Consumer Financial Protection Bureau

CFPB Misses the Mark on TRID Guidance

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While ALTA appreciated Consumer Financial Protection Bureau (CFPB) Director Richard Cordray indicating the bureau would be sensitive to companies making a good-faith effort to comply with the 1,888 pages of TILA-RESPA Integrated Disclosure (TRID) regulation, ALTA had hoped the bureau would announce a specific hold-harmless period.

"We appreciate the Bureau addressing the challenges with compliance with the new integrated mortgage disclosures once we are in live transactions," said Michelle Korsmo, ALTA's chief executive officer. "Unfortunately, today's blog post from the CFPB does not give mortgage lenders or settlement service providers any more certainty as they work to comply with this complex regulation that will affect millions of homebuyers in the United States."

In a letter to members of Congress and its blog, Cordray said the bureau will be "sensitive to the progress made by those entities that have squarely focused on making good-faith efforts to come into compliance with the rule on time."

Cordray said his statement was "intended to ease some of the concerns we have heard about this transition to new processes in the coming months and is consistent with the approach" the CFPB took with enforcement of the Qualified Mortgage and Ability To Repay regulations. Those rules took effect in January 2014, but examiners didn't begin auditing lenders for compliance for four months, according to the bureau's winter 2015 Supervisory Highlights bulletin.

ALTA and its members will continue to have discussions with Cordray and requested that the bureau continue to publish more clarifications to the massive regulation. Because of the CFPB's ambiguity, ALTA encourages Congress to pass H.R. 2213, bipartisan legislation sponsored by U.S. Reps. Steve Pearce (R-NM) and Brad Sherman (D-CA) that would mandate a definitive hold-harmless period.

Rep. Pearce issued a statement calling the CFPB's response "lackluster" and that the "nondescript and weak announcement from CFPB creates even greater uncertainty in the housing market, at the worst possible time of the year."

"Sadly, only one path remains to provide the certainty that families and individuals wanting to buy a home deserve—passage of H.R. 2213," Pearce said. "Strongly supported by industries, trade associations, and businesses alike, our legislation would mandate a five-month hold harmless period to ensure that those involved in the housing market can continue to serve the millions wanting to buy a home, while also working with CFPB to correct any flaws or unintended consequence in the new consolidation rule."

Additionally, U.S. Reps. Blaine Luetkemeyer (R-MO) and Randy Neugebauer (R-TX) also said they were disappointed with the bureau's announcement. In April, the representatives sent a letter to Cordray requesting a period of restrained enforcement through 2015.

Luetkemeyer and Neugebauer said the bureau's announcement "falls short of expectations" despite nearly 300 Senators and House members who have written to Cordray asking for a formalized hold-harmless period.

"The bureau should expect vigorous oversight and attention from members of Congress in how its supervision efforts play out," said Reps. Luetkemeyer and Neugebauer in a statement. "To that end, we will be sending letters to all major financial trade associations asking that they keep Congress informed of any and all disciplinary actions taken by the CFPB and other financial regulators on TRID implementation."

ALTA President Diane Evans NTP met with Director Cordray on May 13 to formally request a hold-harmless period following TRID implementation on August 1. On May 20, ALTA members met with more than 220 members of Congress or their staff to request the hold-harmless period. Additionally, the Title Action Network, ALTA's 11,000-member advocacy organization, has sent hundreds of emails to members of Congress requesting time for the industry to address possible issues during implementation.

"We know from previous regulation implementations that there will be a learning curve, and a hold-harmless period will help ensure that consumers' real estate closings will not be disrupted after August 1," Korsmo stated. "Under TRID, some mortgage lenders and settlement service providers may initiate additional risk-management tactics that will slow the closing process for homebuyers. Access to financing and settlement services in small communities could be more restricted."

The announcement about oversight of TRID implementation was coupled with guidance the CFPB issued clarifying which three changes require a new three-day review period. The CFPB said these three changes require a new three-day review:

1. Annual percentage rate (APR) increases by more than 1/8 percent for fixed-rate loans or 1/4 of a percent for adjustable loans. A decrease in APR will not require a new three-day review if it is based on changes to interest rate or other fees.
2. A prepayment penalty is added, making it expensive to refinance or sell.
3. The basic loan product changes, such as a switch from fixed rate to adjustable interest rate or to a loan with interest-only payments.

The bureau said there has been "much misinformation and mistaken commentary around this point." The CFPB provided examples of situations that do not require a new three-day review:

1. Unexpected discoveries on a walk-through such as a broken refrigerator or a missing stove, even if they require seller credits to the buyer.
2. Most changes to payments made at closing, including the amount of the real estate commission, taxes and utilities proration and the amount paid into escrow.
3. Typos found at the closing table.