



July 27, 2009

MDIA Disclosure Requirements

On May 19, 2009, the Federal Reserve Board published in the Federal Register a final rule amending Regulation Z to implement changes to the Truth in Lending Act (TILA) made by the Mortgage Disclosure Improvement Act of 2008 (MDIA). The MDIA is part of the Housing and Economic Recovery Act of 2008 (HERA) that became law on July 30, 2008. The MDIA requirements discussed below become effective with applications taken July 30, 2009.

Terms/Definitions hereinafter referenced:

- **Creditor:** The creditor is the entity to whom the initial payment is payable as named on the face of the Note.
- **General business day** is defined as the days on which a creditor's office's are open to the public for carrying on substantially all of its business functions (i.e. this is all calendar days (Monday through Friday) excluding Saturdays, Sundays and specified Federal legal public holidays.
- **Precise business day** is defined as all calendar days (Monday through Saturday) excluding Sundays and specified Federal legal public holidays.
- **Consummation:** Is the date the Borrower(s) execute loan closing documents.
- **TIL:** Truth in Lending

USA Direct Funding will require ALL loan files delivered to contain:

- A copy of the **INITIAL** TIL disclosure (**to include the added statement: "You are not required to complete this agreement merely because you have received these disclosures or signed a loan application"**) that was delivered or mailed to the Borrower(s), dated no later than **3 general business days** after the creditor received the Borrower(s)' written application.
- All **CORRECTIVE** TIL disclosures that were required to be delivered or mailed to the Borrower(s) from USA Direct Funding.
- A **FINAL** TIL disclosure signed and dated at consummation.
- **Signed and dated** initial loan application (1003) by Interviewer.

The rules require that, for all real estate secured closed-end loans, the creditor must deliver or mail the initial Truth-In-Lending (TIL) Disclosure no later than the third business day after receiving an application for a loan. A “creditor” is the entity whose name is on the Note and Security Instrument as being the Lender, a “written application” means the submission of a borrower's financial information in anticipation of a credit decision relating to a federally related mortgage loan. An application is considered received when it reaches the creditor by mail, electronically, by hand delivery, or through an intermediary agent or broker. No fees, other than a credit report fee, may be collected from the consumer until after the consumer has received the initial TIL. However, no initial TIL is required if the application is denied or withdrawn within the three (3) business day period.

In addition, the new rules prohibit the creditor from closing the loan until at least seven (7) business days after the initial TIL Disclosure is mailed or delivered.

If at consummation (signing of loan documents), the annual percentage rate (APR) will exceed by the applicable tolerance the APR in the most recently provided TIL Disclosure, the consumer must receive re-disclosure of all changed terms at least three (3) business days before consummation of the loan. (See Re-disclosure Requirements below for additional information).

Delivery of Initial TIL Disclosure

TILA requires that the lender deliver or mail an initial TIL Disclosure to the borrower within three (3) **GENERAL** business days after the lender receives an application for any closed-end real estate secured dwelling. For the purpose of providing the initial TIL Disclosure, a **GENERAL** “business day” is Monday through Friday, and does not include Saturday, Sunday or any of the following Federal holidays unless the lender is open for business on that holiday:

- New Year’s Day, January 1st
- Birthday of Martin Luther King, Jr., the third Monday in January
- Washington’s Birthday, the third Monday in February
- Memorial Day, the last Monday in May
- Independence Day, July 4th
- Labor Day, the first Monday in September
- Columbus Day, the second Monday in October
- Veteran’s Day, November 11th *
- Thanksgiving Day, the fourth Thursday in November
- Christmas Day, December 25th

The TIL Disclosure must now also include the following statement: ***You are not required to complete this agreement merely because you have received these disclosures or signed a loan application.*** This notice must be included in both the initial TIL Disclosure and in any subsequent TIL Disclosure. No initial TIL is required if the application is denied or withdrawn within the three (3) business day period.

Limitation on Collection of Advance Fees

Consumers are prohibited from paying any upfront fees to the lender or any other party (including brokers, appraisers or other third parties), other than a reasonable credit report fee, until after the consumer has *received* the initial TIL Disclosure.

If the initial TIL Disclosure is mailed to the consumer using first class mail, it will be considered received by the consumer three (3) **PRECISE** business days after it has been mailed, not counting the day the TIL Disclosure was actually put in the mail. For this purpose, a “business day” is all calendar days, except Sundays and the Federal holidays listed above. In addition, three full business days must expire after mailing the TIL Disclosure before a non-credit report fee can be charged.

IMPORTANT NOTE: For initial TILs that are e-mailed, faxed, sent by overnight courier or delivered any other way than by regular mail or in person, the consumer must either be contacted by telephone to confirm actual receipt of the disclosures (in such case affirmative contact with the consumer must be documented in the loan file conversation log) OR there must be documentary evidence in the file of delivery of the initial TIL (such as a Fed Ex tracking confirmation). For these delivery methods, fees for anything other than a credit report cannot be imposed at any time prior to verbal confirmation of receipt of the initial TIL by the consumer or the time of delivery reflected in documentary evidence.

Initial Seven-Business Day Waiting Period

MDIA requires that the initial TIL Disclosure be delivered or placed in the mail no later than the seventh business day before consummation. The seven (7) **PRECISE** business day waiting period begins when the lender delivers the initial TIL Disclosure or places it in the mail. The loan closing can take place on the seventh business day. There is no requirement based on receipt date or assumed receipt date of the disclosure.

For this purpose, the same business day rule as referenced above is used to determine business days (i.e., all calendar days, except Sundays and the Federal holidays listed above).

Re-disclosure Requirements (Corrective TIL)

TILA requires that the borrower *receive* new disclosures (Corrective TIL) at least three (3) **PRECISE** business days before consummation (signing date) if the APR at consummation will exceed by more than .125% (1/8%) the APR in the most recent TIL provided to the consumer (either the initial TIL or a more recent TIL).

The three (3) **PRECISE** business day period begins when the borrower *receives* the revised disclosure. The loan closing can take place on the 3rd business day.

For these purposes, the same business day rule as referenced directly above is used to determine business days (i.e., all calendar days, except Sundays and the Federal holidays listed above).

Acceptable certification and/or verification of delivery of a re-disclosed TIL is as follows:

- Email or Fax - Borrower has certified they received updated disclosure (via telephone or in writing and is documented in loan file).
- Overnight Mail – Tracking number is in loan file.
- In Person – Borrower signs copy of updated disclosure and it is in loan file.
- 1st Class Mail - Considered received by the consumer three (3) business days after it has been mailed, not counting the day the disclosure was actually put in the mail.

No Waiver of Waiting Periods

USA Direct Funding will not allow the waiving of any waiting period. This includes the seven (7) day period for the initial TIL and the three (3) day period for the re-disclosure corrective TIL.

This bulletin summarizes USA Direct Funding’s requirements for compliance with the MDIA, but should not be taken as legal advice. Brokers should consult with their own legal counsel for detailed guidance regarding all lending compliance requirements.

The Following Page contains a sample Calendar:

Sample Calendar: Corrective TIL Re-Disclosure and 6 Day Wait Period <i>(Must wait 6 <u>precise</u> business days before closing after issuing corrective TIL disclosures.)</i>						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1 Early TIL mailed.	2	3	4	5 Federal Holiday	6 Earliest day to collect upfront fees.*
7	8	9	10 First possible day loan may close.	11	15	13
14	15	16	17	18 Corrected TIL mailed this day.	19	20
21	22	23	24	25 First possible day loan may close because corrected TIL was issued.	26	27
28	29	30	31			

*Earliest day allowed to collect upfront fees *other than credit report*.

NOTE:

General business days are all calendar days except Saturdays, Sundays and specified Federal legal public holidays.

Precise business days are all calendar days except Sundays and specified Federal legal public holidays.

Loans with corrected TILs may not close until 6 precise business days from the mailing of the corrected TIL.

(6 = 3 precise business days for mailing of the corrected TIL + 3 precise business days for review of corrected TIL by customer.)