



Investor R - Jumbo Product TRID Early Issues Update # 3

March 7, 2016

The purpose of this communication is to update you on Investor R's policy regarding the acceptance of loans with certain Loan Estimate and Closing Disclosure defects. We have also included a follow up on the common TRID issues that we have been seeing.

Jumbo Investor Policy

In December, the CFPB responded to an MBA request for further clarification on the Bureau's "Know Before You Owe" mortgage disclosure rules (TRID). In the Bureau's response, they indicated that investors' decisions to reject loans for "formatting and other minor errors", was perhaps an overreaction to the initial implementation of the new rule.

While the Bureau's letter was not a binding regulatory interpretation, Investor R, consistent with the Bureau's comments and on a temporary basis, began waiving certain types of defects, that they concluded presented no significant harm to the borrower and did not undermine the core purposes of TRID. These TRID waivers have and continue to be granted with the understanding that they do not relieve the seller of any rep and warrant exposure.

The first update to this policy will apply to clerical and tolerance cure corrections that are not delivered to the borrower within 60 days of consummation. Investor R has been accepting loans where the corrections were not delivered in a timely manner. Issues requiring correction are now being identified earlier, leaving sufficient time to issue the correction. **As a result, effective with Note dates after April 29, 2016, Investor R will no longer accept loans where correction CD's and tolerance cures have not been delivered within 60 days of consummation, pursuant to 1026.19(f)(2)(iv) for changes to clerical errors and 1026.19(f)(2)(v) for tolerance cures.**

In the weeks ahead Investor R will announce further updates to their current waiver policy.

Update of Common TRID Issues

Since early October 2015 Investor R has reviewed hundreds of loans for TRID compliance. While they have seen a significant reduction in disclosure defects, they are still dealing with certain defects that cannot be cured and will render the loan ineligible for purchase. The following is an outline of these issues:

AIR Table

The index type reflected on the AIR table of the LE and CD must include a full description; e.g. 1 Month LIBOR, 1 Year LIBOR, 12 Month LIBOR, etc. Loans with AIR tables missing the term indicator next to the index name on either the LE or CD are ineligible for purchase.

LE Values on Last LE Do Not Match Values on CD CCTC Table

All of the values in the LE's CCTC table should match the LE values on the CD's CCTC table.

In the example below the Loan Estimate values on the Closing Disclosure's CCTC table do not equal the corresponding amounts from the last Loan Estimate issued.

Last Loan Estimate

Calculating Cash to Close	
Loan Amount	\$760,000
Total Closing Costs (J)	-\$16,688
Estimated Total Payoffs and Payments	-\$702,707
Estimated Cash to Close <input type="checkbox"/> From <input checked="" type="checkbox"/> To Borrower	\$40,605
Estimated Closing Costs Financed (Paid from your Loan Amount)	\$16,688

Closing Disclosure

Calculating Cash to Close		Use this table to see what has changed from your Loan Estimate.	
	Loan Estimate	Final	Did this change?
Loan Amount	\$760,000.00	\$760,000.00	NO
Total Closing Costs (J)	-\$6,709.00	-\$10,782.64	YES • See Total Loan Costs (D) and To
Closing Costs Paid Before Closing	\$0	\$500.00	YES • You paid these Closing Costs before
Total Payoffs and Payments (K)	\$0	-\$705,649.49	YES • See Payoffs and Payments (K)
	\$47,642.00	\$44,066.87	
	<input type="checkbox"/> From <input checked="" type="checkbox"/> To Borrower	<input type="checkbox"/> From <input checked="" type="checkbox"/> To Borrower	
		Closing Costs Financed (Paid from your Loan Amount)	\$10,283.64

This should reflect -\$16,688

This should reflect -\$702,707

The Loan Estimate values on the Closing Disclosure must match the corresponding values on the Last Loan Estimate issued.

In the example above the following issues exist:

- LE value for Total Closing Costs on CD's CCTC table should equal -16,688
- LE value for Estimated Payoffs and Payments on CD CCTC table should equal -\$702,707

Inconsistent Use of CCTC Tables

On refinance transactions, a lender must use the same CCTC version (Alternate or Standard) throughout the disclosure process. Based on current regulatory language a lender cannot issue a post close correction CD to change the CCTC table format on the CD to align with the LE. This involves numeric values and is not allowed under the current regulations. Until the Bureau clarifies the scope of non-numeric corrections Investor R deems these loans as ineligible.

Alternative vs. Standard Calculating Cash to Close Table on Refinance Transactions

The alternate CCTC table was designed specifically for refinance transactions and provides a clearer overview of the transaction. However, the regulation does not prohibit the use of the Standard CCTC table in a refinance transaction. It is up to each lender to determine if they will use the standard CCTC table on refi transactions or the alternative form. Either way is acceptable per the regulation but consistency is paramount during the entire loan origination process.

If you use the Standard CCTC table format on a refinance transaction please note the following:

We have seen several loans where the Standard CCTC table is prepared incorrectly when used on refinance transactions. The most common defect we see when the Standard format is used is missing or incorrect "Funds for Borrower" or "Funds from Borrower".

When the transaction is expected to result in cash back to the borrower the estimated amount of cash back should be included in the “Funds for Borrower” field.

For detailed instructions refer to “The Guide to the Loan Estimate and Closing Disclosure Forms”, sections 2.3.3 and 2.3.4. This is available on the CFPB site.

Below are examples

LE Alternative Calculating Cash to Close Table Examples

If the transaction is expected to result in cash back the amount should be included in the “Estimated Cash to Close” Field with the “To Borrower” box checked.

Alternative CCTC Table (LE)	
Calculating Cash to Close	
Loan Amount	\$526,000
Total Closing Costs (J)	-\$12,747
Estimated Total Payoffs and Payments	-\$341,100
Estimated Cash to Close <input type="checkbox"/> From <input checked="" type="checkbox"/> To Borrower	\$172,153
Estimated Closing Costs Financed	\$12,747

If the transaction is expected to require cash to close the amount should be included in the “Estimated Cash to Close” Field with the “From Borrower” box checked.

Alternative CCTC Table (LE)	
Calculating Cash to Close	
Loan Amount	\$526,000
Total Closing Costs (J)	-\$12,747
Estimated Total Payoffs and Payments	-\$536,000
Estimated Cash to Close <input checked="" type="checkbox"/> From <input type="checkbox"/> To Borrower	\$10,000
Estimated Closing Costs Financed	\$12,747

LE Standard Calculating Cash to Close Table Examples

If the transaction is expected to result in cash back the amount should be included in the “Funds for Borrower” field.

Standard CCTC Table (LE)	
Calculating Cash to Close	
Total Closing Costs (J)	\$12,747
Closing Costs Financed (Paid from your Loan Amount)	-\$12,747
Down Payment/Funds from Borrower	\$0
Deposit	
Funds for Borrower	\$172,153
Seller Credits	
Adjustments and Other Credits	

If the transactions is expected to require cash to close the amount should be included in the “Down Payment / Funds from Borrower” field.

Standard CCTC Table (LE)	
Calculating Cash to Close	
Total Closing Costs (J)	\$12,747
Closing Costs Financed (Paid from your Loan Amount)	-\$12,747
Down Payment/Funds from Borrower	\$10,000
Deposit	
Funds for Borrower	\$0
Seller Credits	
Adjustments and Other Credits	

Estimated Taxes, Insurance and Assessments

Even if taxes and insurance are not escrowed they must still be included in this section with the appropriate “In Escrow” status.

Investor R has also seen a number of disclosure defects involving properties with Homeowner Association Dues. These dues are considered assessments and must be disclosed in multiple locations on the LE and CD even if they are not escrowed.

Example as follows:

LE and CD Estimated Taxes, Insurance & Assessments Section

With HOA dues added this should reflect \$1,132.23

The Other Box should be checked, "HOA Dues" should be added and "No" added to the "In Escrow?" column.

Estimated Taxes, Insurance & Assessments <i>Amount can increase over time See page 4 for details</i>	\$1,047.23 a month	This estimate includes <input checked="" type="checkbox"/> Property Taxes <input checked="" type="checkbox"/> Homeowner's Insurance <input checked="" type="checkbox"/> Other: HOA Dues See Escrow Account on page 4 for details. You must pay for other property costs separately.	In escrow? YES YES No
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Escrow Table on Page 4 of CD

Escrow		
Escrowed Property Costs over Year 1	\$11,519.53	Estimated total amount over year 1 for your escrowed property costs: <i>Property Taxes Homeowner's Insurance</i>
Non-Escrowed Property Costs over Year 1	\$0.00 \$935.00	Estimated total amount over year 1 for your non-escrowed property costs: You may have other property costs.
Initial Escrow Payment	\$4,693.16	A cushion for the escrow account you pay at closing. See Section G on page 2.
Monthly Escrow Payment	\$1,047.23	The amount included in your total monthly payment.

Borrower pays \$85 per month in HOA. Non-Escrowed Property Costs over one year total \$935 (based on 11 months)

Time Limits for Post Consummation Correction CD's

The regulation addresses three types of corrections that can be addressed and re-disclosed on a correction CD. In each case there is a time limit in which the correction and re-disclosure can be made.

Changes due to events occurring after consummation If during the 30-day period following consummation an event in connection with the settlement of the transaction occurs that causes the closing disclosure (CD) to become inaccurate, and such inaccuracy results in a change to an amount actually paid by the borrower, a corrected disclosure, with a refund if applicable must be delivered or placed in the mail not later than 30 days after receiving information sufficient to establish that such event has occurred.

Changes due to clerical errors. A creditor does not violate the CD disclosure requirements if the disclosures contain non-numeric clerical errors, provided the creditor delivers or places in the mail corrected disclosures no later than 60 days after consummation.

Refunds related to the good faith analysis, i.e. Tolerance Cures. If amounts paid by the borrower exceed the tolerance limits for the applicable fee previously disclosed, the creditor complies with the regulation if the creditor refunds the excess to the borrower. The creditor must deliver or place in the mail corrected disclosures reflecting the tolerance cure no later than 60 days after consummation.

Along with the post consummation CD provided to the borrower within the appropriate cure period, Investor R also requires an LOE to the borrower and proof of delivery to ensure the borrower was sent the post consummation CD. In cases of tolerance cures Investor R also requires a copy of the check.

Loan Estimate Issued by Broker

If a lender allows a broker to issue the LE before the file is delivered to the lender please review §1026.19(e)(1)(ii) and the Official Interpretation to 19(e)(1)(ii). In particular the Official Interpretation of this section addresses Broker and Creditor Responsibilities. Of note is the following statement; "if the broker provides an erroneous disclosure, the creditor is responsible and may not issue a revised disclosure correcting the error." Investor R interprets this to mean that should a broker issue an LE with a defect and the lender accepts the loan, the lender cannot cure the defect(s) by issuing a new LE.