STRUCTURED FINANCE ASSOCIATION

Key Points Summary:

TRID Grid 3.0 Overview

Background

TILA-RESPA Integrated Disclosure (TRID) Rules went into effect for loan applications starting on October 3, 2015, and were developed by CFPB to help consumers understand the loan terms, loan features, and charges and designed to promote transparency for the borrower and encourage them to comparison shop for mortgage loans they were considering. While these requirements were focused on the primary lenders' disclosures to the borrowers, the secondary market was left to focus on defining the liability surrounding these new disclosure obligations and attempting to quantify the risk that a secondary market investor may face in the event that investor purchased a loan that contained a violation of TRID. The uncertainty surrounding the potential liability was compounded by the extreme scrutiny being placed on the disclosure timing, which effectively brought the secondary market to a standstill as secondary market participants—including Third Party Review firms, aggregators, attorneys, lenders, and rating agencies - tried to calculate and assign risk severities to compliance exceptions. It was under these conditions that SFA formed the Due Diligence, Data, and Disclosure Working Group, bringing together secondary market participants to tie each and every provision of TRID to the specific liability provisions of TILA, with the primary goal of creating a uniform testing standard. This standard was based on the expertise of working group participants' understanding of legal precedent, informal written guidance, and other materials provided by the CFPB. This effort resulted in the publication of the TRID Compliance Review Scope (also referred to as the "TRID Grid") on June 15, 2016, which proved to be the catalyst that the secondary market needed to commence purchasing loans subject to TRID.

Since then, the Working Group published updated versions to the Compliance Review Scope, including on October 18, 2018, as well as the most recent version, which was published on December 5, 2019.

SFA's Key Points

- The third version of the Compliance Review Scope—formerly known as the SFIG RMBS 3.0 TRID Compliance Review Scope, now known as the SFA TRID Compliance Review Scope ("TRID Grid 3.0")—was published on December 5, 2019.
- The new scope's primary consideration is the elimination or alteration of testing areas that may carry assignee liability, but where probability of actual losses is minimal.
- The secondary consideration is the elimination of testing origination compliance on aspects that do not carry assignee liability or impair the asset.
- The categories removed from scope of previous TRID Grid include:
    1. Fair and Accurate Credit Transactions Act (FACTA)
    2. The Equal Credit Opportunity Act (ECOA)
    3. Real Estate Settlement Procedures Act (RESPA) (HUD-1 in scope for points and fees testing)
    4. State Late Charge Grace Periods/ Amounts (Retaining NM, NJ, WV, and GA based on Assignee Liability)
- This new scope furthers the pursuit of a uniform scope required for TPR firms performing compliance reviews on loans that will be securitized, and reduces the testing performed during a compliance review on loans to be included in a rated securitization.
- IMPORTANT NOTE: Due to the fact that the logic driving the content of this document is based upon informal CFPB guidance and legal precedent from several court decisions, there may be shifts in the requirements should there be future CFPB rulemakings or formal guidance, and/or as caselaw develops following the passage of the Know Before You Owe / TILA RESPA Integrated Disclosure Rule.