent of the originally estimated settlement charges subject to §1026.19(e)(3)(ii). Thus, on Monday, the creditor has received sufficient information to establish a valid reason for revision and must provide revised disclosures reflecting the 11 percent increase by Thursday to comply with §1026.19(e)(4)(i).

2. **QUESTION:** The “mailbox rule” can be superseded by evidence the borrower received the Loan Estimate or Closing Disclosure earlier than three business days after it is mailed or delivered. Do you have any guidance on what we should or should not use as ‘evidence’?

I know the commentary provides 2 examples, and honestly they are more lenient than I would have expected, but are you advising your clients to adopt a specific method?

**RESPONSE:** *Based on current investor requirements, our recommendation is to Document delivery by having the borrower(s) sign and date the disclosures with either a wet signature or e-signature(in compliance with E-Sign Act).*

3. **QUESTION:** If an APR fee is added in excess of \$100, but does not increase the APR by more than .125%, does that trigger a new 3 day waiting period if the CD has already been disclosed? Why am I thinking there was a \$100 rule associated with this new rule? I know the finance charge rules from 1026.22 still apply, but I feel like I am missing something?

**RESPONSE:** *No, new 3 business day waiting period required only when you have one of three situations- APR out of tolerance, loan product changes, or prepayment penalty is added.*

4. **QUESTION:** Today, a broker is not able to charge fees (other than a bona fide credit report) until the borrower has received, among other things, the Lender’s TIL and provided their intent to proceed. With the new rules, if a broker does not know who the creditor will be at the time of application and leaves the creditor name blank on the LE and has received the borrowers intent to proceed, when can the broker charge the borrower for fees (such as an appraisal) other than a bona fide credit report?

**RESPONSE:** *Once the borrower has received the LE and has indicated an intent to proceed- then fees can be imposed. Here are two examples out of the Official Commentary:*



ii. A third party submits a consumer's application to a creditor and neither the creditor nor the third party imposes any fee, other than a bona fide and reasonable fee for obtaining a consumer's credit report, until the consumer receives the disclosures required under §1026.19(e)(1)(i) and indicates an intent to proceed with the transaction described by those disclosures.

iii. A third party submits a consumer's application to a creditor following a different creditor's denial of the consumer's application (or following the consumer's withdrawal of that application), and if a fee already has been assessed for obtaining the credit report, the new creditor or third party does not impose any additional fee until the consumer receives disclosures required under §1026.19(e)(1)(i) from the new creditor and indicates an intent to proceed with the transaction described by those disclosures.

5. **QUESTION:** Can you please confirm that we have the rounding correct?

Interest Rate would be disclosed as:

4  
4.50  
4.75  
4.875

APR would be disclosed as:

4  
4.500  
4.750  
4.875

**RESPONSE:** *The rule is very clear that APR is disclosed up to 3 decimal places (unless it is a whole number) 1026.37(o)(4)(ii). Your examples for APR match the rule. For the interest rate- the rules says it will be disclosed up to 2 or 3 decimal places. Your examples for the Interest rate match the rule.*

6. **QUESTION:** Once LE is issued, is it your opinion no Closing Cost worksheets should be used, even if the borrower asks the impact of additional down payment, lower/higher interest rate?

**RESPONSE:** *The actual language of the TRID Rule is not clear on whether closing cost worksheets (what the Rule refers to as "written estimates") may be used after a Loan Estimate has been provided. However, the preamble to the final Rule and other information published by the CFPB indicates these worksheets should not be used once a Loan Estimate has been provided to the consumer.*

*In the originally-proposed Rule, 1026.19(e)(2)(ii) stated that "if a creditor provides a consumer with a written estimate of terms or costs specific to that consumer before the consumer receives the disclosures required under paragraph (e)(1)(i) of this section [i.e.,*



*the Loan Estimate] and indicates intent to proceed with the transaction, the creditor shall clearly and conspicuously state at the top of the front of the first page of the estimate in a font size that is no smaller than 12-point font: “Your actual rate, payment, and costs could be higher. Get an official Loan Estimate before choosing a loan.” (emphasis added).*

*Based on comments received, the CFPB indicated in the preamble to the final Rule that it was “deleting the proposed timing requirement that the written estimate be provided before the consumer has indicated an intent to proceeds with the transaction ... because this requirement suggests that a written estimate could be provided even though a Loan Estimate had been provided.” 78 F.R. 79815. The CFPB went on to state that it “believes receiving a written estimate after a Loan Estimate has been provided will confuse consumers and create compliance burdens for industry.” Id.*

*In the final Rule, 1026.19(e)(2)(ii) now states “if a creditor or other person provides a consumer with a written estimate of terms or costs specific to that consumer before the consumer receives the disclosures required under paragraph (e)(1)(i) [i.e., the Loan Estimate] of this section, the creditor or such person shall clearly and conspicuously state at the top of the front of the first page of the estimate in a font size that is no smaller than 12-point font: “Your actual rate, payment, and costs could be higher. Get an official Loan Estimate before choosing a loan.”*

*Finally, as added data points we note that in Appendix H, the title of the Model Form of the disclosure required on the written estimate is titled “H-26 Mortgage Loan Transaction – Pre-Loan Estimate Statement – Model Form” (emphasis added). Additionally, the TRID Small Entity Compliance Guide contains the statement that TRID “does not prohibit a creditor or other person from providing a consumer with [a written estimate] prior to the consumer receiving the Loan Estimate.” The implication here is that providing such a written estimate after the consumer after receipt of the Loan Estimate would be prohibited under TRID.*

*Therefore, based on the totality of the information above, it is our opinion that the CFPB interprets TRID to prohibit closing cost worksheets from being provided to a consumer after the consumer has received the Loan Estimate. Consumer requested revisions to the credit terms or the settlement that cause an estimated charge to increase would allow a creditor to issue a revised Loan Estimate. See 1026.19(e)(3)(iv)(C).*

## **THE LOAN ESTIMATE DISCLOSURE (LE)**

1. **QUESTION:** What is the correct course of action if a Loan Estimate is provided to the borrower and the fees listed were not alphabetized correctly?

**RESPONSE:** §1026.37(f)(5) and (g)(7) require certain charges on page 2 of the Loan Estimate to be listed in alphabetical order. Failure to list these charges in alphabetical order through error or mistake is not a changed circumstance under §1026.19(e)(3)(iv)



permitting a revised Loan Estimate. §1026.37(o)(1)(ii) requires that the disclosures contain only the information required by paragraphs (a) through (n) and be made in the same order, and positioned relative to the master headings, headings, subheadings, labels, and similar designations in the same manner, as shown in form H-24. Failure to list these charges in alphabetical order is a violation of §1026.37(f)(5), (g)(7) and (o)(1)(ii) for which there is no cure, silly though this requirement is.

2. **QUESTION:** How should we list a Homeowners Association Transfer/Refinance Fee on the loan estimate (LE)? Should it be in the section where it states "Services you cannot shop for"?

**RESPONSE:** *If it is a fee for a service that is required by the creditor (such as a homeowners' association certification fee) it would be under "Services You Cannot Shop For" and would be a 0 tolerance item. If it is not associated with the credit transaction (such as HOA or condo association charges associated with the transfer of ownership) it would be disclosed under Section H "Other" (assuming that the creditor was aware of it at the time the LE was issued) and subject to an unlimited tolerance. See the below commentary.*

#### **37(f)(2) Services you cannot shop for.**

1. Services disclosed. Items included under the subheading "Services You Cannot Shop For" pursuant to §1026.37(f)(2) are for those services that the creditor requires in connection with the transaction that would be provided by persons other than the creditor or mortgage broker and for which the creditor does not permit the consumer to shop in accordance with §1026.19(e)(1)(vi). Comment 19(e)(1)(vi)-1 clarifies that a consumer is not permitted to shop if the consumer must choose a provider from a list provided by the creditor.

2. Examples of charges. Examples of the services and amounts to be disclosed pursuant to §1026.37(f)(2) might include an appraisal fee, appraisal management company fee, credit report fee, flood determination fee, government funding fee, homeowner's association certification fee, lender's attorney fee, tax status research fee, third-party subordination fee, title—closing protection letter fee, title—lender's title insurance policy, and an upfront mortgage insurance fee, provided that the fee is charged at consummation and is not a prepayment of future premiums over a specific future time period or a payment into an escrow account. Government funding fees include a United States Department of Veterans Affairs or United States Department of Agriculture guarantee fee, or any other fee paid to a government entity as part of a governmental loan program, that is paid at consummation.

#### **37(g)(4) Other.**

4. *Examples.* Examples of other items that are disclosed under §1026.37(g)(4) if the creditor is aware of those items when it issues the Loan Estimate include commissions of real estate brokers or agents, additional payments to the seller to purchase personal property pursuant to the property contract, homeowner's association and condominium charges associated with the transfer of ownership, and fees for inspections not required by the creditor but paid by the consumer pursuant to the



property contract. Although the consumer is obligated for these costs, they are not imposed upon the consumer by the creditor or loan originator. Therefore, they are not disclosed with the parenthetical description “(optional)” at the end of the label for the item, and they are disclosed pursuant to §1026.37(g) rather than §1026.37(f). Even if such items are not required to be disclosed on the Loan Estimate under §1026.37(g)(4), however, they may be required to be disclosed on the Closing Disclosure pursuant to §1026.38. Comment 19(e)(3)(iii)-3 discusses application of the good faith requirement for services chosen by the consumer that are not required by the creditor.

3. **QUESTION:** Where will the BMG Document Preparation fee be placed on the Loan Estimate (LE) effective on 10/3/15?

**RESPONSE:**

***B. Services You Cannot Shop For*** – *Items for which the consumer may not shop and will pay for at settlement. Creditor must describe each service in **alphabetical** order (but does **not** need to name the service provider).*

*Up to **13** services may be separately itemized. May aggregate beyond 13.*

***Examples:*** *Appraisal fee, Appraisal management company fee, Credit report fee, Flood determination fee, Government funding fee (i.e. VA or USDA guarantee fee, or any other fee paid to a government entity as part of a governmental loan program), Homeowners’ association certification fee, **Lender’s attorney fee**, Third-party subordination fee, Title fees if consumer may not shop, Up-front Mortgage Insurance fee (unless the fee is the prepayment of future premiums paid into an escrow account*

4. **QUESTION:** Do we have to itemize out each title company fee or can we show the closing/settlement fee and then lump all their other fees, courier, GARF, attorney etc., together as simply Title -Title Company Fees?

***RESPONSE:*** *The premium for the lender’s title policy must be separately itemized from the other title-related fees. See the commentary below. Also see sample LE (H-24 (B))and Service Provider List (H-27(B)) which contemplate itemization of distinct fees beginning with the word “title”.*

*37(f)(2) Services you cannot shop for.*

3. *Title insurance services.* The services required to be labeled beginning with “Title -” pursuant to §1026.37(f)(2) or (3) are those required for the issuance of title insurance policies to the creditor in connection with the consummation of the transaction or for conducting the closing. These services may include, for example:



- i. Examination and evaluation, based on relevant law and title insurance underwriting principles and guidelines, of the title evidence to determine the insurability of the title being examined and what items to include or exclude in any title commitment and policy to be issued;
- ii. Preparation and issuance of the title commitment or other document that discloses the status of the title as it is proposed to be insured, identifies the conditions that must be met before the policy will be issued, and obligates the insurer to issue a policy of title insurance if such conditions are met;
- iii. Resolution of underwriting issues and taking the steps needed to satisfy any conditions for the issuance of the policies;
- iv. Preparation and issuance of the policy or policies of title insurance; and
- v. Premiums for any title insurance coverage for the benefit of the creditor.

4. ***Lender's title insurance policy.*** Section 1026.37(f)(2) and (3) requires disclosure of the amount the consumer will pay for the lender's title insurance policy. However, an owner's title insurance policy that covers the consumer and is not required to be purchased by the creditor is only disclosed pursuant to §1026.37(g). Accordingly, the creditor must quote the amount of the lender's title insurance coverage pursuant to §1026.37(f)(2) or (3) as applicable based on the type of lender's title insurance policy required by its underwriting standards for that loan. The amount disclosed for the lender's title insurance policy pursuant to §1026.37(f)(2) or (3) is the amount of the premium without any adjustment that might be made for the simultaneous purchase of an owner's title insurance policy. This amount may be disclosed as "Title —Premium for Lender's Coverage," or in any similar manner that clearly indicates the amount of the premium disclosed pursuant to §1026.37(f)(2) is for the lender's title insurance coverage. See comment 37(g)(4)-1 for a discussion of the disclosure of the premium for an owner's title insurance policy that covers the consumer.

5. **QUESTION:** Do we have to itemize the lender's title endorsements or can we lump them all together under Title- Title Endorsement? My understanding is that for Texas they will be itemized on the new Texas Disclosure form, but wasn't sure if we could do a lump sum on the LE and CD.

**RESPONSE:** *The regs do not mandate a separate itemization of lender required endorsements. See the above commentary, which only requires the creditor to quote the amount for the lender's title insurance coverage. As you have pointed out, various states will have additional disclosure requirements according to state law.*

6. **QUESTION:** Fees such as a RE Commission and other items that would be reflected in section H – do these fees all have to be show on the LE if we are aware of them by virtue





of the purchase contract or just the CD? If they have to be shown on the LE due to the fact that we have a purchase contract, what issues do we run into if we miss showing it on the LE since these are non-variance fees?

**RESPONSE:** *See the below commentary for the general good faith requirement for these items.*

*19(e)(3) Good faith determination for estimates of closing costs.*

*19(e)(3)(iii) Variations permitted for certain charges.*

*3. Good faith requirement for non-required services chosen by the consumer.* Differences between the amounts of estimated charges for services not required by the creditor disclosed pursuant to §1026.19(e)(1)(i) and the amounts of such charges paid by or imposed on the consumer do not constitute a lack of good faith, so long as the original estimated charge, or lack of an estimated charge for a particular service, was based on the best information reasonably available to the creditor at the time the disclosure was provided. For example, if the consumer informs the creditor that the consumer will obtain a type of inspection not required by the creditor, the creditor must include the charge for that item in the disclosures provided pursuant to §1026.19(e)(1)(i), but the actual amount of the inspection fee need not be compared to the original estimate for the inspection fee to perform the good faith analysis required by §1026.19(e)(3)(iii). The original estimated charge, or lack of an estimated charge for a particular service, complies with §1026.19(e)(3)(iii) if it is made based on the best information reasonably available to the creditor at the time that the estimate was provided. But, for example, if the subject property is located in a jurisdiction where consumers are customarily represented at closing by their own attorney, even though it is not a requirement, and the creditor fails to include a fee for the consumer's attorney, or includes an unreasonably low estimate for such fee, on the original estimates provided pursuant to §1026.19(e)(1)(i), then the creditor's failure to disclose, or under-estimation, does not comply with §1026.19(e)(3)(iii).

7. **QUESTION:** For tax proration it is our understanding that this would not be reflected on the LE, because we are only disclosing what we anticipate the borrower to be paying. However, on the CD do we have to list the proration under Adjustments and other Credits as well as showing them on page three on the summary of transaction?

**RESPONSE:** *That is correct.*

8. **QUESTION:** Should the seller paid closing cost be itemized on the LE and CD or can they just be shown as a lump sum?

**RESPONSE:** *On the LE, Seller Credits are disclosed in the "Calculating Cash to Close" section on page 2 of the LE and are disclosed as a lump sum and not itemized (this would include closing costs the seller has agreed to pay and that are known by the lender at the time of providing the LE).*



On the CD, if there are Seller Credits, they are disclosed as a lump sum in the “Calculating Cash n and in section N and section L on page 3 of the CD. However, for closing costs specifically paid by the seller, these are disclosed individually on page 2 of the CD in the Closing Cost Details section under the Seller-Paid column and would not be included in the lump sum Seller Credits disclosures (if any) on the CD. This issue is lender driven - for example, if the seller has agreed to pay \$3000 toward the borrower’s closing costs and out of that \$3000 the lender wants certain borrower closing costs to be paid by the seller, these costs would be disclosed on page 2 of the CD in the Closing Cost Details section under the Seller-Paid column and the balance of the \$3000 (if any) would be disclosed as lump sum Seller Credits in the “Calculating Cash to Close” section and in section N and section L on page 3 of the CD.

### **THE CLOSING DISCLOSURE (CD)**

1. **QUESTION:** One Day CD Inspection -- I know that they consumer has the right to inspect the final CD one day prior to closing however, if there is a change in the CD that does not require a three day wait period, can the change be made at closing table or are we now required to wait one day before we actually close or only when the consumer request a one day prior review?

**RESPONSE:** *§1026.19(f)(2) and its comments 19(f)(2)(i)-1 and -2 are very unclear how to resolve this issue. We can only advise that if there is sufficient time to allow the borrower to inspect the revised CD one business day prior to closing that you allow him to do so and if there is no time because of when the change occurred, that you advise him at closing of his right for a 1 business day inspection and allow him to either exercise it or waive it.*

2. **QUESTION:** Tax Question: What section would we list the amount of taxes that have to be paid as we near the end of the year? Would they go into section F of the CD or section H?

**RESPONSE:** *Property Taxes paid at closing would go in section F of the LE for property taxes due within 60 days after closing and for past-due property taxes (see §1026.37(g)(2)(iv); comment 37(g)(2)-1.i and -1.ii). These same property taxes also would be disclosed in section F of the CD (see §1026.38(g)(2); comment 38(g)(2)).*

3. **QUESTION:** Where does the Real Estate commission go on the CD?

**RESPONSE:** *It goes in subsection H “Other” under the “Other Costs” Section on page 2 of the CD. (see §1026.38(g)(4) and comment 38(g)(4)-1).*



4. **QUESTION:** Seller Credits: How are seller paid credits and charges to be allocated on the Closing Disclosure? Are there specific requirements on how they are listed in the contract to be able to itemize them on the Closing Disclosure?

When itemized, is there an expected order of allocation on finance vs. non finance charges? If they aren't allocated on the loan estimate, will that cause issues when they are later allocated on the closing disclosure with pattern of practice and APR routinely being lower? For example, your LO does not apply seller paid closing costs to specific fees on the LE since it is a lump sum in section "calculating cash to close", but in closing you apply seller paid closing costs to both PFC and non-PFC and your APR is always lowered at closing. Is this an issue?

**RESPONSE:**

- **Q.** *How are seller paid credits and charges to be allocated on the Closing Disclosure?*
  - A.** *If it is a generalized credit from the seller, the credit is reflected as a total in the "Calculating Cash to Close" table under "Seller Credits" as a negative total amount. However, if the seller credit is attributable to a specific loan cost or other cost listed in the "Closing Cost Details" tables, that amount is reflected in the seller-paid column in the Closing Cost Details tables.*
  
- **Q.** *Are there specific requirements on how they are listed in the contract to be able to itemize on the Closing Disclosure?*
  - A.** *No, other than the statement in comment 38(j)(2)(v)-1 that states, "When the consumer receives a generalized credit from the seller for closing costs or where the seller (typically a builder) is making an allowance to the consumer for items to purchase separately, the amount of the credit must be disclosed. However, if the seller credit is attributable to a specific loan cost or other cost listed in the Closing Cost Details tables, pursuant to §1026.38(f) or (g), that amount should be reflected in the seller-paid column in the Closing Cost Details tables under §1026.38(f) or (g)."*
  
- **Q.** *When itemized, is there an expected order of allocation on finance vs. non finance charges?*
  - A.** *Again, refer to comment 38(j)(2)(v)-1 and any specific requirements in the contract between buyer and seller.*
  
- **Q.** *If they aren't allocated on the loan estimate, will that cause issues when they are later allocated on the closing disclosure ... and APR routinely being lower?*
  - A.** *It should not if you are allocating in accordance with the rule and any seller required allocation under the contract.*



## **CHANGE OF CIRCUMSTANCE**

1. **QUESTION:** Under Section 1026.19(e)(3)(iv) – First, if we have a borrower that we disclosed a \$25 credit report fee and the file goes long due to delays on the property evaluation and we have to order a new credit report may I re-disclose this additional fee under changed circumstances?

Second, what if we have to get an update due to an erroneous reporting on the credit report and there is a fee, for example an account shows disputed but the member removes the dispute and there is a supplemental charge for this updated report, can we re-disclose this updated fee?

**RESPONSE:** *The answer to your questions depend upon the circumstances you describe being a change of circumstance under §1026.19(e)(3)(iv). As you know, §1026.19(e)(3)(iv) describes very specific change of circumstance criteria and the reason for a revised LE would have to fit under one or more of those criteria. From your email, we cannot tell if that is the case. For example, in the first question, is the credit report out of date due to legal or investor requirements; what caused the property evaluation delay – lender negligence or other non-justifiable lender delay, or was the delay caused by the borrower or a third party; is the lender under a legal or investor obligation to order a new credit report? As for the second question, is the credit update needed to qualify the borrower for the requested loan, or is the lender getting an update only for the purpose of having a “clean” report, or did the borrower request that you update the credit report? All of these bear on whether you have an allowable change of circumstance under §1026.19(e)(3)(iv). Assuming that the circumstances described in your questions are such that they do qualify as a change of circumstance, then a revised disclosure (either LE or CD depending on the timing) is permitted because a credit report is a third party charge subject to a zero tolerance limit under §1026.19(e)(3)(i).*

2. **QUESTION:** Is there a difference between a borrower-requested change and a changed circumstance for purposes of re-baselining fees subject to the 10% tolerance?

**RESPONSE:** *Yes. The reset of fees and charges subject to 10% tolerance under 1026.19(e)(3)(ii) is treated differently for revisions requested by the consumer under 1026.19(e)(3)(iv)(C) as compared to a changed circumstance affecting settlement charges under 1026.19(e)(3)(iv)(A). See commentary below.*

### **19(e)(3)(iv)(C) Revisions requested by the consumer.**

1. Requirement. If the consumer requests revisions to the transaction that affect items disclosed pursuant to §1026.19(e)(1)(i), and the creditor provides revised disclosures reflecting the consumer's requested changes, the final disclosures are compared to the revised disclosures to determine whether the actual fee has increased above the estimated fee. For example, assume that the consumer decides to grant a power of attorney authorizing a family member to consummate the



transaction on the consumer's behalf after the disclosures required under §1026.19(e)(1)(i) are provided. If the creditor provides revised disclosures reflecting the fee to record the power of attorney (10% fee under 1026.19(e)(3)(ii)), then the actual charges will be compared to the revised charges to determine if the fees have increased.

19(e)(3)(iv)(A) **Changed circumstance affecting settlement charges.**

1. Requirement. For the purpose of determining good faith under §1026.19(e)(3)(i) and (ii), revised charges are compared to actual charges if the revision was caused by a changed circumstance. See also comment 19(e)(3)(iv)(A)-2 regarding the definition of a changed circumstance. The following examples illustrate the application of this provision

ii. *Charges subject to the ten percent tolerance category.* Assume a creditor provides a \$400 estimate of title fees, which are included in the category of fees which may not increase by more than 10 percent for the purposes of determining good faith under §1026.19(e)(3)(ii), except as provided in §1026.19(e)(3)(iv). An unreleased lien is discovered and the title company must perform additional work to release the lien. However, the additional costs amount to only a five percent increase over the sum of all fees included in the category of fees which may not increase by more than 10 percent. A changed circumstance has occurred (*i.e.*, new information), but the sum of all costs subject to the 10 percent tolerance category has not increased by more than 10 percent. Section 1026.19(e)(3)(iv) does not prohibit the creditor from issuing revised disclosures, but if the creditor issues revised disclosures in this scenario, when the disclosures required by §1026.19(f)(1)(i) are delivered, the actual title fees of \$500 may not be compared to the revised title fees of \$500; they must be compared to the originally estimated title fees of \$400 because the changed circumstance did not cause the sum of all costs subject to the 10 percent tolerance category to increase by more than 10 percent.

2. **Changed circumstance.** A changed circumstance may be an extraordinary event beyond the control of any interested party. For example, a war or a natural disaster would be an extraordinary event beyond the control of an interested party. A changed circumstance may also be an unexpected event specific to the consumer or the transaction. For example, if the creditor provided an estimate of title insurance on the disclosures required under §1026.19(e)(1)(i), but the title insurer goes out of business during underwriting, then this unexpected event specific to the transaction is a changed circumstance. A changed circumstance may also be information specific to the consumer or transaction that the creditor relied upon when providing the disclosures required under §1026.19(e)(1)(i) and that was inaccurate or changed after the disclosures were provided. For example, if the creditor relied on the consumer's income when providing the disclosures required under §1026.19(e)(1)(i), and the consumer represented to the creditor that the consumer had an annual income of \$90,000, but underwriting determines that the consumer's annual income is only \$80,000, then this inaccuracy in information relied upon is a changed circumstance. Or, assume



two co-applicants applied for a mortgage loan. One applicant's income was \$30,000, while the other applicant's income was \$50,000. If the creditor relied on the combined income of \$80,000 when providing the disclosures required under §1026.19(e)(1)(i), but the applicant earning \$30,000 becomes unemployed during underwriting, thereby reducing the combined income to \$50,000, then this change in information relied upon is a changed circumstance. A changed circumstance may also be the discovery of new information specific to the consumer or transaction that the creditor did not rely on when providing the original disclosures required under §1026.19(e)(1)(i). For example, if the creditor relied upon the value of the property in providing the disclosures required under §1026.19(e)(1)(i), but during underwriting a neighbor of the seller, upon learning of the impending sale of the property, files a claim contesting the boundary of the property to be sold, then this new information specific to the transaction is a changed circumstance.

***also see comment***

19(e)(4) Provision and receipt of revised disclosures.

19(e)(4)(i)-1

ii. Assume a creditor receives information on Monday that, because of a ***changed circumstance*** under §1026.19(e)(3)(iv)(A), the title fees will increase by an amount totaling six percent of the originally estimated settlement charges subject to §1026.19(e)(3)(ii). The creditor had received information three weeks before that, because of a changed circumstance under §1026.19(e)(3)(iv)(A), the pest inspection fees increased by an amount totaling five percent of the originally estimated settlement charges subject to §1026.19(e)(3)(ii). Thus, on Monday, the creditor has received sufficient information to establish a valid reason for revision and must provide revised disclosures reflecting the 11 percent increase by Thursday to comply with §1026.19(e)(4)(i).

## **CHARGING FEES PRIOR TO RECEIVING INTENT TO PROCEED**

1. **QUESTION:** We have a process where we authorize the credit report fee (not charge), wait for intent to proceed and then charge for the appraisal deposit after the borrower has received their GFE and given their intent to proceed.

The way we read the new TRID requirements, the only way we can use a previously collected credit card number to charge for a fee after intent to proceed is if the credit card number was collected for the charging of a credit report fee and if we have a “separate authorization” to charge the subsequent fee. We plan on incorporating the “separate authorization” and intent to proceed in a document that we will have signed by the borrower after they receive the loan estimate so we’ll be covered there.

My question for you is, what is the risk involved in collecting the credit card number to “authorize” but not charge for the credit report fee? We are worried that a regulator would see that as a sham and would argue that the only reason why we’re collecting the



credit card number is to make the borrower feel obligated to proceed with us but that the only fee we were actually interested in getting from the borrower was the appraisal deposit itself. Do you feel the “authorization” v. charge nature of the credit report fee opens us up to risk post-TRID?

***RESPONSE:*** *If we correctly understand your email, you do not charge the consumer for the credit report application, but collect the consumer’s credit card information. Below is the commentary on imposing fees prior to receiving a consumer’s intent to proceed. As you point out, it is permissible to keep the credit card information and obtain a separate authorization to charge the appraisal fee after receiving the consumer’s intent to proceed. However, we believe that the commentary presumes that the creditor will charge the credit card for the credit report, as authorized by 1026.19(e)(2)(B). Based on the below commentary, we agree with your concern that the CFPB may view the practice of collecting credit card information, prior to receiving an intent to proceed, as a violation of 19(e)(2)(i)(A), if you do not intend to charge the consumer for the credit report prior to receiving an intent to proceed, as authorized by 19(e)(2)(i)(B).*

*19(e)(2) Pre-disclosure activity.*

*19(e)(2)(i) Imposition of fees on consumer.*

*19(e)(2)(i)(A) Fee restriction.*

1. *Fees restricted.* A creditor or other person may not impose any fee, such as for an application, appraisal, or underwriting, until the consumer has received the disclosures required by §1026.19(e)(1)(i) and indicated an intent to proceed with the transaction. The only exception to the fee restriction allows the creditor or other person to impose a bona fide and reasonable fee for obtaining a consumer's credit report, pursuant to §1026.19(e)(2)(i)(B).

3. *Timing of fees.* At any time prior to delivery of the disclosures required under §1026.19(e)(1)(i), a creditor or other person may impose a credit report fee in connection with the consumer's application for a mortgage loan that is subject to §1026.19(e)(1)(i) as provided in §1026.19(e)(2)(i)(B). The consumer must have received the disclosures required under §1026.19(e)(1)(i) and indicated an intent to proceed with the transaction described by those disclosures before paying or incurring any other fee imposed by a creditor or other person in connection with the consumer's application for a mortgage loan that is subject to §1026.19(e)(1)(i).

5. *Fees “imposed by” a person.* For purposes of §1026.19(e), a fee is “imposed by” a person if the person requires a consumer to provide a method for payment, even if the payment is not made at that time. For example, if a creditor or other person requires the consumer to provide a \$500 check to pay for a “processing fee” before the consumer receives the disclosures required by §1026.19(e)(1)(i), the creditor or other person does not comply with §1026.19(e)(2)(i), even if the creditor or other person had stated that the check will not be cashed until after the disclosures required by §1026.19(e)(1)(i) are received by the consumer and waited until after the consumer subsequently indicated an intent to proceed to cash the check. Similarly, a creditor or other person does not comply



with the requirements of §1026.19(e)(2)(i) if the creditor or other person requires the consumer to provide a credit card number before the consumer receives the disclosures required by §1026.19(e)(1)(i), even if the creditor or other person had promised not to charge the consumer's credit card for the \$500 processing fee until after the disclosures required by §1026.19(e)(1)(i) are received by the consumer and waited until after the consumer subsequently indicated an intent to proceed. In contrast, a creditor or other person complies with §1026.19(e)(2)(i) if the creditor or other person requires the consumer to provide a credit card number before the consumer receives the disclosures required by §1026.19(e)(1)(i) and subsequently indicates an intent to proceed, provided that the consumer's authorization is only to pay for the cost of a credit report and the creditor or other person only charges a reasonable and bona fide fee for obtaining the consumer's credit report. This is so even if the creditor or other person maintains the consumer's credit card number on file and charges the consumer a \$500 processing fee after the disclosures required by §1026.19(e)(1)(i) are received and the consumer subsequently indicates an intent to proceed with the transaction described by those disclosures, provided that the creditor or other person requested and received a separate authorization from the consumer for the processing fee after the consumer received the disclosures required by §1026.19(e)(1)(i) and indicated an intent to proceed with the transaction described by those disclosures.

*19(e)(2)(i)(B) Exception to fee restriction.*

1. *Requirements.* A creditor or other person may impose a fee before the consumer receives the required disclosures if the fee is for purchasing a credit report on the consumer. The fee also must be bona fide and reasonable in amount. For example, a creditor or other person may collect a fee for obtaining a credit report if it is in the creditor's or other person's ordinary course of business to obtain a credit report. If the criteria in §1026.19(e)(2)(i)(B) are met, the creditor or other person must accurately describe or refer to this fee, for example, as a "credit report fee."

#### **DOCUMENT PREPARATION FEES (THIRD PARTY)**

1. **QUESTION:** Please listen to the 57:00 mark on this subject from the 10.1.14 CFPB webinar. It appears that CFPB will now allow our doc prep fee to be disclosed in Section B of the LE under "Services You Cannot Shop For". Unlike the 2010 RESPA Rules, the TRID Rules seem to look to whom the charge is paid (See 1026.37(f)(1) defining "Origination Charges" as fees paid to the creditor and loan originator, and 1026.37(f)(2) defining "Services You Cannot Shop For" as amounts the consumer will pay for in settlement services for which the consumer may not shop and that are provided by persons other than the creditor or mortgage broker) for fees that were previously rolled into "Our Origination Charge". Your thoughts?

<http://www.webcaster4.com/Player/Index?webcastId=5700&uid=662594&g=640e8a44-c14a-4c65-b4f0-f6cbb7bc157b&sid=#>

**RESPONSE:** *We agree.*





## **DOWNPAYMENT AND CLOSING COST ASSISTANCE**

1. **QUESTION:** Is it your understanding that we would need to list the amount of the down payment assistance from government agencies on the LE in the Adjustments and Other Credit section of the Calculating Cash to Close like we do with the gift funds?

**RESPONSE:** Yes. 1026.37(h)(1)(vii), Adjustments and other credits, in pertinent part requires the disclosure of “any other amounts that are required to be paid by the consumer at closing pursuant to a purchase and sale contract ... .” Comment 37(h)(1)(vii)-4 states that “[c]redits other than those from the creditor or seller are disclosed under §1037.(h)(1)(vii).” Comment 37(h)(1)(vii)-5 states “[f]unds that are provided to the consumer from the proceeds of ... local or State housing assistance grants, or other similar sources are included in the amount disclosed under §1026.37(h)(1)(vii).”

## **HOA CERTIFICATION FEE V. TRANSFER FEE**

1. **QUESTION:** The HOA fee. Is that also a zero tolerance fee? I’m thinking so because it’s a third party fee that the borrower CANNOT shop for or is it handled like other taxes and assessments?

**RESPONSE:** It depends on what is meant by “the HOA fee”. If it is a fee for a service that is required by the creditor (such as a homeowners’ association certification fee) it would be under “Services You Cannot Shop For” and would be a 0 tolerance item. If it is not associated with the credit transaction (such as HOA or condo association charges associated with the transfer of ownership) it would be disclosed under Section H “Other” (assuming that the creditor was aware of it at the time the LE was issued) and subject to an unlimited tolerance. See the below commentary.

### **37(f)(2) Services you cannot shop for.**

1. Services disclosed. Items included under the subheading “Services You Cannot Shop For” pursuant to §1026.37(f)(2) are for those **services that the creditor requires in connection with the transaction** that would be provided by persons other than the creditor or mortgage broker and for which the creditor does not permit the consumer to shop in accordance with §1026.19(e)(1)(vi). Comment 19(e)(1)(vi)-1 clarifies that a consumer is not permitted to shop if the consumer must choose a provider from a list provided by the creditor.

2. Examples of charges. Examples of the services and amounts to be disclosed pursuant to §1026.37(f)(2) might include an appraisal fee, appraisal management company fee, credit report fee, flood determination fee, government funding fee, **homeowner’s association certification fee**, lender’s attorney fee, tax status research fee, third-party subordination fee, title—closing protection letter fee, title—lender’s title insurance policy, and an upfront mortgage insurance fee, provided that the fee is charged at consummation and is not a prepayment of future premiums over a specific future time period or a payment into an escrow account. Government funding fees include a United States Department of Veterans Affairs or United States Department of Agriculture guarantee fee, or any other fee paid to a government entity as part of a governmental loan program, that is paid at consummation.



#### **37(g)(4) Other.**

4. Examples. Examples of other items that are disclosed under §1026.37(g)(4) if the creditor is aware of those items when it issues the Loan Estimate include commissions of real estate brokers or agents, additional payments to the seller to purchase personal property pursuant to the property contract, homeowner's association and condominium charges associated with the transfer of ownership, and fees for inspections not required by consumer pursuant to the property contract. Although the consumer is obligated for these costs, they are not imposed upon the consumer by the creditor or loan originator. Therefore, they are not disclosed with the parenthetical description "(optional)" at the end of the label for the item, and they are disclosed pursuant to §1026.37(g) rather than §1026.37(f). Even if such items are not required to be disclosed on the Loan Estimate under §1026.37(g)(4), however, they may be required to be disclosed on the Closing Disclosure pursuant to §1026.38.

#### **LOAN APPLICATION MATCH TO CLOSING DISCLOSURE (CD)**

1. **QUESTION:** Does the final 1003 have to match the CD exactly?

**RESPONSE:** *The LE and CD must disclose the loan that is applied for in the loan application, but whether the loan application has to match these disclosures exactly is an investor requirement.*

#### **LOAN PURPOSE DISCLOSURE**

1. **QUESTION:** 1) CONSTRUCTION – Would include loans for the actual construction (interim loan), as well as, a loan that includes a one-time close options where the construction loan and the permanent loan are closed as one transaction. 2) COMBINED LOANS – Such as FHA 203K loans and FNMA Renovation loans that include either the purchase or refinance of home plus renovation funds. Are these to be shown as Home Equity loans or under the purchase or refinance purpose?

**RESPONSE:** *1) CONSTRUCTION -- Yes, but only if the construction is for the initial construction of a dwelling. 2) COMBINED LOANS -- The TRID Rule is clear on this point, but we believe these loans would be disclosed under either purchase (if primary purpose was a purchase) or refinance (if the primary purpose is refinance of existing lien).*

#### **LPMI DISCLOSURE (Lender Paid Mortgage Insurance)**

1. **QUESTION:** We are trying to make a final decision on our position on proper disclosure of single premium LPMI under the new TRID regulations. We were originally going with the same as under RESPA today, which would mean it's not disclosed on either the LE nor the CD, since it's already accounted for by the borrower paying a higher rate. This



position was agreed by other experts at the time. However, one of the major mortgage insurers—United Guaranty—recently published an LPMI position statement indicating that they believe LPMI should be disclosed on the CD but not on the LE. And our software vendor’s update just released includes LPMI disclosure on both forms, which presents other issues with lender credits to offset/etc. We’d love to get your opinion on this issue.

***RESPONSE:*** *In reviewing the applicable sections of 1026.37 and .38 and their respective commentary and the CFPB Guide to the Loan Estimate and Closing Disclosure forms, we believe that lender paid MI (i.e., paid from the interest rate) is not disclosed on the LE or the CD as it does not represent a closing cost to the consumer.*

### **MULTIPLE CONSUMERS – DELIVERY**

1. **QUESTION:** Who should receive the Loan Estimate & Closing Disclosure when there are multiple consumers (i.e. Non-Purchasing Spouse). I would say anyone who is obligated on the loan. What is the right answer?

***RESPONSE:*** *The answer is the same as it is now for the pre-TRID disclosures: (1) for non-rescindable loans, the answer is any consumer who is primarily liable on the loan; and (2) for a rescindable loan, the answer is each consumer who has the right to rescind which includes (i) any non-borrowing spouse or (ii) other natural person who has an ownership interest in the property and who occupies the property as her/his principal dwelling. See sections of Regulation Z below:*

§1026.2(a)(11): Consumer means a ... natural person to whom consumer credit is offered or extended. However, for purposes of rescission under ...§1026.23, the term also includes a natural person in whose principal dwelling a security interest is or will be retained or acquired, if that person's ownership interest in the dwelling is or will be subject to the security interest.

§1026.17(d): ... If there is more than one consumer, the disclosures may be made to any consumer who is primarily liable on the obligation. If the transaction is rescindable under §1026.23, however, the disclosures shall be made to each consumer who has the right to rescind.

§1026.23(a): ... In a credit transaction in which a security interest is or will be retained or acquired in a consumer's principal dwelling, each consumer whose ownership interest is or will be subject to the security interest shall have the right to rescind the transaction ... .

### **PREQUALIFICATION OR PRE-APPROVAL LETTER**

1. **QUESTION:** Can you verify for me is this is a true statement? We are being told that the Pre-Qual or Pre-Approval letter cannot be e-mailed to the borrower, that it would have to go thru the Encompass Web Center.



“Be aware that Compliance has said that a Pre-Qual or Pre-Approval letter can’t be e-mailed to the borrower, as this would be a violation of the E-sign Act. It must go through the Web Center using E-sign.”

***RESPONSE:*** *In Texas – the information required in the Pre-Qual or Pre-Approval letter - is set forth in the regulation. If that information is to be delivered electronically- you must follow the e-signature rules which require prior consent. See below:*

Consumer disclosures

(1) Consent to electronic records

Notwithstanding subsection (a) of this section, if a statute, regulation, or other rule of law requires that information relating to a transaction or transactions in or affecting interstate or foreign commerce be provided or made available to a consumer in writing, the use of an electronic record to provide or make available (whichever is required) such information satisfies the requirement that such information be in writing if -

(A) the consumer has affirmatively consented to such use and has not withdrawn such consent;

(B) the consumer, prior to consenting, is provided with a clear and conspicuous statement -

(i) informing the consumer of (I) any right or option of the consumer to have the record provided or made available on paper or in nonelectronic form, and (II) the right of the consumer to withdraw the consent to have the record provided or made available in an electronic form and of any conditions, consequences (which may include termination of the parties' relationship), or fees in the event of such withdrawal;

(ii) informing the consumer of whether the consent applies (I) only to the particular transaction which gave rise to the obligation to provide the record, or (II) to identified categories of records that may be provided or made available during the course of the parties' relationship;

(iii) describing the procedures the consumer must use to withdraw consent as provided in clause (i) and to update information needed to contact the consumer electronically; and

(iv) informing the consumer (I) how, after the consent, the consumer may, upon request, obtain a paper copy of an electronic record, and (II) whether any fee will be charged for such copy

### **SERVICE PROVIDER LIST**

1. **QUESTION:** Do we have to add a termite company to our service provider list and do we really have to give \$ amounts for each of our service providers?

***RESPONSE:*** *(1) Like the present rule, TRID does not require the lender to give the borrower the opportunity to shop for settlement services; but like the present rule, if the lender does allow the borrower to shop for settlement services, the TRID rule requires that lender give the borrower a service provider list of the services the lender allows the*



borrower to shop for but does not require any particular service to be on the list. Allowing the borrower to shop for settlement services and which services to shop for are at the lender's discretion. In summary, if you are going to allow the borrower to shop for a lender required termite inspection service, then that service must be on a service provider list. If you are not going to allow the borrower to shop for a termite inspection service, then NO that service does not have to be on a service provider list. TRID Rule §1026.19(e)(1)(vi)(C) states: "If the consumer is permitted to shop for a settlement service, the creditor shall provide the consumer with a written list identifying available providers of that settlement service and stating that the consumer may choose a different provider for that service. The creditor must identify at least one available provider for each settlement service for which the consumer is permitted to shop. The creditor shall provide this written list of settlement service providers separately from the [Loan Estimate] but in accordance with the [three business day] timing requirement [for providing the Loan Estimate]." Comment 19(e)(1)(vi) provides that the settlement service providers identified on the written list of providers must correspond to the settlement services listed in Section C "Services You Can Shop For" on the Loan Estimate. Form H-27(B) from Appendix to the TRID Rule is a sample of the Written List of Providers. (2) Although model form H-27(B) discloses an estimated cost for the services that can be shopped for, there is no requirement under TRID for fees to be included on the list of providers. You will, however, have to disclose an estimated cost in Section C of the Loan Estimate.

2. **QUESTION:** If we have a purchase contract that specifies a title company are we now required to show them on our provider list and use their fees on the LE?

**RESPONSE:** No. Doing so would bring the title fees under the 10% Tolerance. Likewise, by using the estimated fees of the title company selected by the consumer on the LE, the creditor will be subject to the 10% tolerance for those fees in the event that the consumer later decides to switch to the title company from the creditor's list.

#### **TITLE COMPANY FEES**

1. **QUESTION:** We attended some training that stated the title fees such as the title copy fee, courier fee, e-recording fee, wire fees, etc. would go in section H because it is not a fee that the lender requires. Our LOS system is stating that they should go in section B or C because the rule states any fee for conducting the settlement should be shown there. What is your guidance on this issue?

**RESPONSE:** Fees associated with the issuance of the Lender's Title Policy should go in Sections B or C of the LE and CD.

The Statutory Language that covers the charges that must go in sections B & C on the LE and CD largely track. So, as an example, "under the subheading "Services You Cannot



*Shop For,” an itemization of each amount, and a subtotal of all such amounts, the consumer will pay for settlement services for which the consumer cannot shop ... and that are provided by persons other than the creditor or mortgage broker.” 12 CFR 1026.37(f)(2) (emphasis added). The official commentary limits the services that must be disclosed in B or C to those “that the creditor requires in connection with the transaction that would be provided by persons other than the creditor or mortgage broker.” See Comments 37(f)(2) and (f)(3).*

*“Settlement service” is not defined in the Reg. Z. Reg. X defines a “settlement service” to include the “preparation of documents, including notarization, delivery, and recordation” (courier fee, e-recording) and “provision of services related to the .... Funding of a federally-related mortgage loan” (wire fee). See 12 CFR 1024(b). Oddly though, it does not appear that Reg. Z explicitly adopted the Reg. X definition of “settlement service” for purposes of the completion and delivery of the LE or CD! However, given the “integrated” nature of TRID, it is logical to apply the Reg. X definition to the TRID requirements. Putting all that together, it’s our opinion the fees should be disclosed in Section B or C, as appropriate.*

*Additionally, with respect to courier fees, an example provided by the CFPB places the fee in section C. Also, comment 1026.38(e)(2)(iii)(A)(2)(ii) uses the following example in calculating totals of excess amounts:*

*For Example, if the Loan Estimate included under “Services You Cannot Shop For” a \$30 charge for a “title courier fee”, but the title company elects to hand-deliver the title documents package to the creditor at no charge, the \$30 fee is not factored into the calculation of the “Total Closing Costs” that are subject to the limitations on increases in closing costs.*