

EXAMPLE

MORTGAGE DISCLOSURE IMPROVEMENT ACT

“The Road to the MDIA”

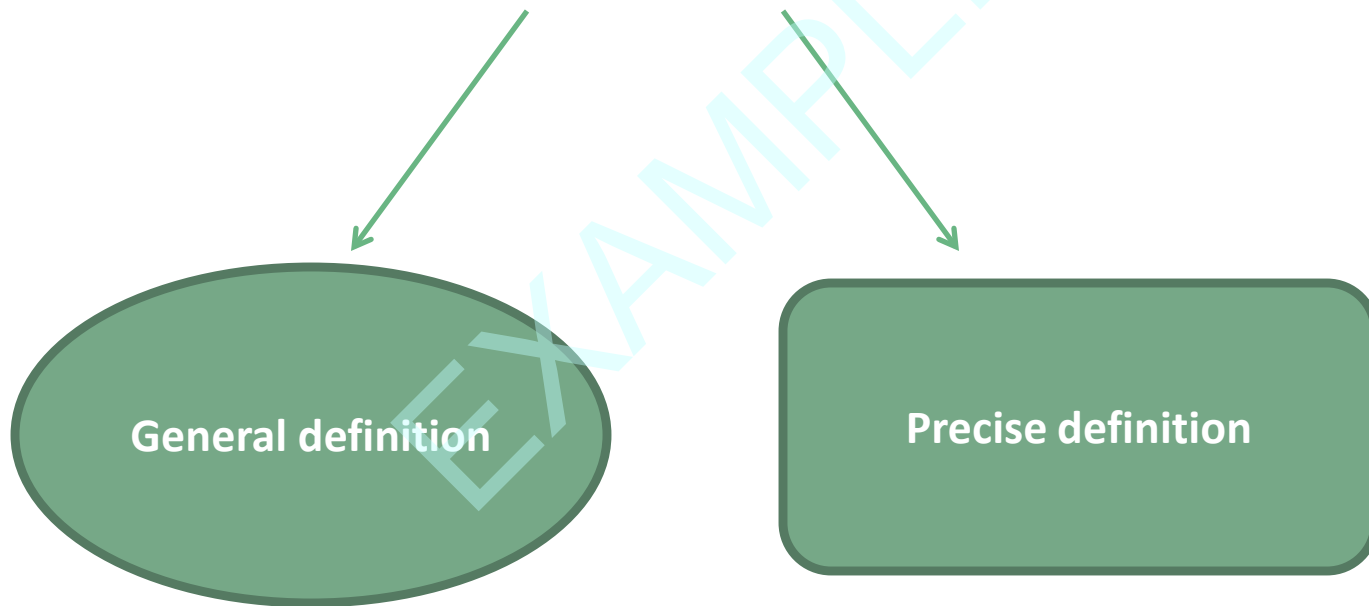


How did we arrive at the Mortgage Disclosure Improvement Act (MDIA)?

- The Housing and Economic Recovery Act of 2008 (HERA) was enacted by Congress on July 30, 2008.
- HERA included amendments to the Truth-in-Lending Act (TILA).
- These amendments are known as the Mortgage Disclosure Improvement Act of 2008 (MDIA).

Definition of Business Day

- There are 2 definitions of Business Day:



Definitions

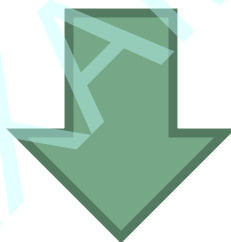
- **What is the General definition of Business Day?**
 - **Days on which the creditor's offices are open to the public for carrying on substantially all of its business functions.**
 - **This applies to the period of 3 business days for providing early disclosures (creditors must provide early disclosures within 3 business days after they receive the consumer's application).**

Effective January 30, 2011

- **The MDIA will ensure that borrowers are alerted to the risks of payment increases before taking out mortgage loans with variable rates or payments.**
- **Effective on January 30, 2011, provisions of the MDIA will require lenders to disclose examples of how a loan's interest rate and/or monthly payments can change.**
- **Lenders' cost disclosures must include a payment summary in the form of a table stating the initial rate and corresponding periodic payment and, for adjustable rate loans, the maximum rate and payment that can occur during the first five years. In addition, lenders must also provide a "worst case" example showing both the maximum rate and maximum payment possible over the life of the loan.**

New Disclosure Requirement

- **Section 226.19(a)(4) requires a disclosure to consumers that they are not obligated to complete the transaction simply because disclosures were provided or because they applied for a loan. This phrase must be in “conspicuous type size and format” and “grouped together with the disclosures required by” Regulation Z.**



“You are not required to complete this agreement merely because you have received these disclosures or completed a loan application.”

No Early Collection of Fees Requirement

“I get credit reports for free, but collecting a fee for the Credit Report is ok in this situation.”



There is also a requirement prohibiting collection of fees prior to the consumer receiving early disclosures -- other than a bona fide and reasonable fee for obtaining a consumer's credit report.

Timing Requirements

Early Disclosures Timing Requirement

- Disclosure of good faith estimate of costs must be made no later than **3 days after application**.
- This means that a creditor must deliver or mail the early disclosures for all mortgage loans subject to RESPA **no later than 3 business days (general definition)** after the creditor receives a consumer's application.
- The MDIA provides that when the early disclosures are mailed, the consumer is deemed to receive the disclosures **3 business days** after they are mailed.
- Note that a creditor may not impose a fee (other than for obtaining a credit report) before the consumer receives the early disclosures.

Timing Requirements

Early Disclosures Timing Requirement (continued)

- **A creditor must also deliver or place in the mail the early disclosures no later than 7 business days (precise definition) before closing.**
- **The 7 days do not run from the date when the consumer receives or is deemed to receive the early disclosures, but rather from the date when the early disclosures are mailed or delivered in person.**

Timing Requirements

Early Disclosures Timing Requirement (continued)

So, in sum...

The Early Disclosures must be placed in the mail or delivered BOTH

No later than the 3rd business day (general definition) after the lender received a written application...

AND

No later than the 7th business day (precise definition) before closing.

Timing Requirements – The “3/7/3 Rule”



It is imperative that Lenders closely monitor disclosure dates and keep accurate records on a calendar to ensure compliance with the MDIA.

EXAMPLE



Timing Requirements – The “3/7/3 Rule”

**3 Days – Delivery of the Initial
TILA disclosure**

The initial Truth in Lending Statement must be delivered to the consumer within 3 business days of the receipt of the loan application by the lender. The TILA statement is presumed to be delivered to the consumer 3 business days after it is mailed.

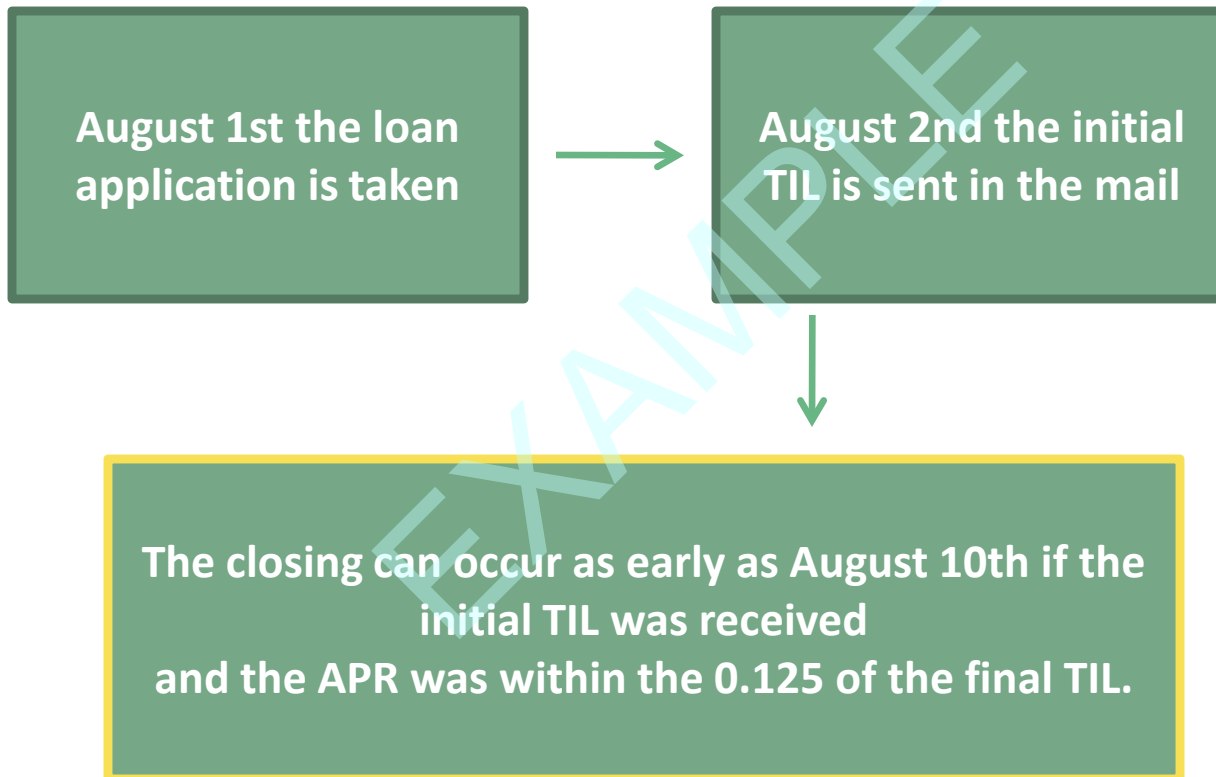
**7 Days from Initial Disclosure –
Mortgage Closing Waiting Period**

The Rule prohibits the lender and consumer from closing or settling on the mortgage loan transaction until 7 business days after the delivery or mailing of the TILA disclosures, including the Good Faith Estimate and disclosure of the final APR.

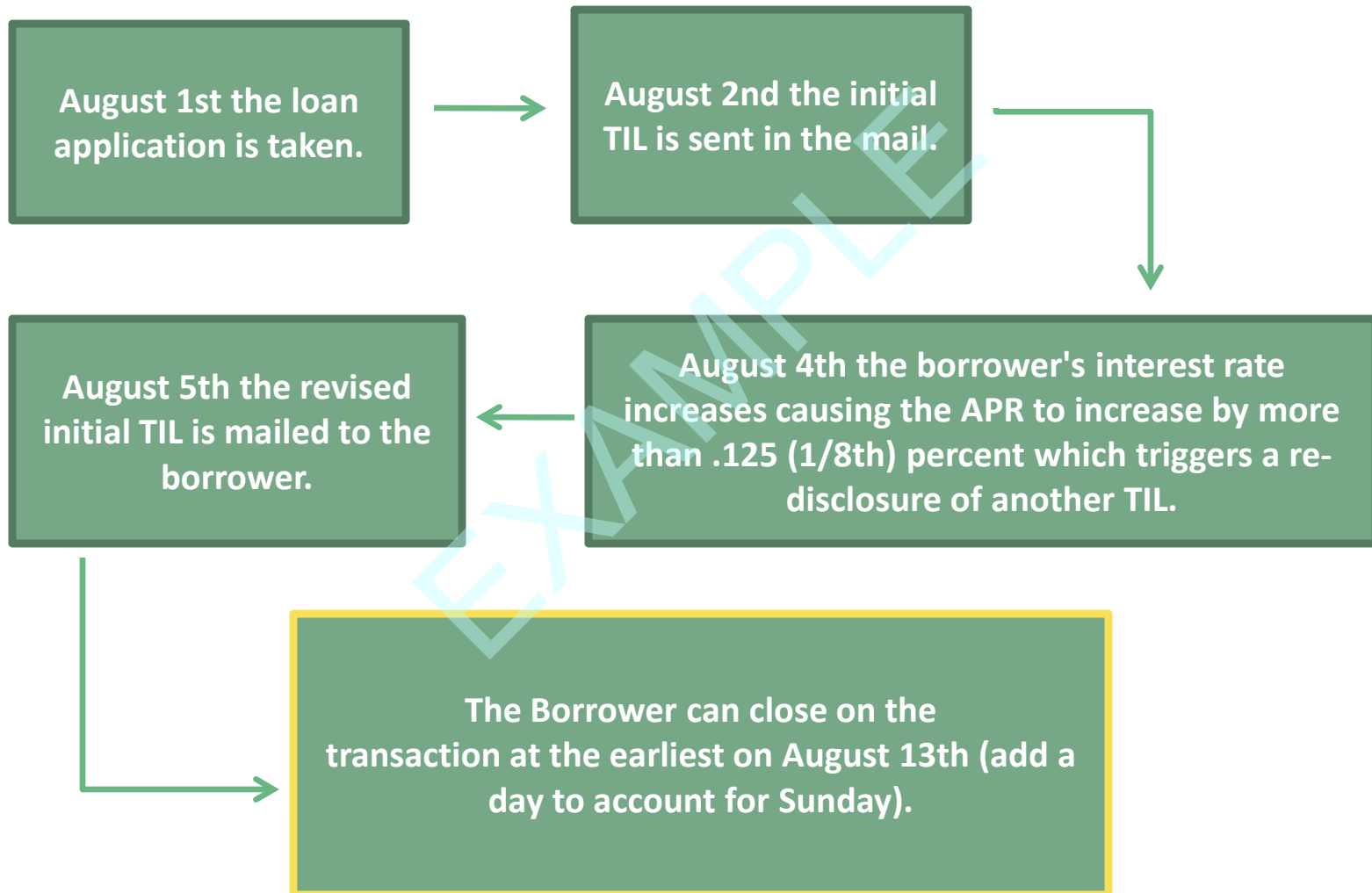
**3 Days prior to Mortgage Closing
– APR Waiting Period**

The Rule also requires the lender to provide the consumer with an accurate APR at least 3 business days before closing. This applies when the APR changes more than .125% from the APR previously disclosed. If the APR changes again in the 3 day period more than the .125%, another disclosure must be delivered and 3 day waiting period begins again.

MDIA Example #1



MDIA Example #2



Frequently Asked Questions



The Office of Special Counsel’s comment 19(a)(3)-1 provides that the imminent sale of the consumer’s home at foreclosure, where the foreclosure sale will take place unless loan proceeds are made available to the consumer during the waiting period, is one example of a “bona fide personal financial emergency.” There may be additional situations that constitute such emergencies, and institutions should make the decision as to whether such an emergency exists on a case-by-case basis.

Frequently Asked Questions

Q. When sending corrected disclosures by e-mail or courier, can we presume receipt on the 3rd business day without documenting actual delivery?

A. *Yes. Just as with standard mail, the creditor may presume that the consumer receives the corrected disclosures 3 business days after they are deposited with a courier or sent by e-mail.*

Frequently Asked Questions

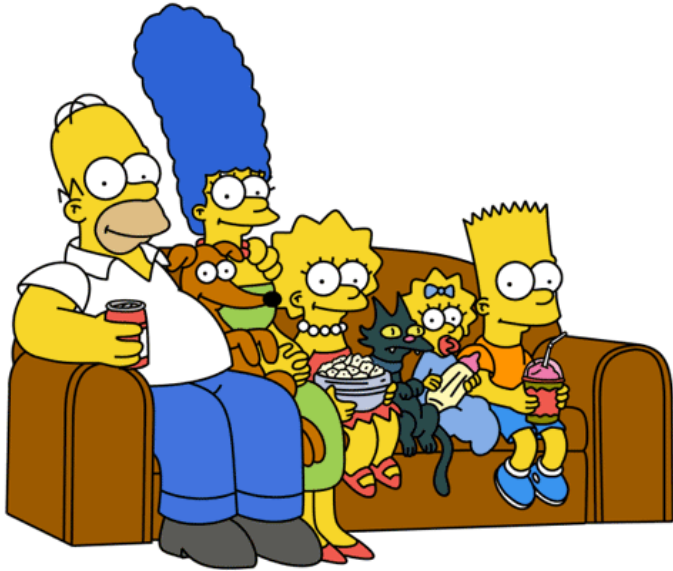
Q. If we have evidence of actual receipt (by e-mail or courier or another method), can we start the 3 business day waiting period sooner?

A. *Yes. If a creditor delivers disclosures via e-mail or courier or another method, the creditor may rely on evidence of actual receipt to determine when the 3-business-day waiting period begins. Note that because the Board did not specify standards for acceptable evidence, the institution is responsible for documenting receipt.*

Frequently Asked Questions

- Q. If the consumer submits an application for a mortgage, but then withdraws the application the next day, are we still required to mail the early disclosures?**
- A. *No. Lenders may determine within the 3 business day period that the application will not or cannot be approved on the terms requested. If the consumer withdraws the application within the 3 business day period, the creditor need not make the disclosures under this ruling.***

Frequently Asked Questions



Q. Let's say there are several people living at the same address, and each person is entitled to MDIA disclosures. Can we just mail 1 disclosure to the house?

A. *No. Multiple borrowers living under the same roof are each entitled to disclosures and each must receive their own copy of the disclosure.*

MDIA Rule #1

“No Requirement to Complete” Statement

- The MDIA requires that the early disclosures contain a clear and conspicuous notice containing the following statement:

“You are not required to complete this agreement merely because you have received these disclosures or signed a loan application.”

MDIA Rule #4

7 Business Days Prior to Consummation

- Lenders must allow applicants to have a 7 business day waiting period after mailing or delivering the TIL prior to consummation (closing of the loan).
- *This timing* is *not* based on receipt date (or assumed receipt date) by the consumer— the timing begins with the mailing or delivery by the lender.

MDIA Rule #7

Waivers

- **Borrowers may waive both the 3-day and 7-day waiting period to meet a bona fide personal financial emergency. However, if the TIL Statement is out of tolerance, the waiver is no longer effective.**
- **After re-disclosure, Borrowers must submit a signed statement describing the emergency.**

MDIA Rule #8

Written Application

- **RESPA defines a written application as “the submission of a borrower's financial information in anticipation of a credit decision relating to a mortgage loan.”**
- **An application is received when it reaches the creditor by mail, hand delivery, or through an intermediary agent or broker.**

THANK YOU



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