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It's official: CFPB will grant grace period on TRID enforcement

Open-ended grace period protects institutions acting in "good faith"

Trey Garrison
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The **Consumer Financial Protection Bureau** will not delay implementing the complex **TILA-RESPA Integrated Disclosure** requirements that go into effect Aug.1, but there will be a good-faith enforcement grace period that both the mortgage industry and a bipartisan coalition in Congress have asked for.

The TRID rule, which was brought forth by the CFPB, has a sweeping impact on the real estate market through the implementation and compliance costs it requires.

David Stevens, chairman and CEO of the **Mortgage Bankers Association,** told HousingWire Wednesday morning that CFPB Director Richard Cordray informed him that there will be a delay in enforcement.

Last week, a bipartisan coalition in Congress wrote Cordray a letter, which can be read here, wherein they argued that the TRID rule does not provide lenders an opportunity to start using the new disclosures before Aug. 1, and that the inability of lenders to test their systems and procedures ahead of time increases the risk of unanticipated disruptions.

In response to the letter from Congress, CFPB Director Richard Cordray sent a letter (which can be read here) to Congress members Wednesday morning, officially announcing the TRID enforcement grace period.

“We share your desire for a smooth and successful implementation of the Rule, and we continue to work closely with all stakeholders to support that goal,” Cordray writes.

“As we do so, and in response to considerable input we have received from you and your constituents, I have spoken with our fellow regulators to clarify that our oversight of the implementation of the Rule will be sensitive to the progress made by those entities that have squarely focused on making good-faith efforts to come into compliance wit the Rule on time,” Cordray writes. “My statement here of this approach is intended to ease some of the concerns we have heard about this transition to new processes in the coming months and is consistent with the approach we took to implementation of the Title XIV mortgage rules in the early months after the effective dates in January 2014, which has worked out well.”

Stevens said that this grace period is one thing the industry reached consensus on – altering the implementation date had mixed support – and that it’s the best outcome for the mortgage and mortgage finance industry.

"Essentially if an institution is working in all good faith to implement the rule, the regulatory framework in this country will use what they can to provide instructive guidance during this delay period," Stevens said. "This is a vast system of integrated service providers that spreads far beyond just lenders – there are servicing companies, real estate companies and third-party vendors who all have to make sure their systems are compliant and coordinated with each other."

The enforcement grace period will be open-ended, Stevens said, because Cordray wants to be flexible. At the very least, it should run through the end of 2015, Stevens said.

"We don't know how disruptive or (not) this implementation will be. If more time is needed, he keeps that flexibility," Stevens said. "It seems at minimum through the end of the year – and we will all be assessing this roll out."

A recent survey conducted by **Capsilon Corp.**, found that 41% of mortgage lenders report that they are not prepared to meet the August deadline to comply with TRID.

Regulatory implementation is further complicated by the fact that most banks – and particularly smaller community banks – rely on vendors for regulatory compliance needs and the accompanying software updates and system upgrades.

"These new rules affect the entire mortgage-lending industry, including lenders, service providers, appraisers, escrow agents and virtually anyone with a relationship to the mortgage lending process," said Cynthia Lowman, president of **United Bank Mortgage Corp.,** last week. "They will significantly reshape the housing-finance market, which comprises a substantial portion of our country's gross domestic product and touches the lives of nearly every American household. If we do not get this right it will have a negative impact on consumers, banks and the recovery of the housing market.

"Simply put, there is no realistic way that those banks can adequately prepare for the current Aug. 1 implementation," Lowman said. "Banks that have not fully implemented by the deadline will have to curtail mortgage lending until systems are in place, delivering a heavy blow to the mortgage market at a crucial time of the year."

An **American Bankers Association** survey found that while 74% of banks are using a vendor or consultants to assist with TRID implementation, only 2% of the compliance systems had been delivered by the month of April. Nearly eight in 10 banks (79%) couldn't verify a precise delivery date or were told they wouldn't receive systems before June.

The problem for the industry is that while stakeholders have implemented changes to technology platforms, staff training, and business practices, the new Integrated Disclosure forms may not be used prior to Aug. 1, which they say does not give consumers, the industry, or the CFPB an opportunity to test the new closing process in real time.

"The CFPB has effectively integrated the rules, but now we need them to ensure a smooth implementation, especially since there is no opportunity to comply early," said **National Association of Realtors** President Chris Polychron. "A five-month testing period will provide enough time for everyone to get it right, and ensure the rule works effectively for consumers, who shouldn't have to bear the burdens of the industry conforming to the new regulatory requirements."

Last week Democrats and Republicans in Congress came together to encourage the CFPB to adopt a grace period. The 255 Congress members wanted a good faith grace period through the end of 2015.

In May, the House passed H.R. 2213, introduced by Congressman Steve Pearce, R-N.M., and co-sponsored by Congressman Brad Sherman, D-Calif., which prevents enforcement of the integrated disclosure requirements and the filing of any related lawsuit if (1) the person has made a good-faith effort to comply with the requirements and (2) the conduct alleged to be in violation of the requirements occurred on or before Dec. 31, 2015, thus allowing stakeholders and the CFPB to test the effective operation of the rule.

They also argue that industry can provide data to the CFPB on issues that arise after they start implementation, which might allow the CFPB and industry to work together to improve TRID.

Trey Garrison is the Senior Financial Reporter for HousingWire.com. Trey has served as real estate editor for the Dallas Business Journal, and was one of the founding editors of D CEO Magazine. He has been an editor for D Magazine — considered among the best city magazines in the United States — and a contributor for Reason magazine.