



## **Optional, Early Compliance is a Common Regulatory Tool: Early Adopters Can Choose Phase-In Date**

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Regulators often have established optional phase-in periods for Truth in Lending Regulations. During these initial optional compliance periods, creditors could opt to comply with either the old rules or the new ones. Creditors choosing to adopt the new rules, however, were subject to the same legal remedy scheme that applied to all creditors once the mandatory compliance date occurred. Following are examples of past Truth in Lending optional phase in periods for new regulations.

1. 1982: The Federal Reserve Board (FRB or Board) regulations implementing the Truth in Lending Simplification and Reform Act included a one-year optional compliance period. TILA Simplification radically altered the disclosure requirements of the Truth in Lending Act. In that regard, this example is the most similar to the pending implementation of the new the TILA/RESPA disclosures. *See* 47 Fed. Reg. 755 (Jan. 7, 1982) (summarizing history of effective and compliance dates).
2. 2001: The Federal Reserve Board amended Regulation Z (under TILA) to establish uniform standards for the electronic delivery of disclosures. The rule provided guidance on the timing and delivery of electronic disclosures to ensure consumers have adequate opportunity to access and retain cost information when shopping for credit or before becoming obligated for an extension of credit. The rule was effective March 30, 2001, but the FRB made compliance optional for the first six months “to allow time for any necessary operational changes....” 66 Fed. Reg. 17,329 (Mar. 30, 2001).
3. 2001: The Board amended the provisions of Regulation Z that implement the Home Ownership and Equity Protection Act (HOEPA) regulating high cost mortgages. Although the rule was made effective December 20, 2001, compliance was optional until October 1, 2002--approximately ten months later. 66 Fed. Reg. 65,604 (Dec. 20, 2001).
4. 2004: The FRB revised Regulation Z to add an interpretative rule of construction providing that where the word “amount” is used in the regulation to describe disclosure requirements, it refers to a numerical amount. The staff commentary was also revised to provide guidance on consumers' exercise of the right to rescind certain home-secured loans. The rule was effective April 1, 2004 but was optional for the first six months, until the mandatory compliance date of October 1, 2004. 69 Fed. Reg. 16,769 (Mar. 31, 2004).

5. 2010: The FRB published a rule amending Regulation Z to implement the Dodd-Frank Act's new rules for appraisal independence. In doing so, the FRB made the rule effective in December 2010,<sup>1</sup> but the compliance date was made optional for another five months: "To allow time for any necessary operational changes, compliance with this interim final rule is optional until April 1, 2011." 75 Fed. Reg. 66554 (Oct. 28, 2010).
6. 2011: The Consumer Financial Protection Bureau established Regulation D (for the Alternative Mortgage Transactions Parity Act) to implement amendments to the Act made by the Dodd-Frank Act. The rule was made effective in July 2011, but compliance with a portion<sup>2</sup> was optional for twelve months for some lenders.<sup>3</sup> 76 Fed. Reg. 44226 (July 22, 2011).

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<sup>1</sup> Except for one small portion, (the removal of § 226.36(b)), which took effect April 1, 2011.

<sup>2</sup> Reg. D § 1004.4.

<sup>3</sup> "Federal housing creditors and for state housing creditors that are not relying on preemption of state law under § 1004.3."