

# Mortgage Insurance and Tolerances under the TILA-RESPA Integrated Disclosures (“TRID”) Rule

	Mortgage Insurance Type	Disclose on the TRID Disclosures?	Where?	How?	Tolerance?	What if cost changes?
1	Paid monthly <u>in arrears</u> (Arch MI EZ Monthly) but the borrower will not make any MI payments at consummation <sup>1</sup>	Yes – on Loan Estimate and Closing Disclosure	Maximum amount payable for monthly premium must be reflected on page 1 in Projected Payments table. (12 C.F.R. § 1026.37(c)(2)(ii))	<ul style="list-style-type: none"> <li>Must disclose maximum amount payable for monthly premium in separate line of Projected Payments table.</li> <li>Separate column required to reflect “automatic termination of mortgage insurance or any functional equivalent under applicable law,” unless other events (e.g., rate adjustments) require more than three columns in which case the four-column limit requires that mortgage insurance be omitted from the column following the column in which mortgage insurance is expected to be terminated. 12 C.F.R. 1026.37(c)(1)(i)(C) and (c)(1)(ii)(B).</li> </ul> <p>(12 C.F.R. § 1026.37(c)(2)(ii))</p>	Tolerances do not apply but disclosed premiums must be based on best information reasonably available at time disclosure provided. (Comments 37-1 and 38-3)	Lender is not required to issue a new disclosure, but it must update information the next time a disclosure is issued (e.g., revised Loan Estimate or initial or revised Closing Disclosure). (Comments 37-1 and 38-3)
2	Paid monthly <u>in arrears</u> (Arch MI EZ Monthly) but the borrower will make an initial escrow deposit at consummation <sup>1</sup>	Yes – on Loan Estimate and Closing Disclosure	Escrow deposit made at consummation must be reflected on page 2, section G. “Initial Escrow Payment at Closing.” (12 C.F.R. §§ 1026.37(g)(3)(ii) and 38(g)(3))	<ul style="list-style-type: none"> <li>Must be disclosed on the second line</li> <li>Must show (1) amount escrowed <i>per month</i>; (2) the number of months covered by the amount collected at consummation; and</li> </ul>	Must be based on best information reasonably available, but is otherwise not subject to tolerance limitations. (12 C.F.R. § 1026.19(e)(3)(iii)(C))	Lender is not required to issue a new disclosure, but it must update information the next time a disclosure is issued (e.g., revised Loan Estimate or initial or revised Closing Disclosure). (Comments 37-1

<sup>1</sup> Consummation as used in the TRID rules means the time that a consumer becomes contractually obligated on a credit transaction. 12 C.F.R. § 1026.2(a)(13). When the consumer becomes contractually obligated is a matter of state law. Comment 2(a)(13)-1

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			Also Projected Payments table (see above)	(3) total amount to be paid into escrow by the borrower at consummation  (12 C.F.R. §§ 1026.37(g)(3)(ii) and 38(g)(3))		and 38-3)
3	Paid monthly ( <u>in advance</u> ) and an initial non-escrowed prepayment of monthly premiums will be made at consummation	Yes – on Loan Estimate and Closing Disclosure	Payment of premiums made by consumer at consummation must be disclosed on page 2, section F. “Prepays.” (12 C.F.R. §§ 1026.37(g)(2)(ii) and 38(g)(2))  Also Projected Payments table (see above)	<ul style="list-style-type: none"> <li>• Must be disclosed on the second line</li> <li>• Must show (1) number of months and (2) total dollar amount paid by borrower at consummation</li> <li>• Closing Disclosure must also show the person ultimately receiving payment</li> </ul> (12 C.F.R. §§ 1026.37(g)(2)(ii) and 38(g)(2))	Subject to 0% tolerance. <sup>2</sup>	If cost increases due to “permitted change” <sup>3</sup> and lender would like to pass along increased cost, it generally must issue a revised Loan Estimate within three business days of receiving information sufficient to establish a permitted change has occurred. <sup>4</sup>
4	Paid as a single upfront premium and a single non-escrowed payment will be made at consummation	Yes – on Loan Estimate and Closing Disclosure	Payment must be disclosed on Loan Estimate page 2, section B. “Services You Cannot Shop For” and on Closing Disclosure page 2, section B. “Services Borrower Did Not Shop For.” (12 C.F.R. §§ 1026.37(f)(2) and	Must disclose amount borrower will pay. Must also disclose name of person who will receive payment on Closing Disclosure. (12 C.F.R. §§ 1026.37(f)(2) and 38(f)(2); comment 37(f)(2)-2)	Subject to 0% tolerance. (12 C.F.R. § 1026.19(e)(3); comment 19(e)(3)(i)-1)	If cost increases due to “permitted change” and lender would like to pass along increased cost, it generally must issue a revised Loan Estimate within three business days of receiving information sufficient to

<sup>2</sup> Under 12 C.F.R. § 1026.19(e)(3)(i), estimated closing costs are presumptively subject to 0% tolerance unless § 1026.19(e)(3)(ii) or (iii) applies. The 10% aggregate tolerance in § 1026.19(e)(3)(ii) does not apply because the borrower is not permitted to shop for mortgage insurance. Furthermore, unlike prepaid interest, property insurance premiums, and amounts paid into escrow, prepaid mortgage insurance premiums are not excluded from tolerances under § 1026.19(e)(3)(iii).

<sup>3</sup> A “permitted change” occurs if there is a changed circumstance affecting settlement charges or eligibility, the borrower requests changes, the charge is interest rate dependent, the Loan Estimate expires before the borrower indicates an intent to proceed, or the loan is a construction loan with a delayed settlement. For more information, see 12 C.F.R. § 1027.19(e)(3)(iv) and (e)(4).

<sup>4</sup> The lender may instead revise tolerances using Closing Disclosure if there are less than four business days between the date the revised Loan Estimate would have been due and consummation. Comment 19(e)(4)(ii)-1.

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			38(f)(2); comment 37(f)(2)-2)			establish a permitted change has occurred. (See footnotes 1-3.)
5	Paid annually (in advance) with an escrow deposit for the first annual payment paid at consummation	Yes – on Loan Estimate and Closing Disclosure	Escrow deposit paid at consummation for the first annual payment must be disclosed on page 2, section G. “Initial Escrow Payment at Closing.” (12 C.F.R. §§ 1026.37(g)(3)(ii) and 38(g)(3))  Also Projected Payments table (see above) but note that annual premium should be divided to correspond to monthly principal and interest payments. (12 C.F.R. § 1026.37(c)(2)(ii))	<ul style="list-style-type: none"> <li>• Must be disclosed on the second line</li> <li>• Must show (1) amount escrowed <i>per month</i>; (2) the number of months covered by the amount collected at consummation; and (3) total amount to be paid into escrow by the borrower at consummation</li> </ul> (12 C.F.R. §§ 1026.37(g)(3)(ii) and 38(g)(3))	Must be based on best information reasonably available, but is otherwise not subject to tolerance limitations. (12 C.F.R. § 1026.19(e)(3)(iii)(C))	Lender is not required to issue a new disclosure, but it must update information the next time a disclosure is issued (e.g., revised Loan Estimate or initial or revised Closing Disclosure). (Comments 37-1 and 38-3.)
6	Paid by borrower as a split (single/monthly) premium, with the first (single) premium paid at consummation and an escrow deposit for future monthly payments paid into escrow	Yes – on Loan Estimate and Closing Disclosure	Rule does not specifically address this policy type, but it appears that premiums should be disclosed as follows: <ul style="list-style-type: none"> <li>• <b>Single Premium:</b> Single premium paid at consummation must be disclosed on Loan Estimate page 2, section B. “Services You Cannot Shop For” and on Closing Disclosure page 2, section B. “Services Borrower Did Not Shop For.” (12 C.F.R. §§ 1026.37(f)(2) and 38(f)(2); comment 37(f)(2)-2)</li> </ul>	<p><b>Single premium:</b> Must disclose amount borrower will pay. Must also disclose name of person who will receive payment on Closing Disclosure. (12 C.F.R. §§ 1026.37(f)(2) and 38(f)(2); comment 37(f)(2)-2)</p> <p><b>Escrowed premium:</b></p> <ul style="list-style-type: none"> <li>• Must be disclosed on the second line</li> <li>• Must show (1) amount escrowed <i>per month</i>; (2) the number of months covered by the amount collected at consummation; and</li> </ul>	<p><b>Single Premium:</b> Disclosure for single premium subject to 0% tolerance. (12 C.F.R. § 1026.19(e)(3); comment 19(e)(3)(i)-1)</p> <p><b>Escrowed premium:</b> Disclosure for escrowed premium must be based on best information reasonably available, but is otherwise not subject to tolerance limitations. (12 C.F.R. § 1026.19(e)(3)(iii)(C))</p>	<p><b>Single Premium:</b> If cost increases due to “permitted change” and lender would like to pass along increased cost, it generally must issue a revised Loan Estimate within three business days of receiving information sufficient to establish a permitted change has occurred. (See footnotes 1-3.)</p> <p><b>Escrowed premium:</b> Lender is not required to issue a new disclosure, but it must update information the next time a disclosure is issued (e.g., revised Loan Estimate or initial or</p>

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			<ul style="list-style-type: none"> <li><b>Escrowed premium:</b> Escrow deposit paid at consummation must be disclosed on page 2, section G. “Initial Escrow Payment at Closing.” (12 C.F.R. §§ 1026.37(g)(3)(ii) and 38(g)(3))</li> </ul> <p>Also Projected Payments table (see above) but note that only monthly premium must be disclosed. (12 C.F.R. § 1026.37(c)(2)(ii))</p>	<p>(3) total amount to be paid into escrow by the borrower at consummation</p> <p>(12 C.F.R. §§ 1026.37(g)(3)(ii) and 38(g)(3))</p>		<p>revised Closing Disclosure). (Comments 37-1 and 38-3.)</p>
7	<p><i>Paid by the lender</i> (LPMI) (single premium, monthly or annual) and added to the loan’s interest rate</p>	<p>Only on Closing Disclosure.<sup>5</sup></p>	<p>Single premium paid at consummation must be disclosed on page 2, section B. “Services Borrower Did Not Shop For” as “Paid by Others.” (12 C.F.R. § 1026.38(f)(2); comments 37(f)(2)-2 and 38(f)(2)-1)</p> <p>Monthly or annual premium payment made at consummation disclosed on page 2, section F. “Prepays” as “Paid by Others.” (12 C.F.R. §§ 1026.37(g)(2)(ii) and 38(g)(2))</p>	<p><b>Single premium:</b> Must disclose amount paid and name of person who will receive payment. ((12 C.F.R. § 1026.38(f)(2); comments 37(f)(2)-2 and 38(f)(2)-1)</p> <p><b>Monthly/Annual Premiums:</b></p> <ul style="list-style-type: none"> <li>Must be disclosed on the second line</li> <li>Must show (1) number of months and (2) total dollar amount paid by borrower at consummation</li> </ul>	<p>Disclosure must be based on best information reasonably available, but is otherwise not subject to tolerance limitations</p>	<p>Lender is not required to issue a new disclosure, but it must update information if the Closing Disclosure is revised.</p>

<sup>5</sup> This assumes that the terms of the legal obligation clearly provide that the lender will pay for the mortgage insurance. If there is a possibility that the borrower will be required to pay any portion of the premiums (e.g., if the premium pricing credits are insufficient to cover the full amount), then the premiums should be disclosed consistent with the applicable guidance above and offset with a Lender Credit on the Loan Estimate under section J. “Total Closing Costs” and on the Closing Disclosure in the “Paid by Others” column. 12 C.F.R. §§ 1026.37(g)(6)(ii) and 38(f) and (g). Note that, once disclosed, a lender credit cannot decrease absent a “permitted change.” See Comments 19(e)(3)(i)-5 and 6 and footnote 2 above.

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				<ul style="list-style-type: none"> <li>Closing Disclosure must also show the person ultimately receiving payment</li> </ul> <p>(12 C.F.R. §§ 1026.37(g)(2)(ii) and 38(g)(2))</p>		

