

# MORTGAGE DISCLOSURE IMPROVEMENT ACT

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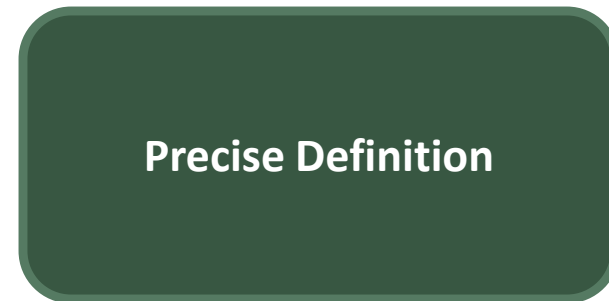
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## Introduction

- The July 2008 final rule requires creditors to give consumers transaction-specific cost disclosures shortly after application for closed-end loans secured by any dwelling of the consumer covered under the Real Estate Settlement Procedures Act (RESPA).
- MDIA extends Truth-in-Lending to include refinance transactions and loans secured by a dwelling even when it is not the consumer's principal dwelling, which includes second homes.
- MDIA applies only to closed-end loans secured by a consumer's dwelling and does not affect the disclosure requirements for open-end credit plans secured by a dwelling (home equity lines of credit, or HELOCs).

## 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 seeks to 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

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.

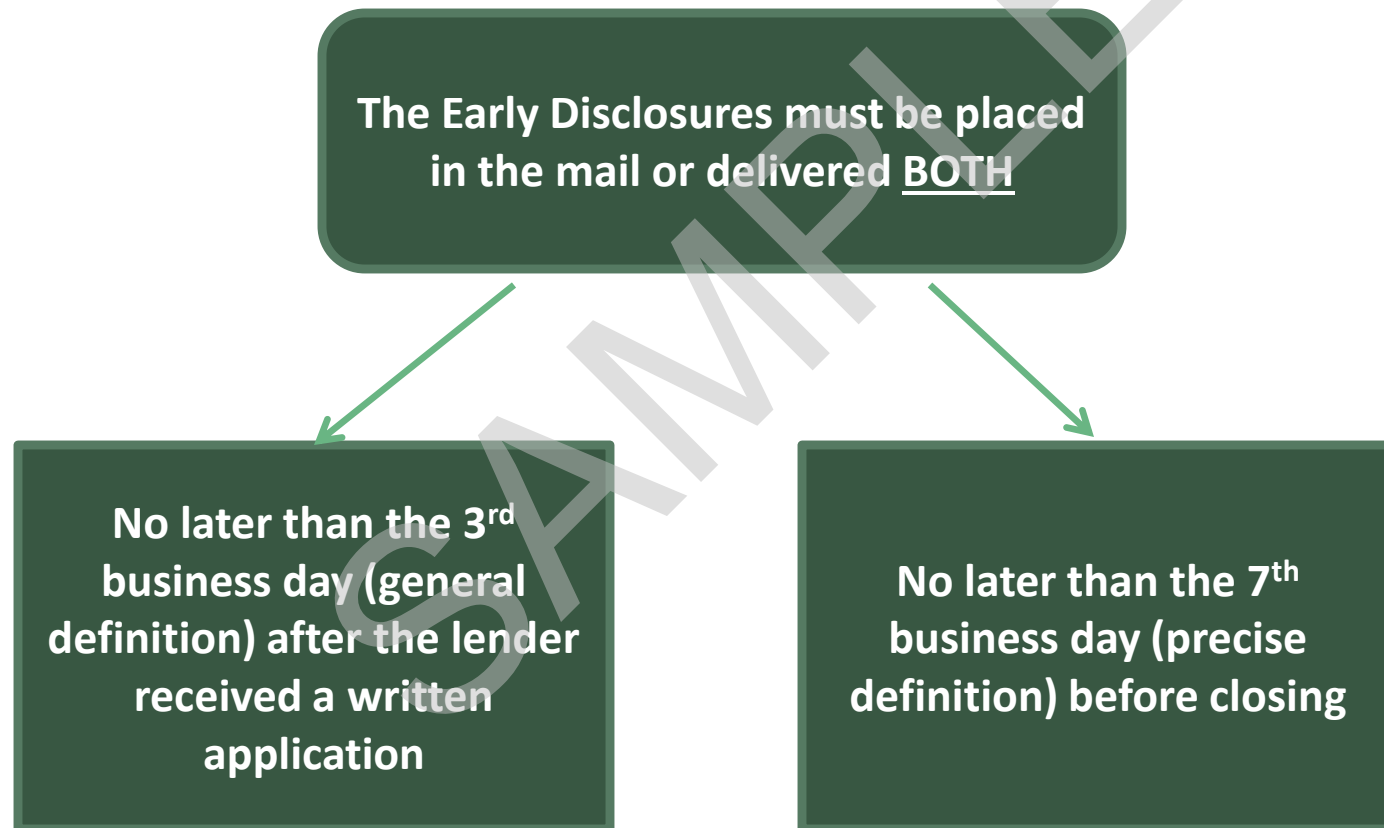
## Timing Requirements

### *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)*



## 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.

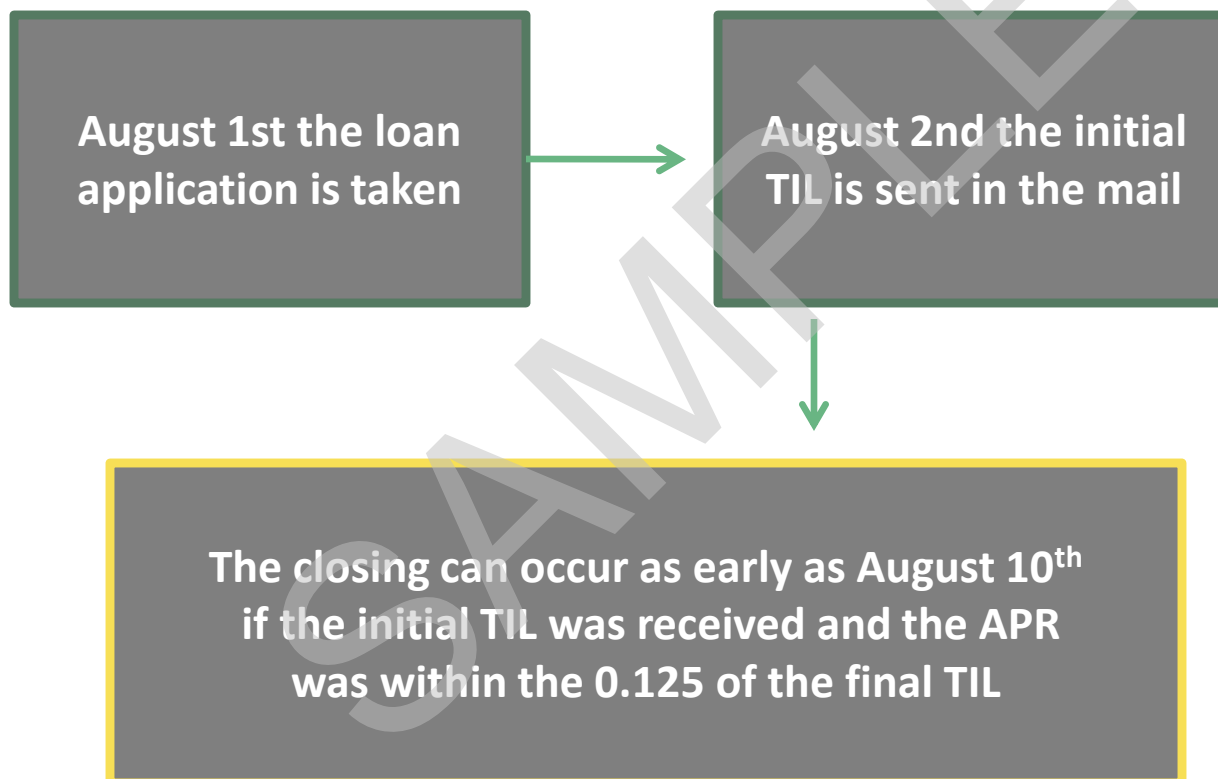
### 7 Days from Initial Disclosure – Mortgage Closing Waiting Period

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.

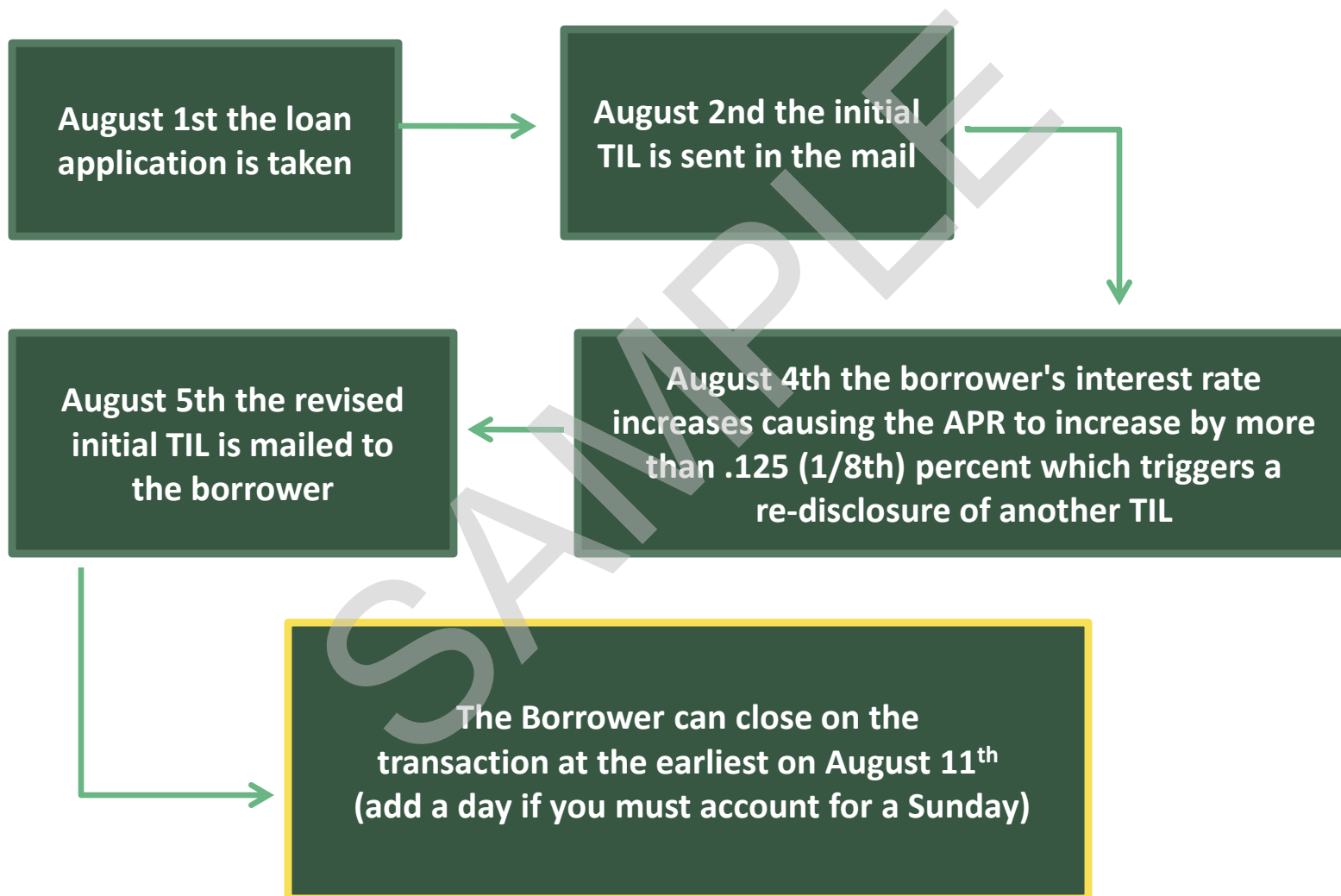
### 3 Days prior to Mortgage Closing – APR Waiting Period

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

Q. The MDIA requires that the early disclosures contain a clear and conspicuous notice containing the statement, *“You are not required to complete this agreement merely because you have received these disclosures or signed a loan application.”* Where should the statement be included on the disclosures?

A. *Under §226.19(a)(4), this statement must be grouped together with the disclosures required by §226.18 (e.g., amount financed, finance charges, etc.) If the §226.18 disclosures are grouped together and bordered by a box, the MDIA notice must also appear in the box. If they are not in a separate box, these disclosures may be grouped together and segregated in another way, such as by bold dividing lines, a different color background, or a different type style.*

## Frequently Asked Questions

Q. When sending corrected disclosures by e-mail or courier, can we presume receipt on the 3<sup>rd</sup> 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 more than one 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, provided that the borrowers did not submit a joint application. In the case of co-borrowers applying for a loan jointly, only 1 copy of the disclosure must be mailed and it should be addressed to both borrowers.*

## 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.
- 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.