

**Introduction**

Midwest Loan Solutions, Inc. (MLS) is committed to the highest standards of Federal and state borrower compliance. MLS requires all management, employees and third-party originators and vendors to follow these policies and to adhere to these standards.

The purpose of this policy is to ensure MLS and its third party originators are complying with the requirements of the provisions of Regulation Z and to implement borrower protection mechanisms as required by Federal regulation.

The standards set out in this policy represent minimum requirements based on applicable legal and regulatory guidance and apply throughout MLS's operations. In accordance with MLS's policy, the Truth in Lending policy and procedures described herein shall apply to all residential mortgage transactions and represent the full scope of products, property types, branches and geographic locations.

**Background**

The Truth in Lending Act of 1968 (TILA) implemented by Regulation Z (12 CFR 1026) which became effective on July 1, 1969. The Dodd-Frank Act granted rulemaking authority under TILA to the Consumer Financial Protection Bureau (CFPB).

As outlined in Subpart A, TILA and Regulation Z are intended to ensure that credit terms are disclosed in a meaningful way so consumers can compare them more readily and knowledgeably. Before its enactment, consumers were faced with a bewildering array of credit terms and rates. It was difficult to compare loans because they were seldom presented in the same format. Now, all creditors must use the same credit terminology and expression of rates. In addition to providing a uniform system for disclosures, the act:

- Protects consumers against inaccurate and unfair credit billing and credit card practices
- Provides consumer with rescission rights
- Provides for rate caps on certain dwelling-secured loans
- Imposes limitations on home equity lines of credit and certain closed- end home mortgages
- Delineates and prohibits unfair or deceptive mortgage lending practices

**Review Requirement**

MLS requires this policy and procedure to be reviewed no less than annually or when Federal regulation is amended and such amendments apply to MLS and its third party originators.

**Form of Disclosure**

MLS shall make the disclosures clearly and conspicuously in writing, in a form that the consumer may keep. The disclosures may be provided to the consumer in electronic form, subject to compliance with the consumer consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act (E-Sign Act). The disclosures shall be grouped together, shall be segregated from everything else, and shall not contain any information not directly related to the disclosures required. The Itemization of the Amount Financed must be separate from the other disclosures under that section. The disclosures may include an



acknowledgment of receipt, the date of the transaction, and the consumer's name, address and account number.

The following disclosures may be made together with or separately from other required disclosures: MLS's identity, the variable rate example, insurance or debt cancellation and certain security interest charges. The terms finance charge and annual percentage rate, when required to be disclosed together with a corresponding amount or percentage rate, shall be more conspicuous than any other disclosure, except MLS's identity.

### **Content of Disclosures**

For each transaction, MLS shall disclose the following items, as applicable:

- Creditor
- Amount financed
- Itemization of amount financed
- Finance charge
- Annual percentage rate
- Variable rate
- Payment schedule
- Total of payments
- Demand Feature
- Total sale price (in a credit sale)
- Prepayment
- Late payment
- Security interest
- Insurance and debt cancellation
- Certain security interest charges
- Contract reference
- Assumption policy
- Required deposit

### **Use of Estimates**

If any information is unknown to MLS or the third party originator, the disclosures shall be based on the best information available at the time of disclosure and shall clearly state that the disclosure is an estimate. Redisclosure shall be required prior to consummation or at settlement.

For a transaction in which a portion of the interest is determined on a per-diem basis and collected at consummation, any disclosure affected by the per-diem interest shall be considered accurate if the disclosure is based on the information known to MLS or the third party originator at the time that the disclosure documents are prepared.

**Multiple Borrowers**

If there is more than one consumer, the disclosures may be made to any consumer who is primarily liable on the obligation. If the transaction is rescindable, however, the disclosures shall be made to each consumer who has the right to rescind.

**Waiver of Waiting Period**

The consumer may, after receiving the disclosures required, modify or waive the three-day waiting period between delivery of those disclosures and consummation if the consumer determines that the extension of credit is needed to meet a bona fide personal financial emergency. To modify or waive the right, the consumer shall give the creditor a dated written statement that describes the emergency, specifically modifies or waives the waiting period, and bears the signature of all the consumers entitled to the waiting period. MLS does not allow for waiver of this waiting period.

**Right of Rescission**

Under Regulation Z, a consumer has the right to rescind/cancel a credit plan in which a security interest is or will be retained on the consumer's principal dwelling. The following transactions are not rescindable:

- A Residential Mortgage Transaction (purchase or construction)
- A refinancing or consolidation by the same creditor

MLS or the third party originator must mail or deliver two copies of a Notice of Right to Rescind to each consumer entitled to rescind the transaction. The persons entitled to the Notice of Right to Rescind the transaction are all persons on the loan, all persons listed on title and any persons identified by state law. The consumer has until midnight of the third business day to rescind. For counting purposes, a business day includes Saturdays. Unless the consumer waives the right to rescind in writing, under a bona fide personal financial emergency, no funds shall be disbursed other than in escrow, no services performed and no materials delivered until the rescission period has expired.

**Finance Charge**

The finance charge is a measure of the cost of consumer credit represented in dollars and cents.

MLS or the third party originator must disclose the finance charge, expressed as a dollar amount. The finance charge includes any charge payable directly or indirectly by the consumer and imposed directly or indirectly by the creditor as a condition of the credit.

**1. Charges by Third Parties**

The finance charge includes fees and amounts charged by someone other than the creditor, unless otherwise excluded under this section, if the creditor:

- Requires the use of a third party as a condition of or an incident to the extension of credit, even if the consumer can choose the third party; or
- Retains a portion of the third-party charge, to the extent of the portion retained.

## 2. Special Rule: Closing Agent Charges

Fees charged by a third party that conducts the loan closing (such as a settlement agent, attorney, or escrow or title company) are finance charges only if the creditor:

- Requires the particular services for which the consumer is charged;
- Requires the imposition of the charge; or
- Retains a portion of the third-party charge, to the extent of the portion retained.

## 3. Example of Finance Charges

The finance charge includes the following types of charges:

- Interest, time price differential, and any amount payable under an add-on or discount system of additional charges.
- Points, loan fees, assumption fees, finder's fees, and similar charges.
- Premiums or other charges for any guarantee or insurance protecting the creditor against the consumer's default or other credit loss.
- Charges imposed on a creditor by another person for purchasing or accepting a consumer's obligation, if the consumer is required to pay the charges in cash, as an addition to the obligation, or as a deduction from the proceeds of the obligation.
- Premiums or other charges for credit life, accident, health, or loss-of-income insurance, written in connection with a credit transaction. Premiums or other charges for insurance against loss of or damage to property, or against liability arising out of the ownership or use of property, written in connection with a credit transaction.

## 4. Charges Excluded from the Finance Charge

The following charges are not considered finance charges:

- Application fees charged to all applicants for credit, whether or not credit is actually extended.
- Charges for actual unanticipated late payment, for exceeding a credit limit, or for delinquency, default, or a similar occurrence.
- Charges imposed by a financial institution for paying items that overdraw an account, unless the payment of such items and the imposition of the charge were previously agreed upon in writing.
- Fees charged for participation in a credit plan, whether assessed on an annual or periodic basis.
- Seller's points.
- Interest forfeited as a result of an interest reduction required by law on a time deposit used as security for an extension of credit.
- Real-estate related fees. The following fees in a transaction secured by real property or in a residential mortgage transaction, if the fees are bona fide and reasonable in amount:
  - Fees for title examination, abstract of title, title insurance, property survey, etc.
  - Fees for preparing loan-related documents, such as deeds, mortgages, settlement documents.
  - Notary and credit report fees.

- Property appraisal fees or fees for inspections to assess the value or condition of the property if the service is performed prior to closing, including fees related to pest infestation or flood hazard determinations.
- Amounts required to be paid into escrow or trustee accounts if the amounts would not otherwise be included in the finance charge.
- Discounts offered to induce payment for a purchase by cash, check, or other means, as provided in section 167(b) of the Act.

### **Annual Percentage Rate (APR)**

The APR is a measure of the total cost of credit, expressed as a nominal yearly rate. It relates the amount and timing of value received by the consumer to the amount and timing of payments made by the consumer. The disclosure of the APR is central to the uniform credit cost disclosure envisioned by TILA.

The APR for closed-end credit must be disclosed as a single rate only, whether the loan has a single interest rate, a variable interest rate, a discounted variable interest rate, or graduated payments based on separate interest rates (step rates). The APR must appear with the “segregated” disclosures, which are disclosures grouped together and not containing any information not directly related to the disclosures required under the law.

Along with APR disclosures, the disclosure of the finance charge is central to the uniform credit cost disclosure envisioned by TILA. Generally, the finance charge includes any charges or fees payable directly or indirectly by the consumer and imposed directly or indirectly by the financial institution either incident to or as a condition of an extension of consumer credit. For example, the finance charge on a loan always includes any interest charges and, often, other charges, such as points, transaction fees, or service fees.

### **APR Finance Charge Tolerance**

As a general rule, the APR shall be considered accurate if it is not more than:

- 1/8 of 1 percentage point (.125%) above the APR in a regular transaction; or
- 1/4 of 1 percentage point (.25%) above the APR in an irregular transaction.

The disclosure of the finance charge and other disclosures affected by any finance charge will be treated as being accurate for purposes of TILA if the amount disclosed as the finance charge:

- Does not vary from the actual finance charge by more than \$100; or
- Is greater than the amount required to be disclosed under TILA.

If the disclosed APR is outside the tolerances described in this section, a revised disclosure shall be provided to the consumer reflecting the correct APR, subject to timing and delivery requirements.

An error in disclosure of the APR or finance charge will not, in itself, be considered a violation of Regulation Z if:

- The error resulted from a corresponding error in a calculation tool used in good faith by MLS or the third party originator; and

- Upon discovery of the error, MLS promptly discontinues use of that calculation tool for disclosure purposes and notifies the Board in writing of the error in the calculation tool.

### 1. Right of Rescission Purposes

Except as provided below, the finance charge and other disclosures affected by the finance charge will be considered accurate for TILA's right of rescission purposes.

- Is understated by no more than 1/2 of 1% of the face amount of the note or \$100, whichever is greater; or
- Is greater than the amount required to be disclosed.

In a refinancing of a residential mortgage transaction (other than a Section 32 or HOEPA/High-Cost Mortgage) with a new lender, if there is no new advance and no consolidation of existing loans, the finance charge and other disclosures affected by the finance charge will be considered accurate for TILA's right of rescission purposes if the disclosed finance charge:

- Is understated by no more than 1% of the face amount of the note or \$100, whichever is greater; or
- Is greater than the amount required to be disclosed.