

**Policy Clarification for TILA-RESPA Integrated Disclosure Fee Itemization Requirements and Regarding Loan Expenses Not Expressly Permitted by 38 CFR 36.4313**

1. Purpose. This Circular explains the Department of Veterans Affairs' (VA) requirements regarding the Consumer Financial Protection Bureau (CFPB)'s new Truth in Lending Act - Real Estate Settlement Procedures Act Integrated Disclosure Closing Disclosure document. This document is commonly referred to as the TRID-CD. The requirements set out in this Circular will apply to all VA-guaranteed home loans originated on, or after, June 1, 2016. In addition, this Circular clarifies how to treat loan expenses not expressly permitted by VA regulations.

2. Background. On October 3, 2015, the CFPB established new requirements regarding mortgage disclosure forms required to be used by lenders for all home loans. Pursuant to these requirements, the HUD-1 Settlement Statement and the Truth-in-Lending Statements were combined into the TRID-CD. Lenders are now required to use the TRID-CD to itemize services and fees charged to the borrower by the lender or broker when the borrower obtains a loan to purchase a home or to refinance an existing mortgage instead of the HUD-1.

3. How to use the TRID-CD to itemize costs for VA Home Loans 38 CFR 36.4313. CFPB's change from a HUD-1 to the TRID-CD, has caused uncertainty on the part of lenders regarding how the TRID-CD should be completed for VA loans. Accordingly, by this Circular, VA is clarifying how lenders should complete the TRID-CD in order to meet VA program requirements regarding allowable fees and charges which are charged to the borrower and how to itemize lender and seller credits.

4. Implementation Instructions.

a. Specifically Itemized Costs. In accordance with 38 CFR 36.4313(d)(1), lenders may charge only certain fees to Veterans. These are commonly referred to as reasonable and customary "allowable fees and charges" which, for the most part, are actually third party fees. These fees and charges include the following:

- (1) Appraisal fees
- (2) Recording charges
- (3) Credit report
- (4) Taxes and assessments
- (5) Hazard insurance
- (6) Surveys
- (7) Title examinations and insurance
- (8) Flood zone determinations and life of loan service
- (9) Other items authorized by the VA per local variances

b. Other Costs. In addition, 38 CFR 36.4313(d)(2), permits a lender to charge the Veteran a flat charge, not exceeding one percent of the amount of the loan if that charge is in lieu of all other charges relating to costs of origination not set out in 36.4313(d)(1). These fees are in general, charged by the lender, but could be third party fees as well. There is a list of some of the more common costs of origination not specifically allowed by 38 CFR 36.4313(d)(1) in the VA Lender's Handbook, Pamphlet 26-7, chapter 8, section 2.d. These miscellaneous costs, which aren't specifically listed as "allowable fees and charges" in the regulation may still be charged by lenders on VA loans, provided they are included in the one percent lenders are permitted to charge the Veteran.

c. Itemization of Expenses on the TRID CD. In order for VA to determine that the lender has complied with the fees and charges limitations of 38 CFR 38.4313, lenders must complete the TRID CD accurately. Exhibits A and B, attached, are provided as sample TRID CDs to clarify the proper way to account for charges to the Veteran and charges paid by others such as lender or seller credits.

a. Example 1 (see Exhibit A). The fees and charges shown in this example clearly exceed the allowable one percent flat fee for charges related to the cost of origination of the loan. Even taking into account the lender and/or seller credits, the borrower was charged more than one percent by the lender, so it does not conform to 38 CFR 36.4313.

b. Example 2 (see Exhibit B). This example shows an alternative to the fees charged to the Veteran that exceed the one percent flat charge, but would otherwise be considered lender or seller credits. Even though the lender chose to provide an additional credit, it was not necessary to itemize that credit because all other charges were accounted.

5. Documentation and Submission of TRID CD. A final borrower signed copy of the TRID-CD is required on all loans. If completed properly, no additional itemization of lender or seller credits is necessary.

6. Rescission: This Circular is rescinded April 1, 2018. Circulars 26-15-6 and 26-14-10 are rescinded immediately.

By Direction of the Under Secretary for Benefits

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SS (26A1) FLD: VBAFS, 1 each (Reproduce and distribute based on RPC 2021)