



Collaboration in Today's TRID Environment



Executive Summary

TRID has changed the operational landscape dramatically for both lenders and settlement agents. In today's post-TRID environment, collaboration is crucial for meeting the new requirements. This represents a dramatic change in how the lender and settlement agent have interacted in the past. As a result, many continue to rely on pre-TRID means of communication, rather than true electronic collaboration, to execute the Loan Estimate and Closing Disclosure. This creates an inefficient, inconsistent process that, in some aspects, may actually violate TRID requirements and expose all parties – the consumer included – to inordinate risk.

To overcome the challenges created by TRID, lenders and settlement agents need to rethink their methods of communication and adopt a more streamlined, consistent method that enables real-time electronic collaboration and supports compliance.

COLLABORATION REQUIRED

Collaboration between settlement agents and lenders is key for success in the post-TRID world, which places strict limits on the amount of change allowed between the initial Loan Estimate and final Closing Disclosure. Yet, unsurprisingly, lenders and settlement agents are finding it hard to collaborate on these documents. After all, this is the first time they've had to do it.

Prior to TRID, responsibility for each disclosure was clearly delineated. Lenders completed the Good-Faith Estimate (GFE) and Truth in Lending (TIL) initial disclosures (key elements of today's Loan Estimate), while the HUD-1 Settlement Statement (analogous to the new Closing Disclosure) was solely in the settlement agent's wheelhouse, with minimal input required from the lender. The information from the GFE influenced what was reported on HUD-1 per the 2010 changes to the Real Estate Settlement & Procedures Act (RESPA), the tolerance limits for how much certain fees could change were clearly defined and readily understood by all parties.

As both lenders and settlement agents can attest, this process has gotten far more complicated and onerous, thanks to TRID. The Loan Estimate now combines the GFE and the initial TIL, while the Closing Disclosure encapsulates the final TIL and the HUD-1. Moreover, the tolerances that apply to each fee are much more difficult to discern — and sometimes stricter — under TRID.

Because lenders are ultimately held responsible for the final product, they are taking the lead on completing both forms, which represents a significant change in their process. However, lenders are struggling to complete the documents without significant input and outright collaboration with the settlement agent, who has never been involved so early in the process. The pace and timing for completing these documents are unfamiliar to the settlement agent, combined with lenders' increased responsibility, is resulting in errors, delayed closings and general frustration on both sides.

For example, in the Summaries of Transactions section for a purchase transaction, the vast majority of the information needed — taxes, insurance prorations, credits, deposits, loan payoffs, etc. — is supplied by the settlement agent. Pre-TRID, the lender was never responsible for finalizing this information and, quite often, this information wouldn't be finalized until just before closing.

The pace and timing for completing these documents are unfamiliar to the settlement agent and, combined with lenders' increased responsibility, is resulting in errors, delayed closings, and general frustration on both sides.

Now, the lender is entirely dependent on the settlement agent to provide this information, under a tight timeframe no less, so that it can be given to the borrower three days prior to closing, as prescribed by TRID. The difficulty in this process isn't settlement agents' inability to produce the work. In fact, most are quite skilled at this. The issue lies in the timing, as the settlement agent is no longer in the driver's seat when it comes to producing the form.

WHY THE "OLD WAY" NO LONGER WORKS

Prior to TRID, email and phone calls were the primary methods by which lenders and settlement agents communicated with one another. These remain the methods many continue to rely on post-TRID, creating enormous challenges and risk for both parties. For example, an important, yet often overlooked, component of TRID is the requirement for both creditors (i.e., lenders) and their agents (settlement agents, third-party providers, etc.) to protect consumers' sensitive data, such as non-public personal information (NPI). While most organizations have security measures in place to protect this kind of data on their servers, they may not provide the same level of security for their email or telephone, especially VOIP, systems. Thus, communicating via these mediums can inadvertently expose sensitive consumer data to unauthorized access by outside parties.

Not only does this represent a clear violation of consumer privacy laws, but communication via phone or email also raises concerns about the ability of both parties to provide a record of communication in the event of a regulatory audit.

Proving the content of a conversation held verbally is next to impossible.

Proving the content of a conversation held verbally is next to impossible. Even if notes are taken and included in the loan file, how can regulators verify that those notes accurately reflect what was said? Emails can be accidentally deleted, end up in spam filters, or just get lost in the shuffle. In auditors' minds, without a verifiable audit trail, it's as if those conversations never happened.

Furthermore, this points to the instability of email and phone as a means of communication. Systems fail. Data gets corrupted. Outages happen. General office software and systems aren't designed to facilitate the kind of collaboration lenders and settlement agents need to meet TRID requirements, and when they fail, the results can be catastrophic.

Additionally, communicating via phone and email creates an inconsistent process that can result in errors, missed information, and delays. Think about it: if information is being communicated via multiple channels, it's impossible to know how information is going to be communicated at any given time. For example, let's say the lender is expecting a phone call from the settlement agent regarding an updated fee. If the agent sends an email instead, the lender may not be checking his or her inbox for that information, thus creating a delay that could affect closing.

Using email or phone for communicating also prevents both sides from working with real-time data. What may have been true on Thursday afternoon at 4 p.m. when the information was initially communicated may not be true by Friday morning at 10 a.m. when the information is received. Not only does this create additional complexity, but it also opens the door for additional errors and wasted effort.

Ultimately, email/phone collaboration is simply not collaboration. It's an inefficient process that neither lenders nor settlement agents can afford in a post-TRID environment. Timing violations can't be cured under TRID, so when the Closing Disclosure fails to make it to the borrower three days prior to closing, what usually happens is it gets delayed. Otherwise, the lender has to pay a fine.

Either option is expensive and detrimental to business, and in the current origination environment, no one can afford extra expenses. According to the Mortgage Bankers Association's Quarterly Mortgage Bankers Performance Report for Q4 2015, net gains per loan declined significantly in the fourth quarter of 2015 to \$493 versus \$1,238 in the third quarter of 2015. Of the \$745 in increased expenses per loan, personnel expenses accounted for more than 60% (\$457) of the increase.

Furthermore, extending the closing is simply bad customer service and can cost the consumer real money, especially if they lose a rate lock. Penalties for timing violations can cost up to \$4,000, not to mention the \$5,000 civil penalty per day, per violation the CFPB can add and the potential for borrowers to sue for damages and other costs.

Clearly, current methods of collaboration are insufficient to ensuring compliant, seamless, cost-efficient completion of the Loan Estimate and Closing Disclosure.

What may have been true on Thursday afternoon at 4 p.m. when the information was initially communicated may not be true by Friday morning at 10 a.m. when the information is received.

GOING DIGITAL WITH SIMPLIFILE

Simplifile's Collaboration solution enables lenders to share, receive, and validate documents and data with their network of settlement agents. The solution provides a platform for collaborating on fee data, documents, and transaction details and allows users to share changes, updates, deficiencies, and statuses within one system, in real time. Here's how it works:

fig. 1

SETTLEMENT AGENT ADDING A TITLE ENDORSEMENT FEE OF \$50

B. Services Borrower Did Not Shop For				\$240.00	
C. Services Borrower Did Shop For				\$150.00	
Type	Paid to	Shopped	Paid by		Amount
Appraisal Field Review Fee	to Third Party Provider	<input type="checkbox"/>	Lender	At Closing	\$405.00
Flood Certification	to Third Party Provider	<input type="checkbox"/>	Borrower	At Closing	\$90.00
Pest Inspection Fee	to Third Party Provider	<input type="checkbox"/>	Borrower	At Closing	\$150.00
Property Tax Status Research Fee	to Third Party Provider	<input checked="" type="checkbox"/>	Borrower	At Closing	\$150.00
<input type="text" value="Title Endorsement Fee"/>	<input type="text" value="Third Party Prov..."/>	<input type="checkbox"/>	<input type="text" value="Borrower"/>	<input type="text" value="At Closing"/>	<input type="text" value="\$50"/>

Once the settlement agent has logged in to Simplifile, they can begin inputting the necessary information to complete the Loan Estimate and/or Closing Disclosure. In Figure 1, we see the settlement agent adding a Title Endorsement Fee of \$50.

fig. 2

SETTLEMENT AGENT SCREEN SHOWING THAT THE FEE IS NOW PENDING

B. Services Borrower Did Not Shop For				\$290.00	
C. Services Borrower Did Shop For				\$150.00	
Type	Paid to	Shopped	Paid by		Amount
Appraisal Field Review Fee	to Third Party Provider	<input type="checkbox"/>	Lender	At Closing	\$405.00
Flood Certification	to Third Party Provider	<input type="checkbox"/>	Borrower	At Closing	\$90.00
Pest Inspection Fee	to Third Party Provider	<input type="checkbox"/>	Borrower	At Closing	\$150.00
<i>Title Endorsement Fee</i>	<i>to Third Party Provider</i>	<input type="checkbox"/>	<i>Borrower</i>	<i>At Closing</i>	<i>\$50.00 pending</i>
Property Tax Status Research Fee	to Third Party Provider	<input checked="" type="checkbox"/>	Borrower	At Closing	\$150.00
Add new fee ▼					

After the fee has been added to the system, the settlement agent's screen shows that the fee is now pending approval by the lender.

fig. 3

LENDER SCREEN SHOWING THE NEW FEE

B. Services Borrower Did Not Shop For				\$290.00		Accept Changes	
C. Services Borrower Did Shop For				\$150.00			
Type	Paid to	Shopped	Paid by		Amount		
Appraisal Field Review Fee	to Third Party Provider	<input type="checkbox"/>	Lender	At Closing	\$405.00		
Flood Certification	to Third Party Provider	<input type="checkbox"/>	Borrower	At Closing	\$90.00		
Pest Inspection Fee	to Third Party Provider	<input type="checkbox"/>	Borrower	At Closing	\$150.00		
Title Endorsement Fee	to Third Party Provider	<input type="checkbox"/>	Borrower	At Closing	\$50.00		
Property Tax Status Research Fee	to Third Party Provider	<input checked="" type="checkbox"/>	Borrower	At Closing	\$150.00		
Add new fee ▼							

Almost instantaneously, the lender receives a notification from the Simplifile system that their settlement agent has added a new fee that requires review and either approval or further discussion. In this case, the lender accepts the fee as accurate and records their response in the system.

fig. 4

SETTLEMENT AGENT SCREEN AFTER NEW FEE IS ACCEPTED

B. Services Borrower Did Not Shop For				\$290.00			
C. Services Borrower Did Shop For				\$150.00			
Type	Paid to	Shopped	Paid by		Amount		
Appraisal Field Review Fee	to Third Party Provider	<input type="checkbox"/>	Lender	At Closing	\$405.00		
Flood Certification	to Third Party Provider	<input type="checkbox"/>	Borrower	At Closing	\$90.00		
Pest Inspection Fee	to Third Party Provider	<input type="checkbox"/>	Borrower	At Closing	\$150.00		
Title Endorsement Fee	to Third Party Provider	<input type="checkbox"/>	Borrower	At Closing	\$50.00		
Property Tax Status Research Fee	to Third Party Provider	<input checked="" type="checkbox"/>	Borrower	At Closing	\$150.00		
Add new fee ▼							

Once the fee has been recorded as accepted, the settlement agent is immediately notified of the change in status and can move forward with the document as necessary.

As the previous example illustrates, the Simplifile system provides lenders and settlement agents a consistent, secure, auditable means of collaboration, which helps ensure compliance while reducing errors. In addition, the platform provides both lenders and settlement agents with much-needed visibility into each other's processes.

KEY FEATURES, BENEFITS, AND SPECIFICATIONS OF SIMPLIFILE

- ✓ Loan Estimate/Closing Disclosure collaboration and reconciliation in real time
- ✓ Instant messaging at file and fee level for secure real-time communication
- ✓ Securely share contracts, instructions, final documents, and more
- ✓ Full logging of all activity on the loan by any user for complete audit trails
- ✓ Access trailing and recorded documents, title policy, post-closing information, and status
- ✓ Implementation and support services for you and your settlement agents
- ✓ Control fee names, locations, and what fees can be added or changed
- ✓ Simple per-loan pricing without long-term contracts or implementation fees
- ✓ Configurable notifications and activity alerts
- ✓ Scalable system that grows with you and your workload
- ✓ Ready for GSEs 2017 Uniform Closing Dataset (UCD) requirement
- ✓ Complete API for system integration
- ✓ Complete reporting
- ✓ MISMO 3.3.x data standard
- ✓ UCD (Uniform Closing Dataset) XML exportable

In addition to facilitating digital collaboration to more effectively meet TRID requirements, Simplifile also offers lenders and settlement agents the ability to close the loop on real estate closings. Through Simplifile's Post Closing solution, lenders and settlement agents can access and share post-closing information as well as communicate the status of recorded documents using a centralized portal.

