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Change of Circumstances and Revised Disclosures FAQs

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The Change of Circumstance (“CoC”) form is not specifically mentioned in TRID regulations; however, the term is often used in the industry to refer to a notice that is sent in conjunction with a revised Loan Estimate (“LE”) or revised Closing Disclosure (“CD”) that explains the reason for the changes to those disclosures. The below FAQs are based on questions we received frequently from mortgage lenders:

Q: When is a CoC and revised disclosure required?

A: Regulation Z only *requires* a revised disclosure in one situation – when the points or lender credits change because a rate was previously floating and subsequently became locked. See 12 CFR § 1026.19(e)(3)(iv)(D). Other than that, a change of circumstance is only necessary if the lender *chooses* to reset the fee tolerances in order to avoid a cure.

Q: When can a lender use a CoC to reset fee tolerances?

A: There are six events that allow fee tolerances to be reset using a CoC and revised disclosure.

- 1) Changed circumstances that cause an increase to settlement charges;
- 2) Changed circumstances that affect the consumer’s eligibility for the loan or affect the value of the property securing the loan;
- 3) Consumer-requested changes;
- 4) Interest rate subsequently becomes locked;
- 5) Expiration of the original loan estimate; or
- 6) Construction loan settlement delays.

See 12 CFR § 1026.19(e)(3)(iv) and the corresponding Official Comments for further explanation and examples.

Q: What constitutes a valid changed circumstance?

A: As indicated above, not every fee increase allows for the use of a CoC and revised disclosure. In the cases of numbers 1 and 2 above, there must be a “changed circumstance” that causes the fee increase. “Changed circumstance” is a term defined in Regulation Z to include three scenarios: (1) an extraordinary event beyond any party’s control, such as a natural disaster; (2) when the lender relied on specific information to complete the disclosure and that information later becomes inaccurate or changes after the disclosures were provided; or (3) the lender discovers new information specific to the consumer or transaction that the lender did not rely on when providing the original disclosure, which affects the consumer’s creditworthiness or the value of the security for the loan. See 12 CFR § 1026.19(e)(3)(A).

Q: If a lender makes a mistake on a disclosure, can a CoC and revised disclosure be used to correct the mistake?

A: No. Lender error is not a valid changed circumstance under TRID. Therefore, a CoC cannot be used to correct the error.

Q: When does the CoC and revised disclosure have to be provided?

A: In order to reset the fee tolerances, a CoC and revised disclosure must be provided within three business days of receiving the information supporting the need to revise. *See 12 CFR § 1026.19(e)(4)(i).*

Q: Does a revised CD necessitate a new 3-day waiting period?

A: Some revised closing disclosures require a new 3-day waiting period while others do not. A new 3-day waiting period is only triggered if a CD has been issued, **and**:

- The APR increases by more than .125%;
- The APR decreases by more than .125% AND that decrease is not based on changes to the interest rate or other fees;
- A prepayment penalty is added; or
- The basic loan product changes (e.g. from fixed rate to ARM).

See 12 CFR § 1026.19(f)(2)(ii).

Scenario	CoC + Revised Disclosure Required?	Citation(s)
Floating Rate is Subsequently Locked	Yes.	§ 1026.19(e)(3)(iv)(D) and corresponding Official Comment
Increase/Decrease in Loan Amount	REQUIRED if there are fee changes associated with the change in loan amount that cause a tolerance level violation/cure and lender chooses to reset fee tolerances.	§ 1026.19(e)(3)(iv)(A), (B), or (C)
Increase/Decrease in Interest Rate	REQUIRED if there are fee changes associated with the change in interest rate that cause a tolerance level violation/cure and lender chooses to reset fee tolerances.	§ 1026.19(e)(3)(iv)(A) or (B)
Change in Loan Type (e.g. Conventional to VA)	REQUIRED if there are fee changes associated with the change in loan type that cause a tolerance level violation/cure and lender chooses to reset fee tolerances.	§ 1026.19(e)(3)(iv)(A), (B), or (C)
Changing from Waiving Escrows to Not Waiving Escrows (or vice versa)	REQUIRED if there are fee changes associated with the addition/removal of an escrow account that cause a tolerance level violation/cure and lender chooses to reset fee tolerances.	§ 1026.19(e)(3)(iv)(A), (B), or (C)
Adding/Removing a Borrower	REQUIRED if there are fee changes associated with the addition/removal of the borrower that cause a tolerance level violation/cure and lender chooses to reset fee tolerances.	§ 1026.19(e)(3)(iv)(A), (B), or (C)
Change in Program (e.g. Fixed to ARM)	<p>For LE: REQUIRED if there are fee changes associated with the program change that cause a tolerance level violation/cure and lender chooses to reset fee tolerances.</p> <p><u>If CD has been issued:</u> CoC + revised CD + New 3-day waiting period REQUIRED</p>	§ 1026.19(f)(2)(ii)(B) § 1026.38(a)(5)(iii) § 1026.37(a)(10)(i)
Increase in APR	<p>For LE: REQUIRED if there are fee changes associated with the APR increase that cause a tolerance level violation/cure and lender chooses to reset fee tolerances.</p> <p><u>If CD has been issued:</u> CoC + revised CD + New 3-day waiting period REQUIRED if increased by more than .125%</p>	§ 1026.19(f)(2)(ii)(A) § 1026.22(a)(2)

Decrease in APR	<p>For LE: REQUIRED if there are fee changes associated with the APR decrease that cause a tolerance level violation/cure and lender chooses to reset fee tolerances.</p> <p>If CD has been issued: CoC + revised CD + New 3-day waiting period REQUIRED if decreased by more than .125% and the decrease is NOT based on changes to the interest rate or other fees.</p>	<p>https://www.consumerfinance.gov/policy-compliance/know-you-owe-mortgages/extra-three-day-reviews-are-unlikely/</p> <p>A decrease in APR will not require a new three-day review if it is based on changes to the interest rate or other fees.</p> <p>Example: If a CD has already been issued and the APR now decreases by .2% due to the borrower requesting a loan amount decrease, a new 3-day waiting period would be required because the APR decreased by more than .125% AND the decrease in APR was caused by the loan amount decreasing, not by a change to the interest rate or a fee.</p>
Addition of or Change in Discount Points	REQUIRED if addition or change causes a fee tolerance violation/cure and lender chooses to reset fee tolerances.	§ 1026.19(e)(3)(iv)(A)
Addition of Fee	REQUIRED if addition causes a fee tolerance violation/cure and lender chooses to reset fee tolerances.	§ 1026.19(e)(3)(iv)(A) or (D)
Lender Error	No. Lender error is never a valid changed circumstance. There is no prescribed way to fix lender error under TRID.	<p>201409_cfpb_tila-respa-integrated-disclosure-rule_compliance-guide.pdf (consumerfinance.gov)</p> <p>“Creditors generally may not issue revisions to Loan Estimates because they later discover technical errors, miscalculations, or underestimations of charges. . .”</p>