



January 21, 2020

Comment Intake—TRID Assessment  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, DC 20552

re: Docket No. CFPB-2019-0055

Dear Director Kraninger,

The American Land Title Association (ALTA) appreciates the opportunity to comment on the Request for Information (RFI) about the Consumer Financial Protection Bureau's plan for assessing the "Integrated Mortgage Disclosures under the Real Estate Settlement Procedures Act (Regulation X) and the Truth In Lending Act (Regulation Z)" or TRID rule.

Like the Bureau, we are eager to learn how well the disclosures are meeting, or falling short of, the intended goal of enhancing the consumer's understanding of their loan and closing terms. We believe the Bureau's plan to survey our members to obtain implementation and cost data and obtain some consumer data through the use of the National Survey of Mortgage Originations is a good starting point for the assessment. In keeping with the Bureau's request, particularly questions #3 and #8, we believe that to get a complete picture the Bureau must add additional questions to the surveys to learn the causes of consumer confusion and the reasons for questions consumers ask settlement professionals every day.

Here are ALTA's responses to the specific questions outlined in the RFI.

**(3) Recommendations to improve the assessment plan, as well as data, other factual information, and sources of data that would be useful and available to the Bureau to execute any recommended improvements to the assessment plan;**

Our members report that their significant investment of time and resources over the last five years appears to be paying off with consumers having a better understanding of their loan terms. At the same time, we believe small tweaks to the disclosure of some closing cost

items such as title insurance premiums would address the main source of questions from consumers our members experience every day at closings. We encourage the Bureau to enhance the surveys outlined in the RFI to collect more detailed data about the consumer's experience at closing, the amount of time consumers spend reviewing their TRID disclosures and other documents at closing and the types of questions that consumers most frequently ask their settlement professional or the sources of their biggest confusion.

Here are some of the questions that we suggest adding to the survey of settlement professionals to obtain this data.

- How long does your typical closing take?
- How does that compare to a closing prior to TRID in 2015?
- Do you provide a settlement statement to your consumers along with a Closing Disclosure?
- What percentage of time during the closing do you spend reviewing the following documents with a buyer?
  - Note
  - Deed
  - Mortgage/Deed of Trust
  - Closing Disclosure
  - Settlement Statement
  - Other
- Do you generally have to answer more questions regarding the cost of title insurance than in 2015?
- Do you utilize another document to help explain the actual cost of title insurance?
- For what percentage of transactions do you prepare a preliminary CD for the Lender?
- In your average transaction, how many times do you send updated closing cost information to the lender necessitating a new disclosure, whether LE or CD?
- In your average transaction, how often are the following closing costs correct on the initial Closing Disclosure?
  - Owner's title premium
  - Lender's title premium
  - Endorsement charges
  - Title service charges
  - Taxes
  - Recording fees
  - Prorations

- Other

Adding these questions will help the Bureau better understand the closing process and the sources of confusion or difficulty with the TRID rule.

Further, we believe the Bureau should conduct some qualitative testing of recent homebuyers to study consumer confusion caused by the Rule's requirement to provide consumers with incorrect title insurance premium data in over 40 states. Based on a 2016 study conducted by ALTA, this requirement is the biggest source of consumer confusion at the settlement. Allowing consumers to receive correct premium data would strengthen the effectiveness of the TRID disclosures.

In that study<sup>1</sup>, ALTA found that **7 out of 10 American homeowners reacted negatively by the Rule's title premium disclosure**. When presented with copies of a TRID disclosure and then shown the actual title insurance rates they would pay, almost a third of homeowners responded with "I'm confused". This was the most common response by consumers. It clearly indicates that the Bureau's title premium disclosure is not achieving its goal of explaining the issue in understandable terms. More concerning was that 10% of consumers felt that they were being taken advantage of by not being told the true cost of title insurance on the disclosure. A plurality of consumers being confused by this dichotomy between their disclosures and the actual prices for title insurance runs counter to the Bureau's goal of helping consumers receive, "timely and understandable information to make responsible decisions about financial transactions<sup>2</sup>."

Further, as the Bureau stated in the TRID Rule's preamble and in footnote 16 of the RFI, it has determined that the title insurance industry's preference for "technical disclosure of the owner's and lender's title insurance premiums", is outweighed by the need to provide consumers with a "clear disclosure of the required cost for the lender's title insurance alone, and the additional incremental cost to be paid by the consumer for the optional owner's title insurance premium.<sup>3</sup>" However, this was never tested during the qualitative or quantitative testing done by the Bureau during the Rule's development. As our research shows, this view is not shared by consumers. According to our survey, 27% of consumers felt that it was good to

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<sup>1</sup> For this study ALTA partnered with research firm Survata to collect data on consumers' experience around shopping for title insurance and the TRID disclosures. The survey collected data from 2,000 current and prospective (will buy in next 12 months) homeowners. The survey posed 14 questions to consumers about their preferences for learning information about title insurance and mortgage disclosures. It had a margin of error of 2.2% and was census representative. Respondents received no cash compensation for their participation.

<sup>2</sup> 12 U.S. Code § 5511(b)(1).

<sup>3</sup> 78 F.R. 79964.

know the marginal cost of buying an owner's title insurance policy. Given this evidence of confusion, we urge the Bureau to add questions about this topic to its surveys.

**(8) Comments on any aspects of the TRID Rule that were or are confusing or on which more guidance was or is needed during implementation including whether the issues have been resolved or remain unresolved;**

There are two aspects of the TRID rule where additional guidance from the Bureau would be beneficial to the title industry. First, additional examples of allowable fact patterns for waiver of the 3-day waiting period between delivery of the CD and consummation would allow lenders to respond to valid concerns of imminent financial harm facing a consumer. The only example provided in the commentary involves the refinance of a loan to avoid the imminent foreclosure sale of a property. Additional guidance should be provided to allow waiver for more common scenarios of potential financial harm to consumers such as to prevent the expiration of a rate lock or to meet a deadline in the real estate purchase contract.

Second, additional guidance should be provided to allow settlement agents to use industry standard identification numbers on the Closing Disclosure's contact information chart. Unlike lenders, settlement agents do not have a nationwide government generated ID number like the Nationwide Multistate Licensing System & Registry. However, over the last three years the industry has developed its own voluntary version of this system called the ALTA Registry.

The national ALTA Registry is a searchable, online database containing title insurance underwriter-confirmed information about underwriter direct offices, real estate attorneys and title agents, including those that do not currently require a state license and so have no ID on the Closing Disclosure. It assigns a unique identification number—the ALTA ID—to each one for precise credentials. Allowing title agents to populate their ALTA ID in the contact information box on page five of the Closing Disclosure would help consumers with needed follow-up and avoid potential fraud.

**(9) Recommendations for modifying, expanding, or eliminating the TRID Rule.**

We believe wholesale changes or elimination of the TRID rule and the disclosures is not warranted and would be unnecessary. The title industry (and our lender partners) have made significant investments in systems and processes to comply with this regulation and provide a positive closing experience for our customers. For the most part, this investment appears to be working when it comes to consumer understanding of their loan terms. As the industry continues to explore ways to enhance the closing experience through technology, we believe the

best thing the Bureau can do to assist is make minor tweaks to the rule's requirements around the disclosure of title insurance and closings costs and provide more guidance on waivers of the rule's three-day advance disclosure requirement

We look forward to continuing to work with the Bureau on this issue. Should you have any questions about this letter, please do not hesitate to contact me, at [steve@alta.org](mailto:steve@alta.org) or 202-261-2943. Thank you for taking the opportunity to listen our concerns and we look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Gottheim", with a stylized, cursive script.

Steve Gottheim  
Senior Counsel

