



CFPB Releases Its Five-Year Assessment of TRID Rule

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Last week, the CFPB released its five-year “assessment” of the TRID rule - a report over 300 pages long. The Dodd-Frank Act requires the CFPB to conduct an assessment of each significant rule and publish a report within five years. CFPB issued the TRID Rule in November 2013, and the rule took effect on October 3, 2015.

As background, TLTA filed comments on the CFPB’s assessment in January 2020. In July, TLTA leadership held a phone conference with the CFPB authors and discussed the impact of TRID on our industry. In early August, TLTA filed an additional set of comments with CFPB based on member surveys, with an emphasis on the confusion related to how simultaneous issue is disclosed to consumers.

In a preamble to the CFPB assessment and the five-year look back, Director Kraninger said that “this places a responsibility on the Bureau to take a hard look at each significant rule it issues and evaluate whether the rule is effective.” Ironically, she further stated that “despite our best efforts, the Bureau was *unable* to obtain or generate the data necessary to do such [cost benefit] analysis of the TRID Rule.”

This report will not be the final say on TRID; according to her, “its issuance is not the end of the agency’s mortgage disclosure work. The Bureau is interested in hearing reactions from stakeholders to the report’s findings and conclusions.”

The report essentially looks at the impact of TRID in three areas: consumers, industry and the mortgage marketplace. Overall, the CFPB concluded that TRID appears to have decreased mortgage originations and increased closing times, but these measures returned to pre-TRID Rule in a relatively short period.

CFPB concluded that for consumers the impact of TRID included the following:

- More likely to report applying for a mortgage from more than one lender or broker. Nevertheless, most borrowers reported applying for only one mortgage.

- More likely to have asked questions of their lender or broker, and to have sought a change in their loan or closing.
- More likely to report being “very satisfied” with the information in their disclosure forms.
- For title services, CFPB concluded that consumers were less likely to shop for a settlement/closing agent and more likely to go with a settlement/closing agent recommended by their lender, broker, or real estate agent.
- Less likely to report being rushed or not given time to read documents at closing, but more likely to report their loan terms being different at closing.

For industry, CFPB found the following in terms of impact on cost to implement and maintain TRID:

- The TRID Rule appears to have created sizeable implementation costs for lenders and closing companies. Based on the industry surveys, a typical cost for a lender to implement the TRID Rule was \$146 per mortgage originated in 2015, or roughly two percent of the average cost of originating a mortgage.
- Similarly, a typical cost for a closing company to implement the TRID Rule was \$39 per closing in 2015, or about ten percent of the average cost of closing. The Rule’s 2013 benefit-cost analysis, by comparison, estimated an average implementation cost of about \$45 per closing. Closing Company Survey respondents reported that these costs largely stemmed from efforts to understand the requirements of the Rule and from new information technology systems, policies, and training.
- The median respondent to the Closing Company Survey reported facing additional ongoing operational costs of \$100 per closing. This contrasts with the Rule’s 2013 benefit-cost analysis, which predicted that ongoing costs would be negligible.

Focusing on the title industry, the CFPB conducted a Closing Company Survey in 2019 and 2020. Much of the information they used to reach conclusions came from this survey. Responses to these surveys were voluntary and were low, representing only 3.7 percent of their market’s volume in 2015.

CFPB opined that TRID changed the way title insurance is disclosed. In particular, it noted that “when a consumer purchases owner’s title insurance that is not required by the creditor, the owner’s title policy is marked on the Loan Estimate and Closing Disclosure as ‘optional.’ In addition, the rule created a formula for disclosing rates when a consumer purchases both lender’s and owner’s title insurance from the same company. It is possible that the use of ‘optional’ to describe owner’s title may have reduced consumers’ demand for owner’s title policies.”

CFPB found, nevertheless, that responses to the bureau’s Closing Company Survey are inconsistent with a general reduction in consumer demand for owner’s title policies.

Based on responses to the Closing Company Survey, the number of owner’s title policies sold to consumers does not appear to have decreased since the rule’s effective date:

- Nearly 80 percent of respondents to the Survey indicated that the fraction of consumers who bought an owner's title insurance policy was roughly unchanged in 2018 compared with the year before the Rule took effect. Nine percent, however, reported the share who bought owner's title insurance had declined.
- CFPB concluded "this suggests that the Rule did not decrease consumer demand for owner's title policies, as might be expected if the TRID disclosures regarding title insurance confused consumers or otherwise made owner's title policies appear unnecessary."
- In a bright spot for the industry and how it handled the TRID transition, generally, closing agents found industry resources more helpful than the resources provided by the CFPB. By far, the resource respondents reported to find the most helpful was information from title insurance underwriters, which two-thirds of respondents found very helpful.

Lastly, CFPB did acknowledge our industry's comments on the confusing nature of the disclosure of simultaneous issue of an owners and lenders title. As it noted, many commenters, especially trade groups and commenters associated with the title insurance industry, stated the rule's calculation for the disclosure of simultaneous title insurance policy premiums is inaccurate and confusing to consumers. A trade association representing title companies provided a study of consumers that it stated showed consumers reacted negatively to the Rule's prescribed calculation. Some commenters stated that the Rule should be amended to permit rate calculations established by State law, or to only require the State law calculations.

What does this mean for further TRID changes? Moving forward, our industry will comment again on this report. The good news is that this report suggests that a wide ranging re-write of TRID is unlikely under the current regime, which will help in keeping low our on-going implementation costs. It does mean, however, that we will have to continue our work with CFPB to get simultaneous issues reported accurately and to have "optional" removed from the TRID regulations.

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