



441 G St. N.W.
Washington, DC 20548

B-327072

June 30, 2015

The Honorable Richard Shelby
Chairman
The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Jeb Hensarling
Chairman
The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
House of Representatives

Subject: *Bureau of Consumer Financial Protection: Integrated Mortgage Disclosures Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z)*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Bureau of Consumer Financial Protection (Bureau), entitled “Integrated Mortgage Disclosures Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z)” (RIN: 3170-AA19). We received the rule on June 16, 2015. It was published in the *Federal Register* as a final rule; official interpretation on December 31, 2013. 78 Fed. Reg. 79,730.

The final rule establishes new disclosure requirements and forms for most closed-end consumer credit transactions secured by real property. In addition to combining the existing disclosure requirements and implementing new requirements, the final rule provides extensive guidance regarding compliance with those requirements.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). This final rule; official interpretation has a stated effective date of August 1, 2015. The rule was published in the *Federal Register* on December 31, 2013, and received on June 16, 2015. Therefore, the final rule does not have the required 60-day delay in its effective date.

Enclosed is our assessment of the Bureau’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that, other than the 60-day delay requirement, the Bureau complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Lea Mosena
Counsel, Legal Division
Bureau of Consumer Financial Protection

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
BUREAU OF CONSUMER FINANCIAL PROTECTION
ENTITLED
“INTEGRATED MORTGAGE DISCLOSURES UNDER THE
REAL ESTATE SETTLEMENT PROCEDURES ACT (REGULATION X)
AND THE TRUTH IN LENDING ACT (REGULATION Z)”
(RIN: 3170-AA19)

(i) Cost-benefit analysis

The Bureau of Consumer Financial Protection (Bureau) discussed the costs and benefits of this final rule; official interpretation. The major benefits the Bureau identified stem from two key consequences of the rule. The first consequence is disclosure of the terms of the transaction, including loan terms and pricing and other costs, that is easier to understand and that is potentially provided to the consumer earlier in the process. The second consequence is ensuring that the consumer receives the Closing Disclosure at least 3 business days in advance of consummation and in a format that tracks the Loan Estimate and thus facilitates easy comparison. This permits consumers to compare their estimated and final loan terms and costs, with sufficient time to identify discrepancies between the Loan Estimate and actual terms of the transactions and without the pressure of doing so at closing. The Bureau expects these aspects of the rule will benefit consumers by enabling them to choose loans that are better for them in terms of price or loan features and to know whether they actually get the price and loan terms that they expected when they decided which loan to take out. The improved disclosure will also give consumers a greater incentive to shop for loan terms as they will be better able to compare competing offers. The Loan Estimate and Closing Disclosure will provide consumers with more easily understandable information about the settlement services associated with the loan and for which settlement services they can shop.

Therefore, the Bureau finds, this rulemaking might mitigate two problems in the current real estate market:

- (1) insufficient amount of shopping by consumers for loans and also for settlement services (mitigated because the disclosures are easier to understand, and thus compare) and
- (2) consumers not having sufficient time to ask questions, negotiate with respect to terms that have changed, and otherwise adjust the loan terms or settlement costs prior to consummation (mitigated by the clearer and more informative early and closing disclosures, and the 3-business-day waiting requirement).

The Bureau found that quantifying these benefits was difficult, as the size of each particular effect cannot be known in advance, but that small changes in behavior can have very large aggregate effects, given the size of individual mortgage transactions and the size of the entire mortgage market.

In addition to the benefits that may result from the new initial disclosures, the Bureau found that the new closing disclosures also may benefit consumers in several ways. First, the new disclosures have the potential to make closings more efficient, and savings to creditors and

settlements agents from a more efficient closing process likely will be almost fully passed through to consumers. The potential efficiency gains come from covered persons spending less time explaining the disclosure to the consumer because the new Closing Disclosure is easier to understand and compare to the Loan Estimate and because the new Closing Disclosure will be received 3 business days in advance of consummation. For these reasons, the Bureau believes that the rule could save up to half an hour of a covered person employee's time or \$17 per closing. At a pace of 7,600,000 covered mortgage transactions per year, the rule could result in saving \$130,000,000 per year. The Bureau believes that most of these savings are likely to be passed on to consumers since these are marginal savings on each transaction. Second, because of the format and timing of the new Closing Disclosure, consumers may well be better able to identify discrepancies between the final costs and estimated costs and may, as a result, be more likely to question and negotiate with respect to these changes. The magnitude of this benefit will depend on the extent to which there are cost increases today and the frequency with which consumers are able to successfully negotiate reductions in such changes. The Bureau is unable to quantify either of these effects, but as noted above each dollar in per-transaction average savings translates into \$7,600,000 in aggregate consumer savings.

The Bureau also discussed major costs of this final rule; official interpretation. The Bureau found that the major costs of the rule are one-time costs, primarily labor costs that creditors and settlement agents will incur to update systems and procedures to comply with the rule. The bulk of the costs imposed on creditors by the rule are costs associated with implementing new processes necessary for compliance with the new integrated disclosure requirements. These include: training staff, coordinating with settlement agents, changing processes to ensure that consummation is not delayed due to the 3-business-day waiting period, software testing, troubleshooting, and ensuring smooth system functioning across different software programs. The Bureau believes that the cost of updating software will fall largely on software vendors, on which the vast majority of creditors rely. The Bureau estimates that the one-time costs to creditors of complying with the rule are approximately \$207,000,000 per year for 5 years. This is approximately \$27 per covered transaction, at the 2011 annual rate of originations. Settlement agents will also incur costs of new process implementation. Amortized over 5 years, settlement agents' costs are approximately \$67,800,000 per year or \$9 per covered transaction. Almost all of these costs are also allocated labor costs. The Bureau believes that the ongoing costs of the rule are negligible, relative to existing regulatory requirements, and that there may be ongoing net savings for covered persons due to fewer different forms and lower paperwork burden. To the extent these savings occur, a portion, if not all, of them might be passed through to consumers.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

The Bureau prepared a Regulatory Flexibility Analysis for this final rule; official interpretation which included (1) a statement of the need for, and objectives of, the rule; (2) a summary of significant issues raised by comments in response to the initial Regulatory Flexibility Analysis; (3) a response to the Office of Advocacy of the Small Business Administration comment; (4) a description of and an estimate of the number of small entities to which the rule will apply; (5) the projected reporting, recordkeeping, and other compliance requirements. The Bureau also convened a Small Business Review Panel to obtain advice and recommendations of representatives of the regulated small entities. Several of the panel's recommendations were incorporated into the proposed rule.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The Act does not apply to independent regulatory agencies.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On August 23, 2012, the Bureau published a notice of a proposed rule. 77 Fed. Reg. 51,116. The Bureau received over 2,800 comments on the proposed rule during the comment period from, among others, consumer advocacy groups; national, state, and regional industry trade associations; banks; community banks; credit unions; financial companies; mortgage brokers; title insurance underwriters; title insurance agents and companies; settlement agents; escrow agents; law firms; document software companies; loan origination software companies; appraisal management companies; appraisers; state housing finance authorities, counseling associations, and intermediaries; state attorneys general; associations of state financial services regulators; state bar associations; government sponsored enterprises; a Member of the U.S. Congress; the Committee on Small Business of the U.S. House of Representatives; federal agencies, including the staff of the Bureau of Consumer Protection, the Bureau of Economics, and the Office of Policy Planning of the Federal Trade Commission, and the Office of Advocacy of the Small Business Administration; and individual consumers and academics. The Bureau responded to comments in the final rule; official interpretation.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

The Bureau determined that this final rule; official interpretation includes information collection requirements covered by the Act. The Bureau believes the following aspects of the final rule are information collection requirements under the Act: the development, implementation, and continuing use of new, integrated Loan Estimate and Closing Disclosure forms required for closed-end mortgage transactions subject to the final rule, the generation and provision of additional Loan Estimates in particular transactions as a result of increases in the closing costs that were included in the initial Loan Estimate, and the provision of the Post-Consummation Escrow Cancellation Notice and post-consummation Partial Payment Policy disclosure for certain mortgage transactions. The Bureau estimates that the total one-time burden of these information reporting requirements will be \$81,137,000, and the total annual burden will be \$49,574,000.

Statutory authorization for the rule

The Bureau promulgated this final rule; official interpretation under the authority of sections 2603 to 2605, 2607, 2609, 2617, 5512, 5532, and 5581 of title 12, United States Code.

Executive Order No. 12,866 (Regulatory Planning and Review)

The Order does not apply to independent regulatory agencies.

Executive Order No. 13,132 (Federalism)

The Order does not apply to independent regulatory agencies.