



## **Cordray Issues Letter on TRID Enforcement & Cure Provisions**

In response to a letter the Mortgage Bankers Association sent him, on December 29, 2015, CFPB Director Richard Cordray issued a letter explaining the Bureau's stance on examining for TRID compliance and a creditor's ability to cure TRID violations. With regard to TRID enforcement, Director Cordray reiterated that the Bureau continues to take the same position it set forth in its October 2, 2015 release by stating that the CFPB's "examiners will be squarely focused on whether companies have made good faith efforts to come into compliance with [TRID]," and "[a]ll of the regulators have indicated that their examinations for compliance in the first few months of implementing the new rule will be corrective and diagnostic, rather than punitive."

Turning to how to cure TRID violations, the Director first pointed out that TRID allows creditors to issue a corrected Closing Disclosure, and "liability for statutory and class action damages would be assessed with reference to the final closing disclosure issued, not to the loan estimate, meaning that a corrected closing disclosure could, in many cases, forestall any such private liability." Furthermore, the director reminded creditors that TILA itself contains cure provisions, and those TILA cure provisions continue to apply to the TRID disclosures. Of final note, the director stated, "The listed disclosures in [TILA Section 130(b)] that give rise to statutory and class action damages do not include either the RESPA disclosures or the new Dodd-Frank Act disclosures, including the Total Cash to Close and Total Interest Percentage." (Emphasis added.) Said another way, the director acknowledged the legal reality that only the pre-TRID statutory disclosures remain bases for civil statutory damages. For closed-end credit, these are the APR, finance charge, amount financed, total of payments, the number, amount and due dates of payments and the security interest disclosure. Curiously, most of these statutory disclosures are now buried on page five of the Closing Disclosure, so be sure to get that last page right!