

**TILA-RESPA Integrated Disclosures
Presented by the Consumer Financial Protection Bureau**

Transcript prepared by BuckleySandler LLP¹

Outlook Live Webinar- August 26, 2014

**TILA-RESPA Integrated
Disclosures**

***Presented by the Consumer Financial Protection
Bureau***

Visit us at www.consumercomplianceoutlook.org

OUTLOOK LIVE

The Federal Reserve System's audio conference series on consumer compliance issues.

The opinions expressed in this presentation are intended for informational purposes, and are not formal opinions of, nor binding on, the Board of Governors of the Federal Reserve System.

¹ The audio recording and original slides are available at: <http://www.philadelphiafed.org/bank-resources/publications/consumer-compliance-outlook/outlook-live/2014/FAQ-on-TILA-RESPA-Integrated-Disclosures-Rule.cfm>. The transcript was prepared from the audio recording provided by the Federal Reserve Bank and may have minor inaccuracies due to sound quality. In addition, the transcript has not been reviewed by the CFPB or the Federal Reserve for accuracy or completeness. This transcript inserts an image of the slide that corresponds to the discussion, but all insertions are approximate. This transcript also revises citations for clarity and for consistency with the Code of Federal Regulations where necessary (e.g. "§ 1026.19(f)(4)(i)" instead of "1026.19(f)(4)(1)").

INTRODUCTION: Charlene the floor is yours.

Charlene Van Horne: Thank you. Hello everyone. My name is Charlene Van Horne and I would like to welcome you to Outlook Live, the Federal Reserve System's audio conference series on consumer compliance topics. It is my pleasure to be opening today's webinar presented by the Consumer Financial Protection Bureau on frequently asked questions on the TILA-RESPA Integrated Disclosures. This session will cover a lot of information, so before I hand things off to the CFPB, I would like to go over a few logistics.

Since this session is delivered using a webinar format, you should be receiving both the audio and the video through your computer. If you experience any technical difficulties, contact us by clicking on the "ask question" button. With the webinar format, we'll be advancing the presentation slides during the event. You may also download a copy of the presentation by clicking on the "materials" button, which will enable you to download a PDF version of either the full slides or handout version. At any time during the presentation, you may also use the "ask questions" feature to email questions directly to our speakers.

The last thing I will mention, the Federal Reserve System also publishes a quarterly newsletter entitled "Consumer Compliance Outlook." This newsletter, as well as these webinars, is part of our ongoing outreach activities. They can be accessed free of charge at www.consumercomplianceoutlook.org. Also, in case you want to listen to the presentation again, all of our Outlook Live webcasts are archived and are available for playback. Just access the archive using the same web link you used to access today's webinar.

So with that, we are ready to begin. I will now turn things over to our first speaker, Andy Arculin, to get us started. Andy, the floor is yours.

Andy Arculin, Counsel, CFPB Office of Regulations: Thanks, Charlene. Good afternoon and welcome everyone to the second of our webinars on the TILA-RESPA Integrated Disclosures. Thanks to everyone for tuning in and it's our pleasure to spend time with you today to address what we believe to be frequently asked or common questions, and important questions, about the new disclosure rules. As Charlene mentioned, this is Andy Arculin with the CFPB's Office of Regulations. With me today are my colleagues, Dania Ayoubi, and David Friend, also with the Office of Regulations, who are working with me on implementation of the Integrated Disclosures Final Rule.

Many of you tuned in last time for our first session, which was back in June, where we focused on an overview of the Final Rule. Today we hope to spend most of the session addressing common questions about the new regulatory requirements that have been presented to the Bureau and that we believe are important and appropriate for us to address in this setting.

The general format will be as follows: Dania is going to provide some brief background on the regulatory sections we're addressing and present those specific questions we intend to address, and then either David or myself will provide our responses. I will provide most of the responses up front and David will start introducing the Loan Estimate towards the end of the presentation.

The responses will be laid out in a manner that we hope accomplishes two things. First, since these are frequently asked or common questions, we want to provide our answer so that you know what our position is on a certain issue. But on top of that, we want to provide a supporting basis for our interpretation that will point to the appropriate regulatory cites, official interpretations or commentary, as

well as Preamble language, and both educate our audience about the Rules and provide you with some insight as to the reasons for our interpretations and the outcomes that we are giving to you.

As we have noted, these sessions will be recorded and we also will link them on our website so they may be used as resources as our audience continues to implement the new Rules. We can move on to slide 2. We'll cover some basic housekeeping items and then we'll jump into the common questions.

Disclaimer

- The Bureau issued the TILA-RESPA Integrated Disclosure final rule in November of 2013 to implement provisions under the Dodd Frank Wall Street Reform and Consumer Protection Act.
- The Final Rule will take effect in August 2015.
- This presentation is current as of August 26, 2014. This presentation does not represent legal interpretation, guidance or advice of the Bureau. While efforts have been made to ensure accuracy, this presentation is not a substitute for the rule. Only the rule and its Official Interpretations can provide complete and definitive information regarding requirements. This document does not bind the Bureau and does not create any rights, benefits, or defenses, substantive or procedural, that are enforceable by any party in any manner.



2

Arculin: This slide you've seen before. This is something that goes on any CFPB presentation about the Rules. It is our disclaimer. I've often joked that this is proof that the CFPB has a General Counsel's office too. That joke is probably getting old so I'll just remind you that – this really just tells – this is a reminder that the Rules do speak for themselves. We have, of course, made every effort to ensure that our responses are accurate and the point of our providing responses to questions in a forum like this one is to create a resource that may be used to help you understand the Rules and to provide as close to an official answer as we can. With that, anything we say that is inconsistent with the Rules, the one caveat is that we do not have the authority to amend regulatory text via webinar. We can move on to slide 3.

June 2014 Webinar – Recap

- Overview of the Final Rule, introducing:
 - Integration of TILA and RESPA disclosures into Loan Estimate and Closing Disclosure
 - New timing requirements for disclosures (1026.19(e) and (f))
 - New tolerance levels for disclosed estimates (1026.19(e) and (f))
 - New pre-disclosure requirements (1026.19(e)(2))
 - Loan Estimate form (1026.37 and Appendix H-24)
 - Closing Disclosure form (1026.38 and Appendix H-25)
- Introduced CFPB resources and webinar initiative
- Addressed basic compliance questions on definition of application
- Collected questions from attendees



3

Arculin: This is just a recap of our first session which was held in June. I won't spend a lot of time on this but basically we provided an overview of the Final Rule focusing heavily on the new timing requirements, the new tolerance levels for disclosures or variance levels, the new pre-disclosure requirements, and we briefly introduced the Loan Estimate form and the Closing Disclosure form as well. We also introduced the CFPB resources, which we'll discuss on the next slide and the purpose for doing this webinar initiative – again, to collect common questions and to deliver answers to them so that they are available to the public and everyone can reference them as they need to.

We also addressed some basic compliance questions at the end of that webinar on the definition of application under the new Rule. Those were some initial questions we will cover more today. This is a topic that's generated a lot of discussion since the Final Rule came out last November, and it continues to be a hot topic of discussion. We will spend some time covering those questions. And we also collected questions from attendees and we would encourage you to submit them again. We collected many questions during the last session, several of which we will be addressing today. It is a good way for us to identify common questions or points that we can provide additional clarity on as we move through the Rule, especially as we get into a deeper dive like we have here. Let's move on to the next slide.

Background

- Bureau finalized amendments to Regulations X and Z that integrate existing RESPA and TILA disclosures and take effect in August 2015.
 - Initial Truth-in Lending disclosure and RESPA Good Faith Estimate (GFE) combined into new Loan Estimate form (1026.37 and Appendix H-24)
 - Final Truth-in-Lending disclosure and RESPA HUD-1 combined into new Closing Disclosure (1026.38 and Appendix H-25)
 - New timing requirements for disclosures (1026.19(e) and (f))
 - New tolerance levels for disclosed estimates (1026.19(e) and (f))
 - New pre-disclosure requirements (1026.19(e)(2))
- A summary of the rule and the rule itself are available on the Bureau's website at: www.consumerfinance.gov/regulations



4

Arculin: This doesn't appear to be the right deck. [Moves to next slide]

CFPB Resources

- **Dedicated Regulatory Implementation Website:**
<http://www.consumerfinance.gov/regulatory-implementation/tila-respa/>
 - Small Entity Compliance Guide
 - Guide to Forms
 - Sample and Annotated Forms
 - Links to Webinars
 - Additional Guidance Materials
- **eRegulations Tool:**
<http://www.consumerfinance.gov/eregulations>



5

Arculin: Ok. CFPB Resources. This is a reminder that we have published some resources and we have a dedicated regulatory implementation website, which we encourage everyone to use as you implement the Final Rules. This includes the TILA-RESPA Integrated Disclosure Small Entity Guide and the Guide to Forms, and this also provides an opportunity for me to give you some updates. For the Small Entity Guide and the Guide to Forms, we have received feedback on those items which we published back in the early Spring. There have been some areas where people have asked for additional clarity or for us to clarify certain aspects of those guides. For example, the applicability or inapplicability of the 7-day waiting period to redisclosures. We have gone and finalized changes to those Guides and will be releasing them shortly. So I would look for those in the near future. We, unfortunately, don't have an exact date when that they will be released but we should be releasing them by email and making them available on our website soon. **[BuckleySandler Note: The CFPB issued revised Guides on September 8, 2014, which are available at http://www.consumerfinance.gov/regulatory-implementation/tila-respa/?utm_source=newsletter&utm_medium=email&utm_campaign=20140908+regimp. The Version Log at the front of each Guide lists the sections that have been revised.]**

In addition, we have developed an additional artifact or guidance material that we will also be releasing soon. This is a timing calendar to illustrate the various timing requirements, including disclosure after applications, redisclosures due to changed circumstances and other triggering events, delivery of closing disclosure prior to consummation and post-consummation corrections. This is something that has really been uniformly requested or suggested by various different stakeholders that we've talked to – from large and small creditors, to software vendors, to mortgage brokers, to settlement agents alike. We, of course, understand the timing and the counting of days is not as simple as it may appear and we believe this tool

will help illustrate how the requirements work and, if anything, give those of you implementing the Rule the confirmation that your understanding of these timing requirements is correct. **[BuckleySandler Note: This timeline was also issued on September 8, 2014 and is available at http://files.consumerfinance.gov/f/201409_cfpb_tila-respa-integration-disclosure-timeline-example.pdf.]**

And finally we have the Regulations tool. We've mentioned this before and I would just encourage everyone to use it. I can tell you that I use it all the time and it is especially useful for a rule like the Integrated Disclosures Rule which is heavy on sectional cross references and references to cites and definitions that are defined in the Reg. I think it is a great tool and I would encourage everyone to use it if you haven't already.

So we can move on to the next slide.

August 2014 Webinar – Overview

- Address recurring issues and interpretive questions raised since the last webinar
 - Questions submitted to CFPB by industry and trade groups
 - Questions collected during last webinar
 - Questions raised through other channels
- Topics to cover
 - Application (continued from last session)
 - Scope
 - Record Retention
 - Timing for delivery and redisclosure
 - Tolerance
 - Basic form contents (more details to be covered in later sessions)



6

Arculin: This is the Overview of our webinar of what we plan to do today. Again, we've collected and consolidated interpretive questions that have been raised since the last webinar, including some that have been addressed prior to the last webinar. So we're delivering our Bureau answers to these common questions in a form that everyone can access.

What we plan to cover today, we will continue with our discussion of application from the last session. We have several questions about the application that we'll cover, scope... *[unintelligible]*. We'll cover record retention, timing for delivery and redisclosure, tolerances or variances, and then at the end David is going to answer some basic form content questions. One thing I will note is that we fully understand that those of you developing your systems in house, as well as software vendors, have a lot of questions

about §§ 1026.37 and .38, those are the Loan Estimate and the Closing Disclosure content sections. There are technical questions that we've been collecting that keep coming in about those requirements and we understand that there is a need to expedite our next webinar in order to get those answered. So what we're planning to do is to do another one of these in about a month – tentatively scheduled for October 1 and also extend the time to 90 minutes so that we can really dive into the form content. **[BuckleySandler Note: The CFPB has announced that its next webinar will be held on October 1, 2014. Additional information is available at <http://www.philadelphiafed.org/bank-resources/publications/consumer-compliance-outlook/outlook-live/>. BuckleySandler plans to provide a transcript of that webinar as well.]**

So, that's our Overview, and I will turn this over to Dania who can introduce application-related questions and then we can do application questions.

Application-related questions (1026.2(a)(3))

- An **application** consists of the submission of:
 - the consumer's name,
 - the consumer's income,
 - the consumer's social security number to obtain a credit report,
 - the property address,
 - an estimate of the value of the property, and
 - the mortgage loan amount sought.
- See Preamble to 1026.2(a)(3) in Final Rule (78 FR 79762-68)
- Additional details provided in June 2014 Webinar



7

Dania Ayoubi, Counsel, CFPB Office of Regulations: Great, thanks Andy. As Andy mentioned, my name is Dania and I am working as part of this TILA-RESPA integrated disclosure team over the next year to help with implementation.

To recap from our last webinar Overview presentation, application is a defined term under the new Rule and the definition explains what information triggers a creditor's obligation to provide a consumer with a Loan Estimate. Application is defined at § 1026.2(a)(3) and contains six specific pieces of information. They include: the consumer's name, the consumer's income, the consumer's social security number to obtain a credit report, the property address, an estimate of the value of the property, and the mortgage loan amount sought. As we previously covered in the last session, this is essentially the same as the

existing RESPA definition of application minus what is considered the final catch-all element that is any other information deemed necessary by the loan originator. For an additional discussion, please see the citation on the slide to the Preamble discussion to the Final Rule.

And with that, we'll jump into the application-related questions that we've been receiving. Next slide please.

Application-related questions (1026.2(a)(3))

- Q: The definition of application does not include loan term or product type. What if a consumer submits the six elements listed in the rule, but does not specify the type of product or term?
- Q: What if the consumer starts filling out an online application and saves it with the six pieces of information entered, but has not yet submitted it to the creditor?
- Q: What if the loan is a refinance and the creditor already has this particular information on file?
- Q: May an online application system reject applications submitted by a consumer that contain the six elements of an application because other preferred information is not included?



8

Ayoubi: [Bullet 1] The definition of application does not include loan term or product type. What if a consumer submits the six elements listed in the rule, but does not specify the type of product or term?

Arculin: Ok. First, I would encourage everyone to go back and listen to our discussion of the new application definition on the first webinar, as well as what Dania mentioned to read the section by section analysis of the Preamble to § 1026.2(a)(3), that's Regulation Z § 1026.2(a)(3). This section of the Final Rule provides a lot of helpful guidance on the new definition of application, as well as the operational flexibilities the Bureau has acknowledged the industry may use as new application intake systems are developed. As we believe we've made clear, creditors do have a degree of flexibility that will enable them to collect, in the vast majority of cases, additional information such as the loan term or product type that the consumer is interested in for purposes of producing the Loan Estimate. As we stated, the Rule does permit sequencing or "strategic collection" of information and also requires the submission of the six pieces of information we have defined as constituting an application for purposes of obtaining an extension of consumer credit for the loan estimate obligation to be triggered. Thus, we believe that in the

vast majority of circumstances, creditors will be able to obtain additional information, such as loan term or product, prior to making the Loan Estimate.

I would note, however, that once the sixth element of an application, as we have defined it, has been submitted to the creditor, the creditor is obligated to produce the Loan Estimate in three business days. While the Rule does provide a great deal of flexibility, it does not endorse outright refusal of that information to delay completion of the application, even where the creditor has not obtained other information that it would prefer to have or would require today beyond the six elements. In some instances, it is possible that this could include basic items like loan product or term. If that occurs, there's nothing that prevents a creditor from trying to collect that information prior to providing the Loan Estimate. But the creditor must still produce the Loan Estimate within three business days even if it is unable to collect the sought after information.

Remember, however, that this is an estimate that must be in good faith and consistent with the best information reasonably available to the creditor at the time the disclosures are made. But other than those requirements, the general obligation to provide the consumer with a Loan Estimate under § 1026.19(e) is silent regarding any assumptions the creditors might make regarding elements or features of the loan such as product or term. Therefore, in the Bureau's view, the creditor would have discretion regarding what product, term or other features it uses to produce the Loan Estimate so long as the disclosures are made in good faith and consistent with the best information reasonably available to the creditor at the time the disclosures are made.

In our view, the creditor would not be required under our Rule to produce multiple Loan Estimates that cover different product types. The question has been raised to us as to whether a creditor would need to produce an estimate for everything that it offers and the answer is no, although it could provide different options if it so chooses. Likewise our Rule does not require the creditor to default to any specific type or term if those variables are unknown.

Again, the question has been raised to us if there is any sort of expectation or requirement that creditors offer a specific default product type such as a 30-year fixed. Again, the answer is no. The Rule provides discretion so long as the Loan Estimate is provided according to the Rule's substantive and procedural requirements, which we have already gone over.

Ayoubi: Great, thanks Andy. How about online applications? **[Bullet 2]** What if the consumer starts filling out an online application and saves it with the six pieces of information entered, but has not yet submitted it to the creditor?

Arculin: Thank you. The treatment of online application systems, and in fact this specific question, was considered and addressed in the Preamble to the Final Rule. For section by section, the page cite is 79768 of the Federal Register Notice [78 Fed. Reg. 79730, 79768 (Dec. 31, 2013)]. There it says, and I am quoting: "Because the definition of application refers to the submission of the six pieces of information, if the consumer starts filling out a mortgage application form online, enters the six pieces and then saves the mortgage application form to complete at a later time, the consumer has not submitted the items of information." In other words, so long as the consumer has not submitted the six application elements, and again that is along with any other information that [the creditor] collects along with the six elements, to the creditor for purposes of obtaining an extension of credit, we do not view that a creditor is under an obligation to produce a Loan Estimate at that time. As the Preamble notes, this would include an online application where the six pieces are entered and saved but the consumer has not yet submitted it to the creditor.

Ayoubi: [Bullet 3] What if the loan is a refinance and the creditor already has this particular information on file? Is the creditor considered to have received the consumer's application?

Arculin: Similar to the last question, an application triggering a Loan Estimate obligation requires the submission of the six pieces of information. In our view, a creditor having information on file from a previous or existing loan, or loan application, does not mean that a new application has been submitted. This would hold true if the consumer contacts the creditor and expresses an interest in applying for a refinance or a new loan and the six pieces of information that we have deemed an application exists on the creditor's system or on file. Application is only triggered upon submission of that information for purposes of obtaining credit and the information is not deemed resubmitted just because it exists on a creditor's system or in its file. So in this example, the creditor could require the consumer to submit a new application prior to providing a Loan Estimate.

Ayoubi: And another question about online applications: [Bullet 4] May an online application system refuse to accept applications submitted by a consumer that contain the six elements of an application because other preferred information was not included?

Arculin: This is a great question and it's a tough one but I think the answer is no. As I noted before, the Final Rule does provide creditors a great deal of flexibility in terms of collecting additional information at or before the time the creditor collects the six elements of an application, including the ability to sequence or strategically collect information, as well as an ability to encourage consumers to submit additional information that would be helpful in developing a Loan Estimate. This may commonly include saving a specific piece of information, such as a consumer's social security number, for last. But as we've also made clear, the Bureau has never endorsed refusal of any of the six elements by a creditor because it would like additional information. Whether the application is submitted online or through a dialog with a loan officer or other means, the submission of the sixth element of an application by a consumer for purposes of obtaining an extension of credit does equal an application.

In other words, there is a degree of consumer empowerment here. The Rule contemplates the use of online application systems but does not provide special treatment for them in this regard, other than to clarify how the principal of submission translates to online applications that are saved as we discussed in the previous question. Therefore, the same principal that applies to oral applications would have to apply to online applications. And in our view, this means an online application system designed to reject or refuse to accept applications on the basis that they lack other information that a creditor normally would prefer to have, or requires to have today beyond the six elements, would not comply with the Rule.

Ayoubi: Thanks Andy. That's it for our coverage of application-related questions for today. We encourage you to submit additional questions that you may have through the webinar function as the questions submitted are very helpful to us in identifying and addressing common questions. Next slide please?

Scope – General Rule

- Applies to most closed-end consumer credit transactions secured by real estate, but does not apply to:
 - Reverse mortgages
 - Home-equity lines of credit (HELOCs)
 - Chattel dwelling loans
 - Loans made by a person who makes five or fewer mortgages in a year
 - Certain no-interest loans secured by subordinate liens made for the purpose of downpayment or similar home buyer assistance, property rehabilitation, energy efficiency, or foreclosure avoidance or prevention (1026.3(h))



9

Ayoubi: This brings us to discussion of some scope-related questions. As we covered in our last webinar, the scope provision is available at §1026.19(e)(1) and explains what transactions are covered by the new rules and will therefore require creditors to use the new Integrated Disclosures. The general rule is that most closed-end consumer credit transactions secured by real estate are subject to the new Integrated Disclosures. However, there are some exceptions. Please keep in mind that the new Integrated Disclosures Rule does not apply to: reverse mortgages, which are expressly excluded from the rules and for which creditors should continue to use existing disclosures; home-equity lines of credit, which are not closed-end and for which creditors should also continue to use existing disclosures; chattel dwelling loans, which are not secured by real estate; loans made by a person who makes five or fewer mortgages in a year – this is essentially a reminder that the rule only covers creditors as defined in Regulation Z; and finally the Rule does not apply to certain no-interest loans secured by subordinate liens made for the purpose of downpayment or similar home buyer assistance, etc. These transactions are covered under § 1026.3(h). Next slide please?

Scope Questions

- Q: Do the new disclosure requirements apply to assumptions?
- Q: Would a successor-in-interest be considered a “subsequent purchaser” for the purpose of the assumption disclosure?
- Q: Section 1026.3(h) exempts certain downpayment assistance loans from the new rules. Do creditors still need to provide the existing TILA disclosures for those loans?



10

Ayoubi: And here we have a few questions related to scope. **[Bullet 1]** Do the new disclosure requirements apply to assumptions?

Arculin: Thanks Dania. The short answer is yes, assuming that when we’re saying assumptions, we mean a post-consummation event that is deemed a new closed-end credit transaction according to an existing provision of Regulation Z that was not added by the new Integrated Disclosure Rules, and that is § 1026.20(b), or as I’ll say from here on § 20(b). The reason I say this, I understand the terms like assumption may be given colloquial, common law, or industry meanings, so I like to remind our audience that we are specifically talking about a defined term under Regulation Z. Therefore, if the question means a § 20(b) assumption that is a closed-end credit transaction secured by real estate going back to the scope definition that Dania just provided, then yes it would be covered by the new Integrated Disclosure requirements.

Ayoubi: And a follow-up question on assumption: **[Bullet 2]** Would a successor-in-interest be considered a “subsequent purchaser” for the purpose of the assumption disclosure?

Arculin: This question relates directly to the Bureau’s July 11, 2014 Interpretative Rule, which clarified that when a successor-in-interest who previously acquired title to a dwelling agreed to be added as an obligor or substituted for an existing obligor on a credit transaction secured by that dwelling, the creditor’s written acknowledgement of the successor as obligor is not subject to the ability to repay rule – that section is § 43 of Regulation Z – because such a transaction does not constitute an assumption as defined in § 20(b).

A few things. That interpretative rule was about the applicability of the ability to repay rule, not directly related to the TILA-RESPA Integrated Disclosures. However, it did provide an interpretation of § 20(b) where assumption is defined in Reg Z, which is not unique to the ability to repay rule. In fact, § 20 explains when post-consummation events, both a refinancing under § 20(a) and an assumption under § 20(b), constitute new transactions under Regulation Z and thus require new disclosures to be provided to consumers. The Integrated Disclosure Rules and the requirements to provide new disclosures to consumers will, like existing disclosure rules under TILA that are used today, tie to these definitions. Accordingly, because the Interpretative Rule provides guidance on whether or not a creditor's substitution of the successor-in-interest as obligor constitutes an assumption according to § 20(b) [and] clarifies that in the factual scenario described in that Interpretative Rule [that] it does not, that guidance also would be applicable to the issue of whether new disclosures are required to be provided under § 1026.19(e) and (f).

Ayoubi: Thanks Andy. I would like to mention that **[Bullet 3]** § 1026.3(h) exempts certain downpayment assistance loans from the new rules. Do creditors still need to provide the existing TILA disclosures for these loans?

Arculin: Yes, they do. The § 1026.3(h) exemption would exempt that transaction, assuming that all the criteria set forth in that provision are met from the Integrated Disclosure requirements and there is a corresponding exemption to the RESPA disclosure requirements. However, one of the conditions to meeting that exemption is that the § 1026.18 disclosures, in other words the existing TILA disclosures, are provided to the consumer. And for an actual citation, § 1026.3(h)(6) is where you look for that.

Ayoubi: Great, next slide please?

Record Retention – General Rule and Question

- Generally, creditors must retain:
 - Evidence of compliance with 1026.19(e) and (f) disclosure requirements for three years after the later of the date of consummation, the date disclosures are required to be made, or the date the action is required to be taken. (1026.25(c)(1)(i))
 - Copies of the Closing Disclosure and all documents related to such disclosures, for five years after consummation. (1026.25(c)(1)(ii))
- See Small Entity Compliance Guide, sections 2.3-2.5; Preamble to Final Rule 78 FR 79902-03; see also (1026.19(e)(2)(i)(A); 1026.19(e)(3)(iv); 1026.19(f)(3)(ii))
- Q: For seller Closing Disclosures provided on a separate document by the settlement agent pursuant to 1026.38(t)(5) and 1026.19(f)(4), are creditors required to collect and retain documents related to the seller that were provided only to the settlement agent?

Ayoubi: This brings us to a discussion of record retention requirements under § 1026.25(c) of the new Rule. **[Bullet 1]** Generally, a creditor must retain evidence of compliance with the disclosure requirements under § 1026.19(e) and (f) for three years after the later of the date of consummation, the date the disclosures are required to be made, or the date the action is required to be taken. Additionally, the creditor must retain copies of the Closing Disclosure and all documents related to such disclosures, for five years after consummation. For an additional discussion, **[Bullet 2]** please see the citations on the slide to the Small Entity Compliance Guide and the Preamble discussion in the Final Rule.

And here we have one question related to record retention requirements. **[Bullet 3]** For seller Closing Disclosures provided on a separate document by the settlement agent pursuant to §§ 1026.38(t)(5) and 1026.19(f)(4), is a creditor required to collect and retain documents related to the seller that were provided only to the settlement agent?

Arculin: That's a good question, and as that slide notes, the general record retention requirements under § 1026.25(c) are that creditors retain evidence of compliance with the disclosure requirements of § 1026.19(e) and (f), that's a Reg Z standard, for three years, and § 1026.25(c)(1)(ii) also requires that creditors retain each completed disclosure and all documents related for five years after consummation. **[BuckleySandler Note: The five-year retention requirement in § 1026.25(c)(1)(ii) applies to "the disclosures required under § 1026.19(f)(1)(i) and (f)(4)(i)" (i.e., the Closing Disclosure, not the Loan Estimate).]**

[The five-year retention requirement] is an import from Reg X. However, § 1026.19(f)(4)(i) provides that [in] transactions with a seller, where the creditor may commonly have no relationship with the seller, the settlement agent shall provide the seller with the disclosures required under § 1026.38, in other words the Closing Disclosure. While it is possible that the settlement agent and the creditor could be the same entity, the Bureau recognizes that in most cases the settlement agent is an independent third party. Section 1026.38(t)(5) permits, in this circumstance, that a third-party settlement agent may provide the seller with the Closing Disclosure on a different document than that provided to the consumer by the creditor. Subsequently, § 1026.19(f)(4)(iv) provides that when the consumer's and seller's disclosures are provided on separate documents as permitted by § 1026.38(t)(5), the settlement agent shall provide to the creditor, again assuming different parties, a copy of the disclosures provided to the seller.

So in our view, creditors are obligated to obtain and retain a copy of the completed Closing Disclosures provided separately by a non-creditor settlement agent to a seller under § 1026.38(t)(5) but are not obligated to collect underlying seller-specific documents and records from that third-party settlement agent to support these disclosures. Section 1026.25(c) does not state that settlement agents are required to provide the creditor with specific underlying records about the seller that they used to take the seller's disclosures which could include, for example, copies of agreements outside the purchase contract that may exist between the seller and buyer, and any invoices or bills related to fees or costs paid by the seller but not on behalf of the borrower.

Accordingly, the Bureau does not interpret either of the general evidence of compliance or all related document standards to require creditors to collect the seller-specific records from the third-party settlement agent and then retain them along with the Closing Disclosure. To the extent the creditor does receive documentation related to the seller's disclosure, such as when the creditor is the settlement agent, or when seller-related documents are provided to the creditor by a third-party settlement agent along with the completed disclosure, the creditor should, of course, adhere to the normal record retention requirements set forth in § 1026.25(c) and retain those records. But this does not mean the rules impose

a mandatory collection requirement on creditors for this underlying information and the same would hold true regarding seller-related documents that the settlement agent used to make the seller's disclosures even where the disclosures were not made on separate documents.

Ayoubi: Great, next slide please?

Variations/Tolerances

- General Rule requirements:
 - 1026.19(e)(3)(i): General good faith requirement and “zero tolerance” baseline
 - 1026.19(e)(3)(ii): 10% Cumulative charges
 - 1026.19(e)(3)(iii): Unlimited variation or “not subject to tolerance”
- See Small Entity Compliance Guide, sections 7.1-7.12; Preamble to Final Rule 78 FR 79816-79834; see also 1026.19(e)(3)
- Q: Is owner's title insurance not required by the creditor subject to the 10% cumulative tolerance?



12

Ayoubi: This brings us to a brief discussion regarding variation or tolerance. As we discussed in the last session, under the new Rule **[Bullet 1]** the baseline is that charges are subject to zero tolerance or variation. This means that generally under § 1026.19(e)(3)(i), the charge paid by or imposed on the consumer cannot exceed the amount originally disclosed on the Loan Estimate. There are, however, two categories of charges that are provided special treatment under the Rule.

First, we have a category of charges that are subject to a 10% cumulative tolerance pursuant to § 1026.19(e)(3)(ii). Second, we have charges that are not subject to a tolerance limitation, meaning that the amount charged to the consumer may exceed the amount disclosed on the Loan Estimate by any amount. And, just a reminder of the general requirements under § 1026.19(e)(3)(iii) that a creditor may only charge more than the amount disclosed when the original estimate, or lack thereof, was made in good faith and based on the best information reasonably available at the time of the disclosure.

For an additional discussion on tolerance and variation, please see the citations on the slide **[Bullet 2]** at the Small Entity Compliance Guide and the Preamble discussion to the Final Rule.

And here we have one question related to tolerance or variation. **[Bullet 3]** Is owner's title insurance not required by the creditor subject to the 10% cumulative tolerance?

Arculin: Generally the answer to this question is going to be no, but it requires an explanation as to why. The 10% cumulative tolerance category only includes recording fees and charges paid to unaffiliated third-party service providers where the consumer is permitted to shop and chooses a provider from the creditor's written list of providers. That citation is § 1026.19(e)(3)(ii). Owner's title insurance is not called out as a charge subject to any categorical treatment under the tolerance rules by virtue of it being owner's title insurance, including this 10% category. Therefore, its treatment will depend on the other rules that govern tolerance that Dania just laid out for you, such as whether it is required by the creditor and if so, is something where shopping is permitted and/or occurs.

We understand that owner's title insurance commonly is not required by the creditor. To the extent owner's title is not required by the creditor and is disclosed as optional, the Rule text states that charges for services not required by the creditor, even those paid to affiliates of the creditor, are "variation permitted charges" or charges that are not subject to tolerance. This citation is § 1026.19(e)(3)(iii)(E). This is the legal requirement that was adopted by the Final Rule and it makes no distinction between the owner's title insurance and other charges. Therefore, owner's title insurance that is not required by the creditor will be a § 1026.19(e)(3)(iii) variation permitted charge that is not subject to tolerance.

We are aware that there is some potentially conflicting or confusing language in the Preamble to the Final Rule that could be read to imply that the Bureau intended to subject owner's title insurance categorically to the 10% cumulative tolerance even where it is not required by the creditor. I'm not sure what to say about that Preamble language, but regardless of it, the Rule text that we adopted does not subject owner's title to any specific treatment and therefore owner's title insurance that is not required by the creditor . . . would not be subject to a tolerance according to § 1026.19(e)(3)(iii)(E). Again, there may be a slight inconsistency between the Preamble and the Rule text but the Rule text is clear and that is what you should follow and that is what controls.

Ayoubi: Thanks Andy. Next slide please?

Disclosure/Redisclosure Timing

- General Rule requirements:
 - 1026.19(e)(1)(iii): Loan Estimate timing
 - 1026.19(e)(3)(iv): Triggering events for redisclosure
 - 1026.19(e)(4): Timing for redisclosure
 - 1026.19(f)(1)(ii): Timing for Closing Disclosure
 - 1026.19(f)(2): Changes before consummation requiring revised Closing Disclosure
- See Small Entity Compliance Guide, sections 8.1-9.6; Preamble to Final Rule 78 FR 79834-79837



13

Ayoubi: Now we have a series of questions that relate to disclosure or redisclosure Timing requirements. As a quick refresher, the Loan Estimate timing requirements are set forth at § 1026.19(e)(1)(iii), and § 1026.19(e)(3)(iv) identifies triggering events for the redisclosure of the Loan Estimate. As you will recall from our previous session, there is no prohibition on redisclosure under the Rule. However, these triggering events allow a creditor to redisclose and reset tolerance for purposes of determining good faith. Section 1026.19(e)(4) lays out the timing requirements for redisclosure of the Loan Estimate. And for the Closing Disclosure, § 1026.19(f)(1)(ii) sets forth the timing requirements. Additionally, § 1026.19(f)(2) discusses subsequent changes before consummation that require a revised Closing Disclosure. For an additional discussion on disclosure or redisclosure timing requirements, please see the citations on the slide to the Small Entity Compliance Guide and the Preamble discussion to the Final Rule. And be sure to look out for the forthcoming timing calendar that provides detailed examples of the disclosure and redisclosure timing requirements. **[BuckleySandler Note: This timeline is available at http://files.consumerfinance.gov/f/201409_cfpb_tila-respa-integration-disclosure-timeline-example.pdf.]**

And now onto a few disclosure and redisclosure-related questions. Next slide please?

Disclosure/Redisclosure Timing

- Q: Does the 7-day waiting period before consummation that applies to Loan Estimates apply to revised disclosures?
- Q: Are creditors required to provide revised Loan Estimates on the same business day that a consumer or loan officer requests a rate lock? (1026.19(e)(3)(iv)(D))
- Q: May a Closing Disclosure be provided early and revised Closing Disclosures used in place of revised Loan Estimates for redisclosing estimates that changed due to changed circumstances?
- Q: Is an additional 3-business-day waiting period required if the APR decreases by more than 1/4 or 1/8 percentage points?



14

Ayoubi: [Bullet 1] Does the 7-day waiting period before consummation that applies to the Loan Estimate apply to revised disclosures?

Arculin: No. The 7-day waiting period found in § 1026.19(e)(1)(iii) is a TILA statutory waiting period that applies [today to] the initial TILA disclosures, or after August of next year the Loan Estimate, provided after application and does not apply to revised disclosures. In most cases where a creditor is providing a revised Loan Estimate and relying on the three day mailbox rule, there is an assumption that the creditor will need to place a revised disclosure in the mail no later than the seventh business day before consummation in order for the revised disclosure to be received by the consumer four business days prior to consummation as is required by § 1026.19(e)(4). That is an issue we will explore a little further in one of the next questions, but just to point that out. Nevertheless, the statutory waiting period in § 1026.19(e)(1)(iii) only applies to the Loan Estimate provided after the application.

This question seems to come from a glitch in the Small Entity Guide that we issued last Spring and we have now fixed. As I mentioned in the beginning of the presentation, we have finalized some revisions and updates to the Small Entity Guide, including and especially more accurately, to reflect this requirement and those revisions are now in the process of being released and we anticipate those will be out soon.

Ayoubi: Thanks Andy. [Bullet 2] Is a creditor required to provide a revised Loan Estimate on the same business day that a consumer or loan officer requests a rate lock?

Arculin: This is a great question and has been the subject of a lot of discussion since the Final Rule was issued last Fall. The answer to this specific question as to whether it would be required to be provided on

the same business day that a consumer or loan officer requests a rate lock is not necessarily. To provide a bit of background, § 1026.19(e)(3)(iv)(D) states that a creditor may redisclose interest rate dependent charges, i.e., reset the tolerance level for those charges by providing a revised disclosure, but to do so must provide the revised disclosure on the same business date that the rate is “locked.”

“Locked” is not a term that is expressly defined in Regulation Z or the Rule so just following normal Reg Z rules any definition of what it means to lock would depend on state law or contract. That’s in § 1026.2(b)(3) of Regulation Z. However, both the section by section and the commentary (specifically comment § 1026.19(e)(3)(iv)(D)-1) provides examples and additional explanation that imply or illustrate that in the Bureau’s view the revised disclosure must be provided on the business day on which the rate lock agreement between the creditor and the consumer is entered into, not necessarily the date that a rate lock is requested. The Preamble to the Final Rule further states that the Bureau believed, at the time the Final Rule was issued, that creditors should be able to meet a same business day requirement because, quoting page 79833 of the Federal Register Notice: “The Bureau does not believe that creditors need that much time in situations where the interest rate is locked because the creditor controls when it executes the rate lock agreement.” The Preamble further explains that redisclosure is not triggered when the interest rate has been set but a rate lock agreement does not yet exist. Again quoting: “the Bureau intended that § 1026.19(e)(3)(iv)(D) only applies in situations where a rate lock agreement has been entered into between the creditor and the borrower or where such agreement has expired.”

However, numerous stakeholders have identified potential operational challenges as well as potential consumer disadvantages that could result from this approach, and this is an issue where we are closely considering in response to the extensive feedback that we have received to date.

Ayoubi: Great. **[Bullet 3]** May a Closing Disclosure be provided early and a revised Closing Disclosure be used in place of revised Loan Estimate for redisclosing estimates that changed due to changed circumstances?

Arculin: Ok. This question actually touches on numerous procedural components of the redisclosure regime and I’ll spend a good deal of time walking through them. Generally though, while § 1026.19(f)(1)(ii), the provision that controls timing for the delivery of the Closing Disclosure, allows creditors to provide Closing Disclosures earlier than required, in other words, it only requires that the consumer receives the Closing Disclosure no later than three business days prior to consummation, the short answer to this question as to whether or not the Closing Disclosure could be provided early and then used to redisclose is going to be no.

The redisclosure rules set forth in §§ 1026.19(e)(3)(iv) and 1026.9(e)(4) provide a very precise timing mechanism which is designed to allow creditors to redisclose charges increased due to changed circumstances or other triggering events by providing Loan Estimates, revised Loan Estimates up until the point in time where they will no longer be able to do so because they have provided a Closing Disclosure. Then these provisions allow creditors some flexibility to use the Closing Disclosure to redisclose charges.

But as I will explain, the timing rules that relate to using a Closing Disclosure to redisclose charges within this window are keyed off of consummation and they do not account for early delivery of the Closing Disclosure. So while creditors may provide a Closing Disclosure earlier than required, the Rule does not provide a mechanism for redisclosure using revised Closing Disclosures in place of revised Loan Estimates in the event the Closing Disclosure is provided earlier than required, and the timing for redisclosure does not fit neatly within this mechanism.

Explain the reasons why – I fully appreciate that that’s a lot of information and it touches on a lot of different provisions, so to explain the reasons why, we will walk through the Final Rule’s redisclosure and redisclosure timing requirements found in § 1026.19(e)(3)(iv), § 1026.19(e)(4)—specifically comment § 1026.19(e)(4)(ii)-1—which explains how revised Loan Estimates relate to provision of the Closing Disclosure.

Here is the step by step walk through of these rules. First, similar to the RESPA GFE rule that you are using today, the Integrated Disclosure rules generally allow creditors to redisclose estimates and rely on those revised estimates to determine good faith if the estimated charge changes due to changed circumstances or other triggering events. These triggering events are spelled out in § 1026.19(e)(3)(iv)(A) through (F) but to very briefly list them in order:

- there are changed circumstances that cause settlement charges to increase more than permitted under the applicable tolerance rules;
- there are changed circumstances that affect the consumer’s eligibility for a specific charge that are also tied to tolerance rules;
- there are revisions requested by the consumer that do not require an estimate to exceed an applicable tolerance, that are simply revisions requested by a consumer;
- there are interest rate dependent charges when an unlocked rate is locked, which we just covered;
- expiration of the Loan Estimate; and
- delayed settlement date on a constructional loan, which David will cover in a bit.

When one of these events occurs, the timing provision—and that’s § 1026.19(e)(4)—generally requires creditors to provide a revised Loan Estimate within three business days of receiving information sufficient to establish the triggering event occurred, or in the case of a rate lock, the same business day in order to reset the applicable tolerance level. Remember, Dania explained that the Rules do not prohibit voluntary redisclosure when a tolerance is not being set but you may only reset the applicable tolerance levels when one of these events occurs.

However, § 1026.19(e)(4)(ii) provides an additional timing restriction to revise Loan Estimates. It kicks in when a transaction approaches consummation. This provision was designed to address a historical practice commonly called the “Magic GFE” and prevent creditors from issuing revised Loan Estimates after they have provided the Closing Disclosure. In our view, this would better ensure finality of the Closing Disclosure that the consumer receives prior to consummation.

To touch on the regulatory provisions: specifically, § 1026.19(e)(4)(ii) says that a creditor shall not provide a revised Loan Estimate on or after the date it provides the Closing Disclosure and the consumer must receive the revised Loan Estimate no later than four business days prior to consummation. The consequence of this is because the Closing Disclosure must be received no later than three business days prior to consummation, this is a way of ensuring that a consumer will not receive a revised Loan Estimate after the consumer receives the Closing Disclosure.

The Rule does recognize that changed circumstances or other events may occur at times where the creditor receives information sufficient to establish a ground for redisclosure at a point in time that is too late to provide a revised Loan Estimate within these restrictions. The Bureau, in crafting the Final Rule, acknowledged this possibility and provided some flexibility to creditors through comment

§ 1026.19(e)(4)(ii)-1 in the event that there are less than four business days between the time the revised version of the Loan Estimate would be required to be provided under § 1026.19(e)(4)(i) and consummation. In this limited circumstance, comment § 1026.19(e)(4)(ii)-1 allows creditors to comply with the timing requirements of § 1026.19(e)(4), in other words to redisclose, if the revised disclosures are reflected on the Closing Disclosure, or as the Rule says, the disclosures required by § 1026.19(f)(1)(i).

Therefore, in circumstances where there are less than four business days in between the time the revised disclosures would be required to be provided, that's again generally going to be within three business days of receiving information sufficient to establish, then the Closing Disclosure may be used to redisclose any estimates that increase due to a triggering event and some examples are laid out in the commentary.

In tying back to the initial question, the question that Dania teed up, the Rule does not provide any other means for a Closing Disclosure to be used to redisclose and reset applicable tolerance levels in other circumstances, including when the Closing Disclosure is provided earlier than is required to under the rules unless, somehow, that event would fit within this window as described in that comment.

Ayoubi: Great. Thanks for that explanation, Andy. And a question that we received on the last webinar. **[Bullet 4]** Is an additional 3-business-day waiting period required if the APR decreases by more than $\frac{1}{4}$ or $\frac{1}{8}$ percentage points?

Arculin: Thanks Dania. This was a question we received several times, including during the last webinar. Section 1026.19(f)(2)(ii) requires an additional three business day waiting period if the annual percentage rate or APR disclosed under § 1026.38(o)(4) on the Closing Disclosure becomes "inaccurate" as defined in an existing provision of Regulation Z § 1026.22. We did not change these existing accuracy requirements in § 1026.22, so this additional waiting period is triggered by the same APR tolerance rules that exist today for current TILA disclosures in § 1026.22. Accordingly, creditors may continue to use existing guidance on this subject from both the Bureau and the Federal Reserve such as a document that I've always found very helpful, the Federal Reserve Bank of Philadelphia's guidance on this subject in their Fall 2011 Consumer Compliance Outlook publication.

As that guidance notes, an APR that was overdisclosed due to an overdisclosed finance charge does not require a new waiting period. I think there is an assumption that that's commonly why an APR would be overdisclosed, due to an overdisclosed finance charge. Rather, § 1026.22(a)(4) contains special accuracy rules for mortgages and states that if the APR is overdisclosed and the reason for overdisclosure is the finance charge, but the finance charge would be considered accurate under § 1026.18(b)(1), then the APR is not considered inaccurate under § 1026.22.

Section 18(b)(1), for your reference, states that an overdisclosed finance charge is going to be considered accurate so a resulting overdisclosure of APR generally will be considered accurate as well. However, as the 2011 Guidance cautions, this only applies in situations where the APR was overdisclosed due to the finance charge, and would not apply in the event that overdisclosure resulted from something else. However, it's unclear how that would occur.

And with that, I will turn things over to David who will introduce the Loan Estimate forms. And as I mentioned at the beginning, we are going to dive very deeply into the § 1026.37 Loan Estimate and § 1026.38 Closing Disclosure requirements in our next session, but David will kick it off with some initial questions.

David Friend, Counsel, CFPB Office of Regulations: Thank you Andy. I think what we're going to do now is to start talking about some threshold questions related to the Loan Estimate and if we could move on to the next slide please?

Loan Estimate – General

- Q: Where on the Loan Estimate form is the creditor supposed to provide the language described in 1026.19(e)(3)(iv)(F) for construction loans where settlement may be delayed?
- Q: For second mortgages issued simultaneously with first mortgages as part of a purchase transaction (or “simultaneous seconds”) is the creditor allowed to use the alternative Loan Estimate for transactions without a seller?
- Q: If there is more than one applicant/consumer, what needs to be disclosed on the Loan Estimate?



15

Friend: We'll be getting into more detail in the next webinar about the Loan Estimate, but we wanted to start with some threshold questions we have received at this point. Dania?

Ayoubi: **[Bullet 1]** Where on the Loan Estimate can a creditor provide the language described in § 1026.19(e)(3)(iv)(F) for construction loans where settlement may be delayed?

Friend: The language for new construction loans can be provided by creditors where the creditor reasonably expects settlement of the new construction loan will occur more than 60 days after the initial Loan Estimate is provided. The notice, if provided, is required to be conspicuous and inform the consumer that a revised Loan Estimate can be provided at least 60 days before consummation. This is a continuation of current practice in relation to the Good Faith Estimate under RESPA. Section 1026.37, which governs the information to be placed on the Loan Estimate, does not contain a provision to indicate where this language needs to be placed by the creditor. We are aware of this inconsistency and intend to address this before the effective date in order to permit creditors to provide the Loan Estimate with the language permitted under § 1026.19(e)(3)(iv)(F) for new construction loans.

Ayoubi: Thanks, David. **[Bullet 2]** For a second mortgage issued simultaneously with a first mortgage as part of a purchase transaction (or a simultaneous second) is the creditor permitted to use the alternative Loan Estimate for transactions without a seller?

Friend: The new disclosure rules allow creditors to use an alternative Loan Estimate and an alternative Closing Disclosure with fewer entries for transactions without a seller, which adjusts and abbreviates two parts of the Loan Estimate: the cash to close amount on page one; and the calculating cash to close table on page 2. See section 1026.37(d)(2) and (h)(2). These modifications to the Loan Estimate are discretionary in transactions without a seller.

Generally, the alternative form may be used for refinances, home equity loans, or other credit transactions that do not involve a seller and a real estate transaction. However, the question has been raised to the Bureau about whether it could be used in purchase transactions that include a simultaneous second lien loan. In our view, it is permissible to use the alternative forms for simultaneous seconds when (1) the seller is not contributing to the cost of the second loan; and (2) the entirety of the seller's transaction and any other costs relating to the transaction between the seller and consumer are reflected on the Closing Disclosures provided to the seller and consumer in connection with the first lien transaction.

There are several reasons we believe use of the alternative form for a simultaneous second is permissible. The Bureau expects that in typical transactions a simultaneous second will be two separate transactions involving two separate creditors. However, even in the case of the same creditor providing the simultaneous second, the Bureau would expect that the transaction would be structured to be a separate transaction with a separate note and security instrument. Regarding whether or not it is appropriately classified as a "no seller" transaction, in our view a simultaneous second only has a seller insofar as the proceeds may go to the seller. Practically speaking, the seller is more akin to a third party receiving the loan proceeds because there is no additional information to disclose regarding the transaction between the consumer and seller that is not provided on the Closing Disclosure for the first lien transaction if the seller is not contributing to the cost of the second lien transaction.

Therefore, a creditor may use the alternative Loan Estimate for transactions without a seller for closed-end simultaneous seconds but is not required to do so. Even though the simultaneous second will be disclosed separately, the proceeds from any simultaneous second will be included in the Closing Disclosure for the primary transaction with a seller in the amounts disclosed pursuant to § 1026.38(j)(2)(vi) per comment § 1026.38(j)(2)(vi)-2.

Note that I am assuming that the simultaneous second is a closed-end credit transaction and not an open-end transaction that would be disclosed pursuant to § 1026.40 or a home equity line of credit subject to § 1026.6(a). Also please note that as we have discussed earlier, there are some simultaneous second transactions that are exempt from providing a Loan Estimate and Closing Disclosure under § 1026.3(h), but creditors would still need to provide disclosures under section § 1026.18 for those transactions as Andy noted earlier.

Ayoubi: Thanks David. And we just have a few minutes left and our last question [**Bullet 3**] If there is more than one applicant or consumer, what should be disclosed on the Loan Estimate?

Friend: If there is more than one consumer applying for credit, § 1026.37(a)(5) requires disclosure of the name and mailing address of each consumer applying for that credit. If the names and mailing addresses of all consumers applying for credit do not fit in the space allocated, an additional page with this information may be appended to the end of the Loan Estimate. Note that for purposes of delivery, when two consumers are jointly obligated, the Loan Estimate may be delivered to either one of them. See comment § 1026.17(d)(2)-1.

[BuckleySandler Note: This appears to be a reference to Comment § 17(d)-2, which, effective August 1, 2015, will state:

When two consumers are joint obligors with primary liability on an obligation, the disclosures may be given to either one of them. If one consumer is merely a surety or guarantor, the disclosures must be given to the principal debtor. In rescindable transactions, however, separate disclosures must be given to each consumer who has the right to rescind under § 1026.23, although the disclosures required under § 1026.19(b) need only be provided to the consumer who expresses an interest in a variable-rate loan program. When two consumers are joint obligors with primary liability on an obligation, the early disclosures required by § 1026.19(a), (e), or (g), as applicable, may be provided to any one of them. In rescindable transactions, the disclosures required by § 1026.19(f) must be given separately to each consumer who has the right to rescind under § 1026.23. In transactions that are not rescindable, the disclosures required by § 1026.19(f) may be provided to any consumer with primary liability on the obligation. See §§ 1026.2(a)(11), 1026.17(b), 1026.19(a), 1026.19(f), and 1026.23(b).]

Also note that there is a difference relating to delivery of the Closing Disclosure in rescindable transactions. The Closing Disclosure must be provided to each consumer that has the right to rescind in a rescindable transaction. Again, see comment § 1026.17(d)(2)-2. **[BuckleySandler Note: As above, this appears to be a reference to revised comment 17(d)-2.]**

We will discuss this in more detail in our later webinar, but I wanted to make sure that people understood the difference. For purposes of delivery, the Loan Estimate may be delivered to either one of two jointly obligated consumers, whereas in rescindable transactions, the Closing Disclosure must be provided separately to each of the jointly obligated consumers within the timing requirements of § 1026.19(f).

Arculin: I think that concludes the CFPB's portion so we can turn it back over to Charlene. I apologize if anyone out there had issues with hearing us. I understand there were some microphone concerns. We will try and investigate that and figure out what may have been muffled or unclear and figure out how we can address that moving forward.

I think for now we are out of time so I'll turn things back over to Charlene and again thanks to everyone for listening in.

Charlene: Great. Thank you, Andy. And that concludes our time for today and I would like to thank the CFPB and our speakers for their presentation and a very special thank you to all of you who participated in today's call. As Andy mentioned, we did have some member's experience audio difficulties and I would want to remind everyone that this webinar will be archived and available for playback on our Outlook Live website. Also, as you exit the webinar please be sure to complete the evaluation form that will automatically pop up when you exit the event player. Your feedback is very important to us as we continue these events and other efforts to maintain a dialogue with the industry. Thank you again for joining us today and we look forward to welcoming you back to a future Outlook Live webinar.