

Instructions Regarding Documentation of Allowable Fees and Charges on the Truth in Lending Act- Real Estate Settlement Procedures Act (TILA-RESPA) Integrated Disclosure Closing Disclosure (TRID-CD Form)

1. Purpose. This Circular provides the Department of Veterans Affairs' (VA) requirements for accurate completion of the Consumer Financial Protection Bureau (CFPB)'s Truth in Lending Act-Real Estate Settlement Procedures Act Integrated Disclosure Closing Disclosure (TRID-CD) document. Since VA no longer accepts a separate itemized list of credits and charges, lenders must document all allowable fees and charges assessed against the borrower, in accordance with 38 C.F.R. 36.4313, as well as any lender and seller credits on the TRID-CD. The requirements explained in this circular will apply to all loan applications dated on or after July 2, 2017.

2. Instructions for Completing the Closing Costs Section of the TRID-CD. Fees charged to the Veteran must be listed in the "Borrower Paid" column of this form. Seller credits must be entered in the "Seller-Paid" column. Lender credits are to be listed in the "Paid by Others" column. Borrower closing costs, paid for by either the seller or the lender, should be placed in either the "Seller Paid" or "Paid by Others" column, as appropriate. This breakout eliminates the need to provide a separate itemized list of fees and charges.

3. Allowable Fees and Charges under 38 C.F.R. 36.4313. In accordance with 38 C.F.R. 36.4313(d)(1), Veterans may only pay, or be charged, certain specific fees. Many of these fees are third party fees, i.e., collected from the Veteran by the lender on behalf of other parties to the transaction. The complete list of these fees may be found in our regulations, at 38 C.F.R. 36.4313. The most common of these allowable fees and charges include:

- a. Appraisal fees,
- b. Recording charges,
- c. Credit report,
- d. Taxes and assessments,
- e. Hazard insurance,
- f. Surveys,
- e. Title examinations and insurance,
- g. Flood zone determinations and life of loan service, and
- h. Other items authorized by the VA per local variances.

4. Lender Fees. In addition, 38 C.F.R. 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). Pursuant to 38 C.F.R. 36.4313(d)(2), lenders may charge Veterans costs not enumerated in §36.4313(d)(1), provided these costs are included in this one percent fee. This is discussed in further detail in the VA Lenders' Handbook, Pamphlet 26-7, in chapter 6, section 2d.

5. VA Will No Longer Accept Itemized Lists of Fees. As discussed above, in paragraph 3, VA is now requiring that all fees and charges must be shown in the appropriate column(s), in sections A – J of the TRID-CD. Lenders should no longer break these fees out on a separate form, as previously permitted with the HUD-1. Sample TRID-CDs are attached, as Exhibits A and B, to show the proper way to document charges assessed against the Veteran and charges

paid by other parties, through either lender or seller credits. Lenders may attach a continuation page to the TRID-CD if necessary to document all fees and charges included in the transaction if all lines within the Closing Cost Details section of the TRID-CD have been used. The continuation page(s) must break out all fees and charges in the same way as they are itemized in the Closing Cost Details section and the pages numbered 2a and 2b.

6. Corrections to the TRID-CD. As necessary, lenders may correct a TRID-CD. Corrections to the Closing Cost Details section must break out all fees and charges in the appropriate column(s). It is unacceptable for the lender to show these corrections via a lump sum credit. Post-closing TRID-CD corrections do not need to be signed by the borrower(s).

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 loan origination. Even taking into account the lender and seller credits, the borrower was charged more than one percent by the lender, so it does not conform to 38 C.F.R. 36.4313. The lender will be required to correct the TRID-CD to accurately reflect the lender and/or seller credits in the appropriate columns and/or refund the Veteran through a principal reduction of the loan. In cases that require a principal reduction, the lender must provide verifiable evidence that the principal reduction has occurred and that the Veteran was notified of the principal reduction.

b. Example 2 (see Exhibit B). This example shows an accurate documentation of the fees charged to the Veteran that exceed the one percent flat charge, but would otherwise be considered lender or seller credits. The credits are accurately documented in the correct column(s) on the TRID-CD. No corrective actions are necessary.

7. Documentation and Submission of TRID-CD. A final copy of the TRID-CD, signed (either electronic or wet signature) by the borrower, is required on all loans.

8. Rescission: This Circular is rescinded April 1, 2019. Circular 26-16-11 is effective for all loan applications taken through July 1, 2017, and will be rescinded July 1, 2017.

By Direction of the Under Secretary for Benefits

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