



TRID Delay of Effective Date and Loans to Family Trusts: Follow-up to BCG Webinar

Under a proposal recently issued by the CFPB, the effective date of the TILA-RESPA Integrated Mortgage Disclosures or “TRID” would be extended from August 1, 2015 to October 3, 2015. During the Bankers’ Compliance Group webinar presented June 25 on the “New Closing Disclosure,” a question was raised as to whether the delayed October 3, 2015 effective date would apply to the organizational exemption for family trusts. We believe that it would.

Recall that currently Section 1026.3(a) exempts from Regulation Z coverage transactions in which the borrower is not a natural person, for example, loans to corporations, partnerships, proprietorships and the like. By definition, an organization includes a trust. As such, currently loans to trusts are exempt from Regulation Z coverage (that is, where the trust or the trustees in that express capacity are the only named borrowers on the note, the entire transaction is exempt from Regulation Z). However, under the final TRID rule that was issued on December 31, 2013, this exemption for loans to family trusts will be eliminated. The elimination of the trusts exemption has nothing substantively to do with TRID but the TRID issuance was simply a convenience vehicle for the Bureau to achieve its purpose of eliminating the trusts exemption.

Nonetheless, nothing in the most recent proposal appears to limit the proposed delayed October 3, 2015 effective date to the “pure TRID” parts of the rule. Rather, the Bureau simply states that it is “proposing to delay the August 1, 2015, effective date of the Integrated Mortgage Disclosures Rule Under the Real Estate Settlement Procedures Act ... and the Truth in Lending Act ... (TILA-RESPA Final Rule) . . . to October 3, 2015.” Moreover, it proposes to amend Comment 1(d)(5)-1, which provides clarity regarding the application of the effective date to transactions covered by TRID, to reflect the proposed change in effective date to October 3, 2015. Thus, it appears that the entire TRID rule, including the changes to the coverage provisions under Section 1026.3(a), would be effective October 3, 2015.