STRUCTURED FINANCE ASSOCIATION

August 10, 2026

Consumer Financial Protection Bureau
445 12th St. SW, Washington, DC 20024-2101
Attention: Comment Intake—Mortgage Disclosures and Rescission RFI, c/o Legal Division Docket Manager.
Docket No. CFPB-2026-0018

Re: Request for Information Regarding Promoting Access to Mortgage Credit.

Ladies and Gentlemen:

The Structured Finance Association (the "SFA") appreciates the opportunity to respond to the request of the Consumer Financial Protection Bureau (the "Bureau") for information regarding integrated mortgage disclosures under the Truth in Lending Act (TILA) and Real Estate Settlement Procedures Act (RESPA) (TILA-RESPA integrated disclosures or TRID), the right of rescission, and reverse mortgage disclosures.

SFA's mission is: "*To help its members and public policy makers grow credit availability and the real economy in a responsible manner."* The SFA is a consensus-driven trade association with over 370 institutional members representing the entire value chain of the securitization market. By facilitating the responsible issuance and investing of loans and securities, the market provides trillions of dollars of capital to consumers and businesses in communities across the country. SFA members include issuers and investors, broker-dealers, rating agencies, data analytic firms, law firms, servicers, trustees, and accounting firms. Because of this, we are methodical and thoughtful as we analyze the pros and cons of regulatory proposals before we reach a mutually acceptable position.

With respect in particular to TRID, SFA has a substantial history of engagement on implementation and secondary-market compliance issues. Following the 2015 effective date of the TRID Rule, SFA convened a broad-based industry working group consisting of mortgage originators, investors, due diligence firms, rating agencies, servicers, and counsel to evaluate how the new disclosure requirements affected loan saleability, securitization, and assignee-liability considerations. That effort resulted in the publication of the SFA TRID Compliance Review Scope (commonly known as the "TRID Grid"), an industry-developed framework designed to provide a uniform approach to evaluating TRID compliance risk in the secondary mortgage market.

SFA has continued to update that framework over time through its working groups and task forces, including the publication of TRID Grid 4.0 and more recent subordinate-lien TRID guidance, reflecting evolving CFPB guidance, legal developments, and market experience. Through this work, SFA members have accumulated more than a decade of practical experience that allows its membership to be uniquely positioned to assess how TRID requirements affect the availability, pricing, liquidity, and

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transferability of residential mortgage loans after origination, and how uncertainty surrounding technical compliance issues can influence access to mortgage credit in the secondary market.

This letter is organized as follows:

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I. Introduction

SFA supports targeted improvements that enhance clarity and reduce unnecessary compliance burdens. A key concern throughout our recommendations is the treatment of assignee liability, which imposes significant costs on the secondary mortgage market without providing commensurate consumer protection. We recognize that assignee liability is embedded in the statute and therefore not subject to regulatory modification. However, to the extent that regulatory oversight permits the exercise of discretion, we encourage the Bureau to adopt an approach that limits assignee liability exposure in favor of frictionless operation of the secondary mortgage market. Our recommendations seek to address concerns on imposing undue costs these concerns while preserving consumer protections at the core of TRID.

II. Executive Summary

While targeted improvements may be warranted, the CFPB should avoid major structural revisions that require substantial technology redevelopment, retraining, and implementation costs across the mortgage industry. Any modifications should build upon the existing TRID framework, which is now well understood by consumers, creditors, investors, and settlement providers. The changes discussed below would improve consumer comprehension and facilitate more efficient loan execution while preserving the core benefits and industry familiarity of the existing TRID forms.

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III. Discussion

The CFPB should eliminate assignee liability for TRID violations because it imposes severe inefficiencies on the secondary mortgage market without providing meaningful consumer protections. Exposing loan purchasers to liability for hyper-technical administrative or formatting errors forces secondary investors to conduct redundant, costly compliance audits and demand strict overlays. These inflated compliance expenses ultimately ripple back to home buyers in the form of higher borrowing costs and constricted credit availability. Because TRID's extensive disclosure regulations already offer robust direct enforcement against original loan creditors, eliminating downstream assignee liability would streamline mortgage liquidity while continuing to fully protect borrowers from substantive lender misconduct.

While SFA believes that eliminating assignee liability is the most straightforward way to reduce these unnecessary costs, we recognize that assignee liability is statutory and therefore beyond the Bureau's regulatory authority to eliminate. Accordingly, we also offer recommendations for tailored approaches to mitigating the adverse impacts of assignee liability in specific instances where the Bureau's exercise of discretion can limit such liability in favor of efficient secondary market operation, as enumerated below.

A. Tolerances, De Minimis Changes, Redisclosure and Changed Circumstances

This section addresses tolerance, de minimis, redisclosure, and changed-circumstance issues under TRID. Our recommendations focus on aligning tolerance liability with lender control, simplifying fee disclosures, clarifying changed-circumstance standards, and establishing cure processes that preserve consumer protections while reducing disproportionate compliance burdens. Importantly, where regulatory discretion permits, we encourage interpretations that limit assignee liability exposure and support efficient secondary market operation.

Data Summary: Tolerance Cure Experience

SFA is including as Appendix A a data set provided by one industry leading Third Party Reviewer ("TPR") firm showing 1,755 cure-related findings. 92 of these involve confirmed, refunded tolerance-cure observations reviewed from June 13, 2023 through July 06, 2026 from a set of roughly 50,437 loans. The total confirmed cure amount in the data set is $24,944.69; the average confirmed cure amount is $271.14; and the median confirmed cure amount is $92.35. Cure amounts range from $3.50 to $2,650.00. 50 of the 92 observations are $100 or less, and 66 are $250 or less. The remaining set of loans within the 1,755 cure-related findings could not be confirmed due to timing constraints and research required to extract the necessary data within the RFI comment period.

Another leading TPR firm analyzed the top ten exception categories from loan files from 2020-YTD 2026. This internal analysis found that exceptions were driven primarily by zero-tolerance and 10%-tolerance fee increases, and closing before the end of the statutory waiting period. The financial cost associated with these defects is substantial, as key categories (such as zero-tolerance and 10% tolerance fee overages) mandate direct monetary remedies through borrower refunds, while other calculation errors require statutory cures to reimburse understated payments or prepaid interest. Regarding the zero-

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tolerance category, for example, of the approximately 178,876 loans reviewed, 24,826 involved a refunded tolerance cure. Of these, 18,823 loans had cures of $250 or less, 12,280 loans in this group had cures of $100 or less, and another 275 loans in the group had cures of $1 or less (note: some of these $1 or less cures may involve Loan Estimate rounding issues). While the cure rate varies by exception type, some categories of exception (like statutory timing rules) are non-curable, and result in the loans being sold at a discount in the scratch-and-dent market.

This data illustrates two points directly relevant to the Bureau's tolerance and changed-circumstance questions. First, the current protocol is complicated. Creditors are routinely required to identify, document, refund, and evidence cures across multiple categories of TRID exceptions. Second, many cure amounts are small enough that the fixed costs of documenting, issuing, mailing, and reviewing the cure may exceed the consumer-dollar amount involved.

1. ***Align Tolerance Liability with Lender Control: Move Government and Third-Party Fees to a Best-Information Standard***

The CFPB should recalibrate the TRID tolerance framework so that creditors and mortgage brokers remain strictly accountable for fees they control, but are not held financially responsible for government-imposed charges and third-party fees that cannot be reliably predicted or controlled. Zero-tolerance treatment makes sense for lender, affiliate, and mortgage broker fees because those charges are set or controlled at some level by the loan originators. It does not make sense to apply the same standard to transfer taxes, recording charges, and other costs determined by governments or third parties.

The industry has spent more than a decade investing in technology, data sources, and compliance processes to improve fee estimates, yet transfer taxes and similar charges remain inherently difficult to predict. Local jurisdictions regularly change tax rates and methodologies, often with little notice. In other cases, the applicable tax depends on facts that evolve during the transaction or on consumer choices that occur after the initial Loan Estimate is issued. Construction-to-permanent loans are a particularly common source of uncertainty because the applicable tax treatment can change as the transaction progresses.

The result is a regime in which creditors routinely pay tolerance cures for charges they neither establish nor control. Even the most sophisticated lenders and data providers cannot guarantee perfect accuracy across thousands of local jurisdictions nationwide. The problem is not a lack of diligence. It is that many of these fees are simply beyond the creditor's control.

The CFPB should instead apply a "best information reasonably available" standard to transfer taxes, recording fees, and similar government-imposed or third-party-controlled charges. Creditors would remain responsible for making good-faith estimates based on available information but would not face liability when subsequent changes arise from government action, third-party determinations, or transaction developments beyond their control.

More broadly, the Bureau should reconsider the separate 10% tolerance category that currently applies to recording fees and certain shoppable services not selected by the consumer. If the underlying principle is that creditors should be accountable for charges they control, tolerance liability should be

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limited to creditor, broker, and affiliate fees. Aligning financial responsibility with actual control would produce a more rational regulatory framework, reduce unnecessary cures, and preserve meaningful consumer protections where lender conduct is truly at issue.

2. Apply a Best-Information Standard to Ancillary Service Fees and Simplify Fee Disclosures

The CFPB should clarify that fees charged by ancillary service providers retained by a primary service provider are subject to the best-information-reasonably-available standard. For example, a lender may require title services, but the title company may separately engage a closing attorney or other vendor whose fees are unknown to the lender when disclosures are issued. Those charges should not be treated the same as lender-controlled fees for tolerance purposes.

The Bureau should also address situations where a lender-required provider imposes additional fees for services the lender did not require. Charges such as title archive or title recording service fees can become subject to 0% or 10% tolerances simply because they are imposed by the provider of a lender-required service, even though the lender neither selected nor controls the ancillary service.

More broadly, the CFPB should revisit the level of fee granularity required by TRID. MISMO's fee-naming framework includes more than 200 fee descriptions, yet many describe substantially similar services.[1] That level of detail does little to help consumers understand the cost of credit or compare loan offers.

When the CFPB adopted TRID, it expressed concern about information overload. Those concerns have proven well-founded. The Bureau should consider permitting broader fee categories, particularly for title, appraisal, and inspection services, rather than requiring increasingly granular fee disclosures. A useful model would be HUD's aggregate fee categories under the GFE Reform Rule, which simplified disclosures while preserving meaningful distinctions between fee types.

Finally, creditors would benefit from greater consistency across government programs. Differences in fee disclosure expectations among the VA, FHA, and the GSEs create unnecessary complexity and contribute to inconsistent interpretations. More uniform standards would improve compliance and make disclosures easier for consumers to understand.

3. Clarify Treatment of General Lender Credits

The CFPB should clarify that when a lender or seller provides a general credit that is not tied to a specific fee, creditors may apply that credit to either finance charges or non-finance charges for disclosure-calculation purposes. Today, similarly situated lenders often use different allocation methodologies. Some apply the credit first to non-finance charges and then to finance charges, while

[1] Mortgage Industry Standards Maintenance Organization (MISMO), *Consumer-Facing Charge and Fee Guide* (updated Sept. 11, 2025), available at **MISMO Consumer-Facing Charge and Fee Guide** (describing a standardized fee naming framework for consumer-facing mortgage disclosures).

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others take the opposite approach. Yet the consumer receives the same economic benefit regardless of which methodology is used.

The problem is that these different accounting approaches can produce different disclosure outcomes for identical loans. In some cases, the same transaction may appear more expensive simply because of how the credit is allocated for calculation purposes. That creates artificial differences between lenders even though the borrower pays the same amount at closing and receives the same credit. The result is unnecessary compliance uncertainty, inconsistent diligence findings, and different secondary-market treatment for loans that are economically identical.

The CFPB should make clear that either allocation methodology is permissible where a credit is not tied to a specific fee. Doing so would promote consistency across the market, reduce uncertainty in due diligence reviews, and improve liquidity by preventing loans from being characterized differently based solely on a disclosure convention rather than a substantive difference in loan economics.

4. Reducing the Incidence of Revised Disclosures

The CFPB can reduce unnecessary revised disclosures without reducing consumer transparency by distinguishing between meaningful cost changes and minor tolerance or technical updates. Consumers should receive timely information about settlement-cost changes that matter, but repeated revised disclosures for non-material variances, tolerance cures, or fees outside the creditor's control can create confusion and delay rather than improve understanding.

The Bureau should consider several targeted changes (also discussed in other contexts herein):

a. Adopt materiality and de minimis thresholds (10 basis points to a maximum of $250 for any fee subject to the 0% or 10% tolerance thresholds). This will mitigate disproportionate cure, mailing, documentation, and review costs.

b. Apply a best-information-reasonably-available standard to government charges, transfer taxes, recording fees, ancillary service fees, and other third-party costs outside the creditor's control.

c. Provide clearer changed-circumstance examples and a standardized documentation form so creditors, investors, due diligence firms, and examiners apply the same facts consistently.

d. Allow consumer-facing cost updates outside the formal redisclosure process where the change is informational, non-material, or favorable to the consumer.

This approach would preserve timely cost information while reducing disclosure fatigue, operational burden, information overload for consumers, and avoidable closing delays. It would also focus consumer attention on changes that matter rather than forcing review of multiple revised forms reflecting small fee movements, title updates, recording changes, seller-credit revisions, or tolerance cures. SFA's tolerance-cure data illustrates the point: many cure amounts are small enough that the fixed costs of documenting, issuing, mailing, and reviewing the cure may exceed the consumer-dollar amount involved.

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5. Provide Objective Standards for Determining "Valid Changed Circumstances"

The CFPB should provide clearer and more objective guidance regarding what constitutes a "valid changed circumstance." Although the existing framework establishes broad principles, many of the most common situations encountered during mortgage origination remain highly fact dependent and subject to inconsistent interpretation. For example, in construction-to-permanent transactions, assessments frequently change as a property transitions from unimproved land to an improved property. Similar questions arise when title issues are discovered, appraisal-related costs change, or third-party fees are identified later in the process.

In each of these cases, creditors, investors, auditors, and examiners may reach different conclusions about whether a revised disclosure is justified. The result is unnecessary compliance risk and inconsistent outcomes for otherwise similar transactions.

The CFPB should move beyond broad principles and provide concrete examples that market participants can apply consistently. A lender, investor, and examiner reviewing the same fact pattern should reach the same conclusion about whether a changed circumstance exists. Greater clarity would reduce unnecessary redisclosures, improve consistency across the market, and allow compliance resources to focus on issues that meaningfully affect consumers.

Specifically, the CFPB should provide examples and clarification concerning:

a. Ongoing purchase contract negotiations affecting seller-paid fees and credits.

b. Post-application changes in real estate commissions or concessions.

c. Property-related discoveries occurring during appraisal, title review, or inspection.

d. Borrower-requested changes that affect settlement costs but not credit risk.

e. Construction and renovation-related transactions involving evolving project specifications.

The Bureau should also clarify that multiple minor, non-material changes may be consolidated into a single revised disclosure rather than requiring serial redisclosures near closing.

6. Standardize Documentation of Changed Circumstances

The CFPB should adopt a model form for documenting changed circumstances. Today, lenders rely on ad hoc, in-house documentation that varies from institution to institution. Those differences often lead to inconsistent conclusions about the same underlying facts.

A standardized CFPB form would create a common framework for the entire ecosystem (creditors, investors, due diligence firms, rating agencies, and regulators). It would make reviews faster and improve consistency. The benefits will become even more significant as automated review tools and AI-driven analysis become more common, since standardized documentation is easier to evaluate.

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A uniform approach would also support broader e-mortgage initiatives by reducing reliance on ad hoc documents and creating a more uniformly efficient path.

7. Clarify Recordkeeping Standards for Changed Circumstances

The CFPB should provide clearer guidance on the documentation required to establish a valid changed circumstance, particularly when the change is requested by the borrower. Today, uncertainty remains regarding what evidence is sufficient to support a revised disclosure. For example, the Bureau should clarify whether a loan officer's written attestation that a borrower requested a change during a telephone conversation is adequate documentation.

8. Create a Standardized Cure Process for Non-Material Defects

The CFPB should establish a standardized cure process for non-material tolerance defects discovered after the current 60-day refund period. If the creditor fully compensates the consumer within 60 days of discovering the issue, the defect should be deemed cured and should not impair the saleability of the loan or create ongoing secondary-market uncertainty.

This approach would preserve meaningful consumer protections while recognizing that technical issues are sometimes identified only through post-closing quality control, diligence reviews, or securitization audits. Creditors would remain obligated to remedy any consumer harm, but minor defects would no longer create disproportionate liquidity and execution consequences after the consumer has been made whole.

9. Eliminate Assignee Liability for Cured Defects and Adopt a De Minimis Cure Threshold

Once the consumer has been made whole economically through the cure process, the issue should not continue to affect loan saleability, secondary-market treatment, or securitization eligibility when proper re-disclosure to the consumer of the actual charges was not also provided. Alternatively, because tolerance-cure documentation is fundamentally a creditor recordkeeping requirement and is not itself provided to the consumer, the CFPB should clarify that such violations do not give rise to assignee liability regardless of whether a cure is required.

The CFPB should also adopt a *de minimis* exception for minor tolerance violations. Under the current framework, a $5 violation is treated the same as a $500 violation, even though the administrative cost of issuing the cure may far exceed the consumer impact. In some cases, lenders incur substantially greater mailing and processing expenses than the amount being refunded. Those costs ultimately flow back to consumers through higher borrowing costs.

A reasonable *de minimis* threshold, such as an additional permitted variance below 10 basis points of the loan amount up to a maximum of $250 for any fee subject to a 0% or 10% tolerance threshold, would eliminate unnecessary operational expense while preserving meaningful consumer protections.

The CFPB should also change the treatment of fee-specific lender credits as discussed in Comment 19(e)(3)(i)-5 and elsewhere in the Rule. For example, where a lender credit is expressly tied to a

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particular fee, a reduction in that fee should result in a corresponding and permissible reduction in the associated credit. This would better align the disclosure with the economics of the transaction and avoid artificial tolerance issues that do not affect the consumer's actual costs. If a consumer applied for a no upfront cost loan (often referred to in the market as a "no cost" loan), the consumer is still receiving a no upfront cost loan under these circumstances. The consumer is not paying more out of pocket and tolerances have not been exceeded. Principles underpinning the TRID Rule also permit over disclosure of fee estimates given inherent market pressures to avoid pricing too high, which may result in losing the borrower to a competitor.

B. TRID Timing

1. General

TRID timing requirements increase costs for mortgage brokers, creditors, settlement providers, secondary-market participants, and consumers. To be clear, SFA does not question the value of giving consumers time to review key loan terms before closing. The concern is that the current framework often treats immaterial, technical, or consumer-favorable changes the same as changes that could affect the consumer's decision to proceed.

Those costs arise in several ways:

a. Consumers may incur rate-lock extension fees, increased interest-rate risk, contract-extension costs, delayed access to loan proceeds, and additional housing-related expenses when closing or funding is postponed.

b. Mortgage brokers may have less practical time to shop the consumer's loan among multiple creditors, which can favor speed over the best available execution.

c. Creditors and settlement providers incur costs for disclosure monitoring, redisclosure generation, quality control, training, system maintenance, and closing rescheduling.

d. Secondary-market participants face review costs and pricing uncertainty when technical timing defects are treated as saleability issues despite little or no consumer harm.

In many cases, these costs outweigh the incremental consumer benefit. A new waiting period may be appropriate when a change to a new loan product increases costs to the consumer, the APR increases above existing TILA tolerances due to increased fees for services not requested by the consumer, or a prepayment penalty has been added. An improved loan, or a loan with new features requested by a consumer is not a consumer harm, and delaying the closing can itself harm the consumer.

The costs of targeted changes should be lower than the costs of continuing the current approach. Revised disclosures could still be required, but new waiting periods should be reserved for changes reasonably likely to influence the consumer's decision to proceed, or that result in quantifiable consumer harm beyond the consumer's control.

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That approach would preserve the consumer-protection value of disclosure timing while reducing avoidable closing delays, unnecessary redisclosures, operational burden, and secondary-market uncertainty.

2. *Redesign "Bona Fide Financial Emergencies" to Give Consumers Meaningful Flexibility to Waive Timing Requirements*

The CFPB should reconsider the current bona fide personal financial emergency standard, which is so narrow and uncertain that many creditors will not permit a waiver unless the facts closely track the limited examples already provided in the rule. As a practical matter, this often prevents consumers from moving forward even when delay is clearly contrary to their interests.

SFA recognizes that TRID timing requirements serve an important consumer-protection purpose by providing time to review material loan terms before closing. Those benefits, however, must be weighed against the real costs that delays can impose. A missed contract deadline, an expiring rate lock, a builder-required closing date, or a lost refinancing opportunity can cause immediate and tangible harm to a borrower who is otherwise ready to proceed.

The underlying problem is that the current standard is inherently subjective. What one person views as a bona fide financial emergency, another may view as merely inconvenient. As a result, creditors often take an overly conservative approach, leaving consumers with little practical ability to waive a waiting period even when they fully understand the consequences of doing so. That approach is understandable from a compliance perspective, but it can harm consumers who have reviewed the required disclosures, understand the transaction, and face real financial consequences if closing is delayed.

The Bureau should first consider eliminating the emergency requirement and allowing a consumer to waive an otherwise applicable waiting period after receiving the required disclosures and affirmatively electing to proceed. A disclosure regime designed to protect consumers should not prevent them from making an informed decision about their own transaction when delay would be contrary to their interests. If the Bureau retains the emergency standard, it should substantially broaden the list of qualifying circumstances to reflect how borrowers actually experience financial hardship and time-sensitive events.

At a minimum, the guidance should recognize situations such as imminent foreclosure or tax-sale risk, disaster recovery, urgent medical or family needs, job relocation, relocation to serve as a caregiver, loss of a purchase contract, a builder-imposed closing deadline, expiration of a rate lock, a significant lock-extension fee, or loss of a lower interest rate. These examples should not be exclusive. The operative question should be whether delay is reasonably likely to impose meaningful financial harm or prevent the consumer from obtaining the expected benefit of the transaction.

If retaining the emergency waiver requirement, the CFPB should also issue a model waiver form that creditors may rely on as a safe harbor. The form should be short, plain-language, and consumer-facing. It should identify the waiting period being waived, state that the consumer has received the applicable disclosure, explain that the consumer is choosing to close or fund before the ordinary waiting period

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expires, and provide space for the consumer to describe the reason for the waiver in the consumer's own words.

The form should not require legal conclusions or technical terminology. It should also permit dynamic completion of basic data fields, including borrower name, loan number, property address, disclosure date, requested closing or funding date, date of execution, and signature.

The Bureau should pair that model form with examples that creditors, investors, examiners, and due diligence firms can apply consistently.

The CFPB should also clarify when and how a waiver may be executed. Consumers should be able to execute a waiver at application if the timing concern is already known, after receipt of a revised disclosure, or during the otherwise applicable waiting period, including within the three business days before closing. The Bureau should expressly permit electronic execution, secure portal delivery, mobile-friendly completion, audit-trail evidence showing that the consumer received the disclosure electronically or the disclosure was placed in a portal, and the consumer executed the waiver. Modern mortgage transactions are increasingly digital, and waiver guidance should reflect how consumers actually receive and review loan documents.

Finally, the CFPB should provide clear documentation expectations for examination and secondary-market review. Creditors should not be required to prove that an emergency met a subjective regulatory threshold through extensive file narratives. A completed model form, evidence that the consumer received the relevant disclosure before signing, and ordinary electronic or written signature records should be sufficient. The CFPB could also look to the Regulation B valuation-waiver framework, which allows consumers to make an affirmative timing election after receiving clear notice. A similar approach here would preserve consumer protection, reduce compliance uncertainty, and prevent timing rules from producing the very consumer harm they are intended to avoid.

A disclosure regime designed to protect consumers should not deprive them of the ability to make an informed decision about their own transaction.

3. Opportunities to Provide Initial Estimates Earlier

The CFPB should explore ways to encourage earlier delivery of non-binding estimates electronically while preserving their usefulness for comparison shopping. Many consumers begin comparing loan products well before submitting a complete application. Creditors should have more flexibility to provide preliminary estimates electronically before receipt of all six application elements, provided consumers clearly understand that such estimates are preliminary and not binding Loan Estimates.

For example, it is often the case that when a creditor is required to provide a good-faith disclosure early in the shopping process, the disclosure is exempt from the ESIGN consent requirements. At present, creditors may provide the disclosures required by Sections 1026.17(g) (timing of disclosure appropriate for mail and telephone disclosures), 1026.19(b) (variable rate loan disclosures provided at the time an application form is provided), and 1026.24 (advertising) in electronic form without regard to the consumer consent or other provisions of the E-Sign Act. The CFPB should revise the Loan Estimate E-

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Sign requirements to align with the electronic delivery standards for early disclosures with these other TILA provisions. This will enable faster delivery of important shopping information to consumers.

Additionally, the pre-application disclosures that are contained on written estimates of terms and costs[2] are not unlike those disclosures provided in commercial advertisements considering that those written estimates are typically provided in the early stages of loan shopping and before the customer has otherwise established a profile with the creditor or has provided ESIGN consent.

Additionally, the requirements related to page location and type font should be removed in those instances where the creditor provides the written estimates of terms and costs electronically.

The CFPB might also consider:

a. Enhanced use of pre-application cost estimates.

b. Clarified guidance regarding preliminary disclosures.

c. Safe harbors for lenders that provide early informational estimates.

d. Digital comparison tools that allow consumers to evaluate loan options before application.

Earlier disclosure of estimated costs can improve consumer shopping and decision-making while allowing the formal TRID waiting periods to begin earlier in the process.

4. Clarify that Minor Loan Estimate Timing Errors Do Not Create Assignee Liability

The CFPB should clarify that a Loan Estimate received or placed in the mail more than three business days after application does not create assignee liability when the consumer nevertheless receives the disclosure or the disclosure is placed in the mail no later than seven business days before consummation. Because timing violations cannot be cured and the interaction between TRID and TILA remains unclear, many market participants treat even a one-day delay as a material defect.

The consequences are substantial. Lenders often cancel and restart applications to avoid a technical timing violation, creating additional costs and inconvenience for consumers. When identified after closing, these loans may be subject to significant pricing penalties or pushed into scratch-and-dent execution channels, in some cases at valuations as low as 80 cents on the dollar, despite the absence of any meaningful consumer harm.

A Loan Estimate delivered on day four rather than day three does not impair consumer understanding where closing remains ten, twenty, or more days away. If anything, the additional time between disclosure and consummation may increase opportunities for comparison shopping. The CFPB should make clear that these technical timing violations do not create assignee liability when the consumer

[2] 12 C.F.R. 1026.19(e)(2)(ii) ("The creditor or such person shall clearly and conspicuously state at the top of the front of the first page of the estimate in a font size that is no smaller than 12-point font: 'Your actual rate, payment, and costs could be higher. Get an official Loan Estimate before choosing a loan.'").

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receives the Loan Estimate sufficiently in advance of closing and suffers no resulting prejudice. This would better align secondary-market consequences with actual consumer impact while improving liquidity and access to credit.

5. Provide Additional Loan Estimate Disclosure Time for Wholesale Mortgage Transactions

The CFPB should consider providing additional time for mortgage broker transactions. While the current three-business-day requirement is generally workable in retail lending, wholesale transactions are different. Mortgage brokers are hired to shop a borrower's loan application among multiple lenders in search of the best execution, and that process takes time.

Under the current framework, brokers are often forced to select a lender quickly to avoid a timing violation rather than continue evaluating potentially better options. The result can be a faster loan rather than the best loan, which is not an outcome that benefits consumers.

Allowing five business days after application for wholesale transactions would better reflect how the broker channel operates while preserving consumer protections. Consumers who choose to work with a mortgage broker understand that the broker is comparing multiple lender offerings on their behalf. Providing modest additional flexibility would allow brokers to conduct that search more effectively, improve competition among lenders, and increase the likelihood that borrowers receive the most favorable loan available.

6. Transaction Types or Specific Scenarios that are Inhibited or Complicated by the Additional Three-Day Closing Disclosure Timing Requirements

Certain transaction types are disproportionately affected by TRID timing requirements because they involve evolving costs, third-party inputs, or compressed closing timelines. The problem is most pronounced where legitimate late-stage changes require redisclosure even though they do not materially affect the consumer's credit decision, such as the following:

a. Construction and construction-to-permanent loans, where project specifications, tax assessments, permitting issues, and costs may change as the transaction progresses.

b. New construction purchases with builder-driven closing schedules or closing deadlines.

c. Rate-and-term refinances, cash-out refinances, and other transactions where delays can affect rate locks, funding timing, or access to proceeds.

d. Purchase transactions involving seller concessions, appraisal revisions, title issues, down payment assistance, tax assessments, or investor-specific conditions identified shortly before closing.

In these scenarios, repeated redisclosures and waiting-period consequences can delay closing, increase costs, and create uncertainty without improving consumer understanding. The consumer may already

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understand the loan terms and still be harmed by delay, especially where the change is minor, outside the creditor's control, or favorable to the consumer.

The CFPB should address these scenarios through transaction-specific flexibility, clearer changed-circumstance examples, and materiality standards that reserve new waiting periods for changes reasonably likely to affect the consumer's decision to proceed, as discussed in the text above.

C. Materiality Principles

SFA recommends that the CFPB adopt an objective, materiality framework to reduce unnecessary closing delays and secondary-market friction while preserving consumer protections. The following principles should guide this framework: (1) materiality should be tied to measurable consumer harm, not subjective determinations; (2) non-material changes should not trigger new waiting periods; and (3) corrected defects should not continue to impair loan liquidity or create ongoing compliance risk.

1. Materiality Should Be Tied to Objective Consumer Harm

SFA supports a materiality-based framework, but only as a supplement to TRID's existing timing requirements rather than a wholesale replacement. The current framework provides certainty and consistency for consumers and industry participants. The problem is that it often imposes the same procedural consequences on immaterial changes as it does on changes that could affect a consumer's decision to proceed.

A materiality standard should therefore be based on objective and measurable consumer harm. The CFPB should establish new, clear thresholds under which a revised disclosure may still be required, but a new waiting period would not where there is no quantifiable consumer harm. For example, a new waiting period should not be required where the change alters the loan product but pricing does not increase or the APR increases beyond existing TILA tolerances due to a consumer requested change.

Similarly, an APR decrease should never trigger a new waiting period. Improved loan pricing is not a consumer harm. More broadly, the CFPB should avoid subjective materiality determinations and instead adopt bright-line standards that can be applied consistently by creditors, investors, regulators, and courts.

2. Non-Material Changes Should Not Delay Closings

Many of the changes that trigger redisclosures occur late in the origination process and do not alter the consumer's fundamental understanding of the transaction. Minor fee adjustments, recording fee changes, title updates, seller-credit revisions, and tolerance cures frequently fall into this category.

Treating these changes the same way as a change in loan product or a significant increase in loan costs often delays closing without providing meaningful additional consumer protection. The CFPB should create a "material modification" standard under which revised disclosures continue to be provided, but new waiting periods are triggered only when a change is reasonably likely to influence a consumer's decision to proceed.

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For fees, the CFPB should consider an objective threshold based on a percentage of the loan amount, such as 10 basis points up to a maximum of $250 for each fee variance. This approach would preserve transparency while reducing unnecessary closing delays and operational costs.

3. Corrected Defects Should Not Impair Loan Liquidity

A materiality framework will only be effective if the CFPB also addresses how technical defects are treated after they are identified and corrected. Immaterial defects, as well as material defects that have been cured through an approved process, should not continue to create compliance risk that affects loan saleability, securitization eligibility, assignee treatment, or enforceability.

To support that objective, the CFPB should provide model cure language and a standardized loan-file certification that can be used by creditors, investors, due diligence firms, and internal audit teams. A uniform cure framework would reduce review costs, promote consistency across the market, and provide certainty that once a defect has been properly remediated, secondary-market participants may rely on that cure without continuing legal or execution risk.

Such an approach would preserve meaningful consumer protections while helping ensure that technical defects do not create consequences that are disproportionate to the underlying consumer impact.

D. Rescission

The CFPB should modernize the rescission framework to better align consumer protections with actual consumer risk. In refinance transactions, borrowers already receive substantial protections through the Closing Disclosure review period before consummation and the rescission period after consummation. Together, these requirements can effectively add a week to the transaction timeline, delaying funding and increasing costs without always providing a corresponding consumer benefit. The burden is particularly acute for borrowers seeking to lock in lower interest rates or close within a narrow timing window.

1. Eliminate Duplicate Waiting Periods

The CFPB should allow the Closing Disclosure waiting period and rescission period to run concurrently. The current structure effectively requires borrowers to satisfy two separate review periods before funds can be disbursed. Allowing the periods to overlap would preserve consumer protections while reducing unnecessary delays and operational costs.

2. Exempt Low-Risk Refinance Transactions

The CFPB should exempt certain refinance transactions from rescission altogether, particularly rate-and-term refinances with no cash out. In these transactions, the borrower already has a mortgage and is refinancing to obtain a lower rate or more favorable terms. The rescission period often functions primarily as an added cost rather than a meaningful consumer protection.

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For cash-out refinances, the CFPB should consider a more targeted approach that focuses on meaningful new-money exposure. For example, rescission could be limited to transactions where the cash-out amount exceeds a defined threshold, such as 25% of the existing loan balance.

3. Recognize the Closing Disclosure as Satisfying the Review Objective

The CFPB should recognize that, in many refinance transactions, the Closing Disclosure already serves the core purpose of ensuring consumers have sufficient time to review and understand the transaction before becoming obligated. Where a borrower receives the Closing Disclosure sufficiently in advance of consummation, the Bureau should consider whether a separate rescission period remains necessary.

The CFPB should also consider an expedited election process that allows consumers to voluntarily waive rescission in clearly defined low-risk refinance transactions after receiving the required disclosures.

4. Eliminate Assignee Liability for Rescission Defects

If rescission requirements remain in place, the CFPB should clarify that rescission-related technical defects do not create ongoing assignee liability, or eliminate assignee liability in this area altogether. Secondary-market participants should not face substantial legal and liquidity risk where any defect is technical in nature or where the consumer has otherwise received the intended protections.

Greater certainty would improve secondary-market liquidity, reduce diligence costs, and eliminate unnecessary pricing penalties that ultimately affect borrowers.

5. Clarify Disclosure Requirements and Modernize Forms H-8 and H-9

The CFPB should clarify that only the final Closing Disclosure containing the material terms of the transaction must be provided to a non-borrower consumer with a rescission right, such as a spouse holding an ownership interest in the property. This would provide clearer operational standards while preserving the ability of non-borrower consumers to exercise rescission rights where applicable.

The Bureau should also modernize Forms H-8 and H-9. The distinction between same-creditor and different-creditor refinancings reflects a mortgage market that largely no longer exists. Today, the creditor originating the refinance rarely owns or services the existing loan being paid off. A single standardized form, whether through universal use of Form H-8 or a new combined form, would reduce complexity, eliminate uncertainty created by conflicting court decisions, and significantly reduce compliance risk.

The need for reform is significant because use of the wrong form can extend rescission rights for up to three years despite causing little or no consumer confusion. A uniform disclosure form would provide greater certainty, reduce compliance costs, and eliminate a source of technical risk that offers little corresponding consumer benefit.

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E. Potential Disclosure Modifications

While the Loan Estimate and Closing Disclosure represented a significant improvement over the prior Good Faith Estimate, Truth in Lending, and HUD-1/HUD-1A disclosures, there are opportunities to further enhance consumer understanding and improve operational efficiency without fundamentally redesigning the forms. The CFPB should prioritize targeted, consumer-focused enhancements that improve clarity, reduce confusion, and facilitate more efficient loan execution.

1. Simplify Key Cost Presentation

Many consumers focus primarily on monthly payment, cash to close, total lender/mortgage broker costs, and total closing costs. The CFPB should consider further emphasizing these key decision-making items through improved formatting, visual hierarchy, or summary sections. Important information is currently available but may be difficult for consumers to identify quickly, particularly in complex transactions.

The CFPB could consider:

a. A simplified "Key Loan Terms Summary" at the beginning of both forms.

b. Enhanced visual distinction between lender fees, third-party fees, prepaid items, and escrow-related amounts, or eliminating specific fee disclosures on the Loan Estimate other than creditor and mortgage broker fees and fees charged by their respective affiliates. Consumers mostly rely only on the three items noted above. The Closing Disclosure could still list specific fees and preserve its usefulness as a closing "accounting ledger." Moving to an overall best information standard for non-creditor and broker related fees, a zero tolerance for those fees, and a 10 bps de minimis tolerance exemption standard up to a maximum of $250 per fee variance would help enable this approach.

c. Clearer explanations of the relationship between Closing Costs, Cash to Close, and funds required at settlement.

2. Improve Fee Transparency and Eliminate Non-Creditor and Non-Mortgage Broker Related Fees in the Loan Estimate.

Consumers frequently struggle to understand which fees are controlled by the lender versus those determined by third parties, government agencies, or settlement providers. The CFPB should also consider eliminating all third party and government specific fees in the Loan Estimate. Instead, the CFPB should move to the simplified disclosure approach of including only the monthly payment, cash to close, total lender/mortgage broker costs, and total closing costs in the Loan Estimate.

To the extent fees remain disclosed in the Loan Estimate, and as also disclosed in the Closing Disclosure, the CFPB should consider additional consumer-friendly descriptors or categories that clearly identify:

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a. Lender-controlled charges.

b. Third-party service provider fees.

c. Government-imposed taxes and recording costs.

d. Prepaid items and escrow funding requirements.

Greater transparency may improve comparison shopping and reduce consumer frustration regarding charges perceived to be creditor or mortgage broker-generated when they are not.

F. Acceptability of Electronic or Digital Forms and Signatures that Promote Use and Lower Consumer Costs

Although existing law permits electronic delivery when E-Sign requirements are satisfied, many institutions remain concerned about examination expectations and evidentiary standards. Additional CFPB guidance on uniform record-keeping requirements for digital mortgages processes would promote consistency and encourage digital-first processes.

Notably, there is growing momentum among federal financial regulators toward adopting an electronic-first delivery framework. The SEC recently proposed Regulation E-Delivery, which, if adopted, would permit electronic delivery of essential information to investors without first obtaining affirmative consent, modernizing the Commission's decades-old guidance-based framework while preserving recipients' ability to request paper delivery. SEC Chairman Paul Atkins explained that the proposal would substantially reduce paper, printing, and postage costs for issuers, intermediaries, and, ultimately, investors. The CFPB should consider similar modernization efforts that align mortgage disclosure delivery with this broader regulatory trend toward electronic-first communication.

The CFPB should also consider:

1. Simplifying E-Sign consent procedures where consumers routinely conduct transactions electronically.

2. Recognizing evidence of portal access as proof of receipt of documents placed in the portal.

3. Providing updated model guidance addressing mobile technology and remote closings.

4. Harmonizing digital disclosure standards with evolving eClosing initiatives supported throughout the mortgage ecosystem. This includes standardizing fee names through defined fee category labels that would fit various specific fees with slightly different names.

Encouraging electronic delivery and execution can reduce origination costs, improve consumer convenience, accelerate transaction timelines, and support broader access to mortgage credit while maintaining strong consumer protections.

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IV. Conclusion

If you have any questions or would like to discuss further, please do not hesitate to contact Dallin Merrill, Head of Policy at **Dallin.Merrill@structuredfinance.org**, or our counsel on this matter, Baker, Donelson, Bearman, Caldwell, & Berkowitz, PC, attention: Colgate Selden (email: **cselden@bakerdonelson.com**) or Kara Ward (**kward@bakerdonelson.com**).

Regards,

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