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**To:** Clients and Friends

**From:** Shawn P. Black and David F. Dulock

**Subject:** CFPB Releases updates to TRID Small Entity Compliance Guide and Guide to Loan Estimate and Closing Disclosure Forms

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On October 12, 2016, the Consumer Financial Protection Bureau (“CFPB”) provided updated versions of the Know Before You Owe mortgage disclosure rule Small Entity Compliance Guide (“SECG”) and the Guide to Loan Estimate and Closing Disclosure Forms (“GTF”). The updates represent the fourth revisions to the Guides, which were originally published in April, 2014. According to the CFPB, the updated Guides incorporate guidance from existing webinars to add clarity on various topics. The updated Guides do not reflect the proposed amendments published by the CFPB on July 29, 2016, for which the public comment period expired on October 18th. Below are some of the highlights contained in the updated Guides:

- Section 10.7 of the SECG is updated to provide that seller-paid **Loan Costs** and **Other Costs** are required to be disclosed on page 2 of the consumer’s Closing Disclosure, regardless of whether a separate Closing Disclosure is provided to the seller. Examples of these costs include, but are not limited to, seller-paid real estate commissions and non-commission real estate brokerage or agent charges for services to the seller or consumer. This requirement was initially discussed in the CFPB’s April 12, 2016 webinar, in which the CFPB referred to 1026.38(t)(5)(v)(B) as authority for leaving information regarding the consumer’s **Loan Costs** and **Other Costs** blank on the seller’s Closing Disclosure but not providing the same authority with respect to omitting the seller’s **Loan Costs** and **Other Costs** on the consumer’s Closing Disclosure.
- In response to conflicting interpretations within the industry, section 2.2.3 of the GTF is updated to address the appropriate number of columns to be shown on the **Projected Payments** table for adjustable-rate loans. The updated section states that the **Projected Payments** table will have a new column, up to a maximum of four columns, for each scheduled rate adjustment. This applies even if the range of payments will stay the same because the range is the minimum and maximum interest rate caps listed in the contract.
- New sections 6.9 through 6.11 are added to the SECG. New section 6.9 confirms that online application systems may not refuse to accept applications on the basis that they lack information that the creditor normally would prefer to have beyond the six pieces of information comprising an application. New section 6.10 provides that the obligation to provide a Loan Estimate is only triggered upon submission of the six pieces of information comprising an application for purposes of obtaining credit and that the information is not deemed submitted simply because it exists on a creditor’s system or in its file. New section 6.11 provides guidance on when a creditor may review documentation or additional information voluntarily submitted by the consumer prior to providing a Loan Estimate, including circumstances involving pre-approval or pre-qualification requests.

- New section 13.4 is added to the SECG to address the question of when a creditor must separately disclose third-party administrative or processing fees on the Loan Estimate and Closing Disclosure. Relying on Comment 37(f)(1)-1, section 13.4 states that the answer depends on whether the creditor requires the consumer to pay for the charge. If the creditor treats the charge as a normal business overhead expense, such as rent, utilities and wages, the charge should not be separately itemized.
- A new chapter 14 (sections 14.1 through 14.13) is added to the SECG to provide guidance on disclosing construction loans.

The complete, updated versions of the SECG and GTF, including other updates not covered by this memorandum, may be found on the CFPB website by [clicking here](#).

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