

# CFPB Is Urged to Change How Title Insurance Premiums Are Disclosed Under the TRID Rule

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While lenders continue to struggle with various aspects of the TILA-RESPA Integrated Disclosure Rule (“TRID Rule”) that became effective last year, one of the more troublesome issues has been the disclosure of title insurance premiums. As a result, an effort is underway in Congress to have the Consumer Financial Protection Bureau (“CFPB”) change the way such premiums are disclosed.

Pursuant to the current TRID Rule, the amount disclosed for the lender’s title insurance policy on the Loan Estimate (“LE”) and Closing Disclosure (“CD”) is the amount of premiums without any adjustment that might be made for the simultaneous purchase of an owner’s title insurance policy and a lender’s title insurance policy, even if there is a discount offered for the simultaneous purchase of both insurance policies. The premium for an owner’s title insurance policy for which a special rate may be available based on the simultaneous issuance of a lender’s and an owner’s policy is currently calculated and disclosed by using the full owner’s title insurance premium, adding any simultaneous issuance premium for issuance of lender’s coverage, and then deducting the full premium for the lender’s coverage.

The CFPB has explained that the purpose of this calculation method is to ensure that the lender’s title insurance premium would not increase if the consumer declines an owner’s title insurance premium. The CFPB stated in the preamble to the TRID Rule that the “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 outweighs the benefit of a technical disclosure of the owner’s and lender’s title insurance premiums.”

Following the CFPB’s April 28, 2016 announcement that it will be issuing a Notice of Proposed Rulemaking (“NPRM”) to clarify certain aspects of the TRID Rule, 74 members of Congress signed a letter to the CFPB dated May 31, 2016 requesting that the CFPB “fix the rule’s requirement that is causing consumers to receive incorrect title insurance premium disclosures.” The letter states that consumers in the majority of states are not receiving an accurate disclosure of their title insurance premiums because the CFPB is not allowing for the calculation of a discounted rate known as “simultaneous issue.” The lawmakers have urged the CFPB to address this issue in the upcoming NPRM in July.

We will provide further updates of this issue once the CFPB has issued the NPRM. Please note that this advisory is not intended as a comprehensive explanation of all aspects of the TRID Rule or as formal legal advice. If you have any questions regarding the TRID Rule generally, or how to disclose title insurance premiums on the LE and CD, please feel free to contact Joseph D. Simon at [516-357-3710](tel:516-357-3710) or via email at [jsimon@cullenanddykman.com](mailto:jsimon@cullenanddykman.com), Kevin

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