

Mortgage Disclosure Improvement Act of 2008 (MDIA)
Amendment of Regulation Z

Effective July 30, 2009

The main purpose for Congress enacting the Truth in Lending Act (TILA) is to enable consumers to make informed use of credit information. To achieve this purpose, TILA requires full disclosures about credit terms and costs. TILA requires creditors to disclose the cost of credit as a dollar amount (the finance charge) and as an annual percentage rate (APR). These baseline requirements in TILA and in the rules under Regulation Z create uniformity in creditors' disclosures so that consumers can use them in comparison shopping.

On July 30, 2008, the Federal Reserve Board (the FRB) published a final rule amending Regulation Z (Regulation Z) implementing the TILA and the Home Ownership and Equity Protection Act (HOEPA). Further, the US Congress enacted the Housing and Economic Recovery Act of 2008, on July 30, 2008, which included amendments to TILA known as the Mortgage Disclosure Improvement Act of 2008 (MDIA).

The Mortgage Disclosure Improvement Act of 2008 was enacted to extend disclosures for certain mortgage transactions that were not previously covered. Prior to the MDIA amendment, early disclosures required by the TILA did not cover non-purchase money mortgages (refinances). The MDIA requires disclosures for non-purchase money transactions that conform to the disclosures required under purchase money transactions.

On May 8, 2009, the FRB issued a final rule implementing changes to TILA made by MDIA. The MDIA final rule advances to July 30, 2009 the compliance date for early disclosure requirements adopted by the Board in the July 2008 rulemaking, and expands the requirements. The final rule implemented the following new requirements:

- Rule applies to “any extension of credit secured by the dwelling of a consumer”; this includes home refinance loans and home equity loans (not Home Equity Line of Credit (HELOC)).
- Loans secured by a dwelling even when it is not the consumer's principal dwelling are covered.
- Disclosure to consumers that they are not obligated to complete the transaction simply because disclosures were provided or because they applied for a loan.
- No imposition or collection of fees prior to the consumer receiving early disclosures other than a bona fide and reasonable fee for obtaining a consumer's credit report.
- Disclosure of Good Faith Estimate of costs must be made no later than three days after application. The MDIA provides that when the early disclosures are mailed, the consumer is deemed to receive the disclosures three business days after they are mailed.
- If the Annual Percentage Rate (APR) changes beyond the specified tolerance accuracy, a corrected disclosure must be *received* by the

consumer on or before the third day before consummation (Consummation is determined by state law and it is usually when the consumer signs loan documents).

- The accuracy of the APR as of consummation date should be compared to the APR in the most recent disclosures provided to the consumer. For example, if consummation was scheduled March 11, and early disclosures were provided in January and updated disclosures were provided on March 4, the APR as of the date of consummation should be compared to the APR disclosed on March 4 (not the APR from the early disclosures in January).
- Consummation can only occur on or after seven days after the early disclosures.
- The consumer can expedite consummation for bona fide personal emergency.

Not Covered In the Final Rule

- The Stabilization Act of 2008 amends the MDIA for mortgage transactions secured by a consumer's interest in timeshare plans:
 - Early disclosures for transactions are subject to § 226.19(a) (5) (*timeshare*) **and** must be given (a) before consummation or (b) within three business days after the creditor receives the consumer's written application, whichever is earlier.
- The additional disclosures required by MDIA for Variable-rate loans **are not** covered by this final rule. Those will become effective on January 30, 2011.
- Home Equity Lines of Credit (HELOC) **are not** covered by final rule.

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