January 2015

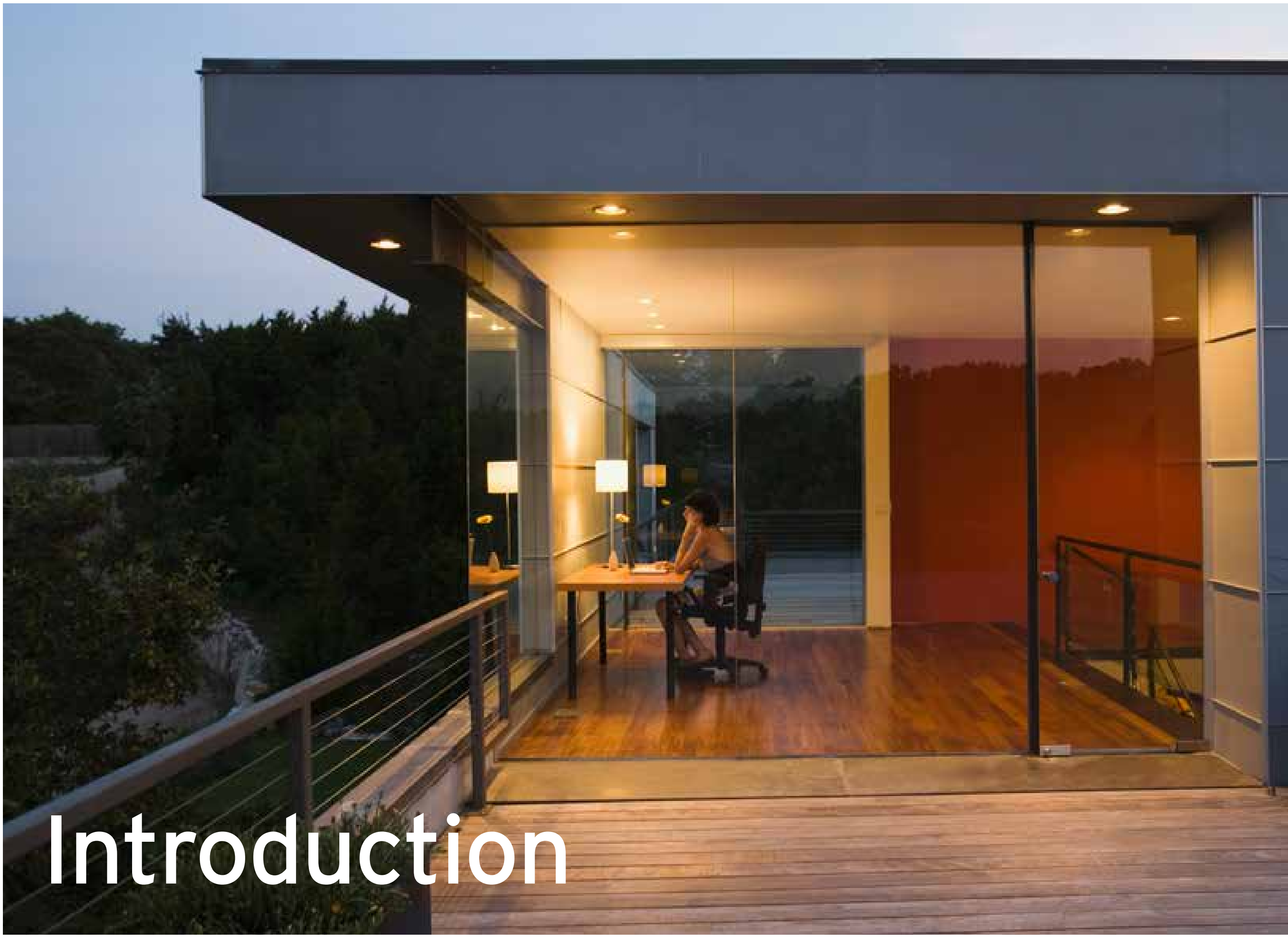
Financial Services

Risk Management

RESPA/TILA

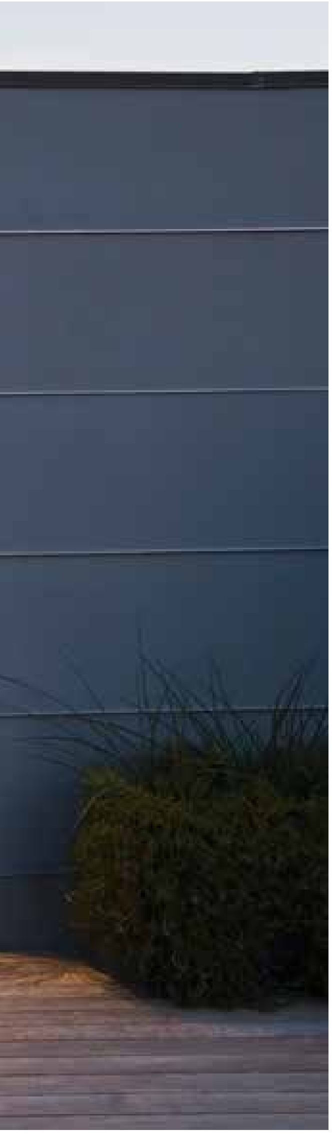
Impacts and implementation challenges

EY
Building a better working world



Introduction

On 20 November 2013, the Consumer Financial Protection Bureau (CFPB) issued the final Real Estate Settlement Procedures Act/Truth In Lending Act (RESPA–TILA) Disclosure Integration Rule (the Rule). Aimed at simplifying the mortgage process and creating a more consumer-friendly experience, the changes in the mortgage origination process brought about by the Rule fundamentally alter lending operations. Although the effective date is 1 August 2015, the time and resource demands involved in adjusting processes and technology to accommodate these sweeping changes require significant and urgent attention.



Background

For more than 30 years, mortgage lenders have been required to provide specified disclosure forms to consumers throughout the mortgage origination process: (1) the Initial and Final Truth in Lending (TIL) Disclosures, which provide information on the consumer's rate, term, and payments; and (2) the Good Faith Estimate (GFE) and HUD-1 Settlement Statement (HUD-1), which provide information on the settlement costs of the loan.

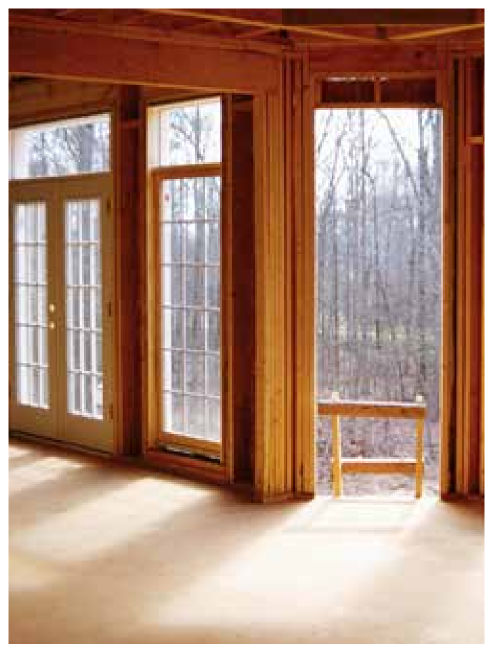
In July 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) was passed and the CFPB was established. The CFPB, among its numerous consumer-focused responsibilities, was tasked with consolidating the four mortgage disclosures in order to make loan terms easier for consumers to understand. The resulting Rule, among other changes, combines the GFE and initial TIL documents into the "Loan Estimate", and the HUD-1 and Final TIL into the "Closing Disclosure."

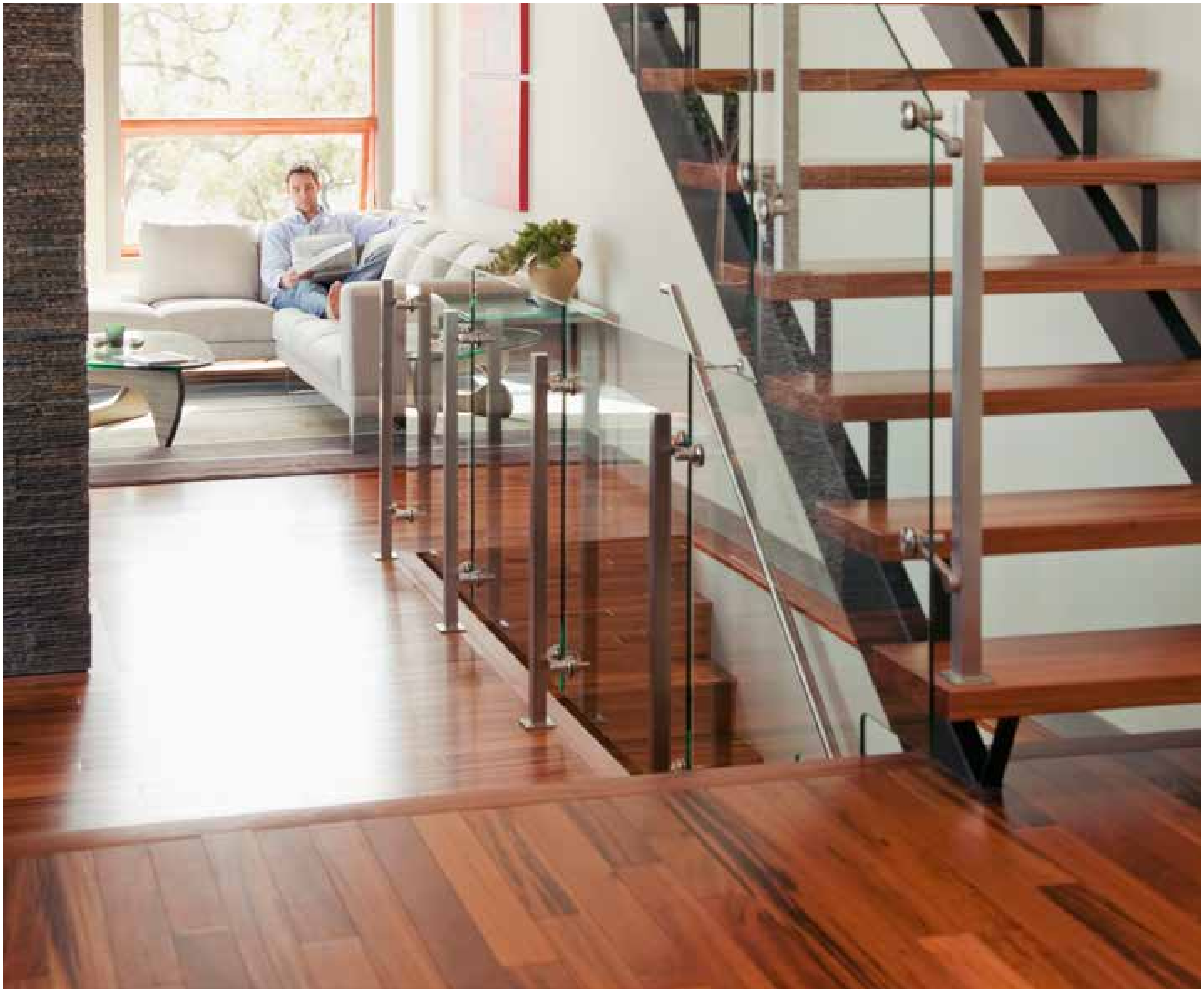
This rule change was the result of several years of growing demand for increased transparency in the lending market so as to enable consumers to make more informed choices and more easily compare loan terms offered by different lenders.

In December 2010, the Treasury Department hosted a mortgage disclosure symposium, which provided a platform for consumer advocates, industry representatives and marketers to discuss combining the disclosures. The following May, the CFPB launched the "Know Before You Owe" campaign, which served as an online public forum for review and commentary around the prototype disclosures that the CFPB was developing. Know Before You Owe aimed to make the disclosure consolidation efforts an open process, geared at engineering consumer-friendly, easy-to-read disclosures that provide borrowers with the information they need to know when choosing a loan. From May 2011 to July 2012, Know Before You Owe collected public feedback on iterative versions of the new disclosures, and performed testing throughout the development and revision process.

Following this extensive public campaign, the CFPB released its 1,099-page proposed Rule on 9 July 2012. The proposed rule received more than 2,800 public comments, and was subjected to additional consumer testing and fine tuning. The result was a 1,888 page final Rule issued on 20 November 2013, with an effective date of 1 August 2015.

While the effective date allows lenders approximately 20 months for implementation, this timeframe was effectively limited, as the Rule's finalization occurred in the midst of lenders' final preparations for implementing the 2013 CFPB mortgage rules. Moreover, the Rule not only combines the aforementioned disclosures, but also has broad process impacts from pre-application through post-closing and loan servicing.





Key changes and challenges

The Rule fundamentally changes many traditional aspects of the loan life cycle, which simultaneously impact the breadth of origination processes and technology platforms. Despite prescriptive requirements, the Rule's operational implications are complex and far-reaching, including impacts to systems and data mapping, as well as customer experience, controls, and vendor relationships.

As creditors work towards the effective date, careful review of their operations will be necessary to assess impacts, identify gaps and remediate them. Implementation is complicated by reliance on system vendors to provide technology solutions, compounded by the need to integrate vendor technology solutions with operational enhancements for which the technology solution does not solve.

Ultimately, end-to-end implementation success will hinge on effectively integrating the technology solution and the process changes into a comprehensive RESPA-TILA remediation plan and efficient loan origination process.

Primary business challenges

Throughout the impact assessment and remediation process, institutions are encountering numerous business challenges. Due to the nature of the new requirements, the Rule results not only in significant technical and operational infrastructure changes, but also major shifts in settlement agent interaction and customer experience. It also imposes a significant burden on institutions due to the need to maintain parallel processes for applications in the pipeline as of 1 August 2015.

Technical and operational infrastructure impacts

Background

The Rule alters the orientation and content of the disclosure forms, as well as the timing and calculations related to their preparation, delivery and relationship to closing date. These new requirements include the following:

New disclosure forms

- Loan Estimates detail estimated terms, projected payments and cash to close; as well as product-specific tables.
- Closing Disclosures provide final information related to terms, payments and costs; information on APR/finance charges and additional disclosures about the loan.
- Escrow cancellation notices are required when escrow accounts are cancelled.
- Mortgage transfer disclosures must now reflect partial payment information.

Information displayed

- Itemized or "unbundled" fees are required on the Loan Estimate and Closing Disclosure.
- A written list of providers must be provided for any services that the consumer may shop for, if the creditor permits the consumer to shop.

System prompts and calculations

- A more restrictive definition of "application" is established, which retains the traditional first six elements (name, income, social security number, property address, estimated property value, and loan amount sought) but eliminates the seventh "any other information deemed necessary" catch-all element previously included.
- Two definitions of "business day" are established. One is a "specific" definition, including Saturdays. The other is a "general" definition under which Saturday may/may not be included, depending on whether the creditor does business on Saturdays.
- Tolerance for variations in settlement costs between early and final disclosures have been adjusted and now include a "zero tolerance" for increases to charges by a creditor's affiliate or for which the consumer was not allowed to shop.
- A revised Loan Estimate is required to be provided no later than three business days after an interest rate is locked, if the rate was not locked at the time the original Loan Estimate was provided.

Technology challenges

Since many institutions customize their base technology platforms to align with their business processes, lenders must carefully review their existing customization against both Rule requirements and system customization. This is especially important in regards to form merge fields, calculations, disclosure timing and closing date calculations, and disclosure prompts tied to the new definition of "application."
As creditors evaluate how technology functional design solutions align to the Rule, they must ascertain which requirements need to be solved through process changes and identify any linkages across platforms that must be reconfigured.

Process challenges

Business processes and procedures must not only be updated to reflect new fields and steps related to the updated technology platforms, but also must address any requirements not solved through technology solutions. These process updates relate to many aspects of loan origination, from sales and lead generators to closers and loan processers, and should be seamlessly integrated across multiple platforms to ensure smooth business-as-usual operations.

Potential solutions

Creditors must proactively analyze their system needs and be aware of their customized configurations when evaluating their vendor RESPA/TILA technology solutions. Careful analysis of the functional design solutions should include mapping solutions against requirements so as to identify areas requiring additional platform customization or non-technology process changes. Creditors must also be aware of system interactions so as to avoid indirectly disrupting platform linkages critical to other aspects of mortgage operations. From a process perspective, creditors must also identify any impacted policies, procedures and job aids, identify gaps, and remediate these issues ahead of the Rule's effective date. Training on the remediated processes and technology solutions will be necessary in order to prepare employees for the new requirements and familiarize them with the new forms and technology.

Customer experience impacts

Background

The CFPB's Know Before You Owe campaign was predicated on a desire to make the mortgage process more customer-friendly. While the disclosures provide new details that consumers may find helpful in making financial decisions, the Rule's new requirements also fundamentally change the traditional mortgage origination process. Specifically, the following requirements are expected to have a direct impact on the customer loan experience:

- A new pre-Loan Estimate disclosure is required on any written estimate of terms or costs specific to a consumer that is provided before the Loan Estimate.
- Waiting period requirements apply throughout the origination process, including that a revised Loan Estimate must be received at least four business days before closing, and a Closing Disclosure must be received no later than three business days prior to consummation. Certain revisions to Closing Disclosures also require new waiting periods.
- New forms with new calculations and details will reflect information not previously provided to consumers, especially Total Interest Percentage (TIP).

Consumers familiar with obtaining a loan will experience a different intake process, depending upon how creditors opt to address stricter "application" definitions by altering their information collection. In addition, customers will now receive unexpected disclosures, unfamiliar forms and new information, and a customer's desired closing date may be delayed by additional new waiting periods. Creditors need to address these sources of customer confusion by mitigating negative impacts early in the process.

> Creditors should expect that customers will be more educated in the new requirements going forward, as the CFPB has indicated its intent to conduct additional consumer outreach and education.

Technology challenge

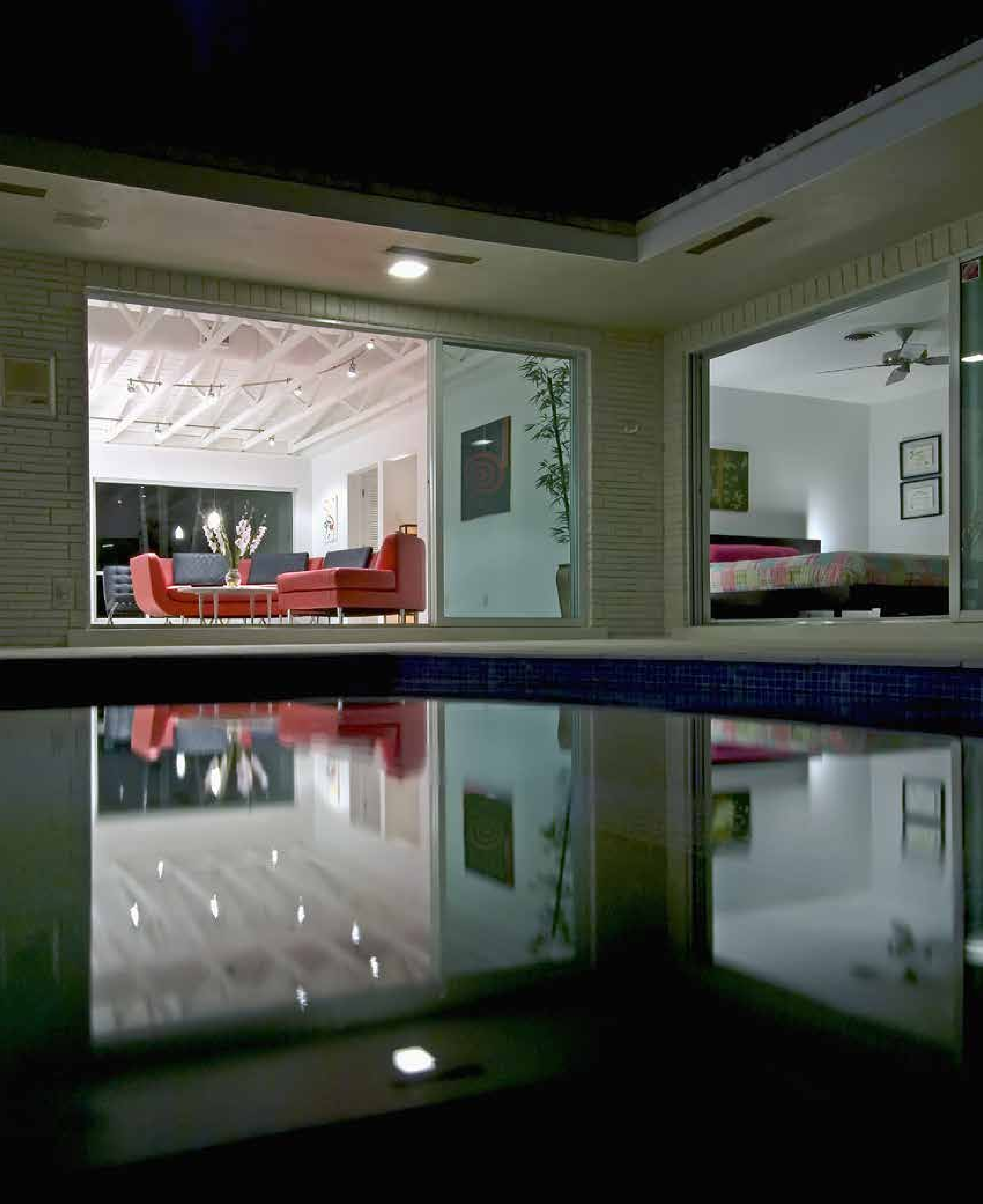
Although increasing numbers of customers may seek loan information over web-based platforms, creditors will need to assess how the customer lead experience will change due to the new requirements. In particular, changes to the definition of application may require a restructuring of when the creditor requests certain pieces of information from the consumer, and the required disclaimer language on any pre-loan written estimates of terms will likely appear on many web-generated estimates and calculators.

Process challenge

The various process challenges created by the Rule all have significant customer impacts. Most notably, as indicated above, customers will experience a significant change in the closing process, as they face additional restrictions and waiting periods before closing. Additionally, closing staff may take on a more customer-facing role, as they work with the settlement agent to prepare the closing disclosure.

Potential solutions

Creditors should consider an up-front approach to educating the consumer about the new requirements. This will necessitate training customer-facing employees about the new requirements, providing training about how to explain the new requirements in layman's terms and evaluating the customer impact through surveys or customer service hotlines as the new requirements go into effect. Additionally, creditors should set appropriate customer expectations early on when it comes to the loan origination process, such as the information required to be considered an "application" and the ways that certain changes in information may necessitate additional closing waiting periods. This will help creditors quickly identify any pain points and improve the customer experience accordingly. Lastly, creditors should expect that customers will be more educated in the new requirements going forward, as the CFPB has indicated its intent to conduct additional consumer outreach and education. Sales, processing and closing staff should be prepared to engage customers in discussions about the new requirements and how they will impact the borrower's transaction.



Settlement agent interaction

Background

Traditionally, settlement agents completed the HUD-1, and creditors completed the final TIL document. However, the Rule allows either the creditor or the settlement agent to complete the closing disclosure, with the creditor being held ultimately responsible for proper completion and delivery of the disclosure. Due to the different content required in each section of the form, information from both the agent and the creditor is crucial to complete it. This essential collaboration will shift agent-creditor interaction and may necessitate an adjustment to the terms and cadence of the relationship. Maintaining an accurate closing disclosure process is particularly important since, despite this collaboration between agent and creditor, the creditor bears the liability in the event the closing disclosure is inaccurate or untimely. Since TILA's private right of action will now apply to all information on the loan estimate and closing disclosure, which includes information traditionally required under RESPA, lenders must consider the additional legal risk of even seemingly minor violations.

Technology challenge

In reconfiguring the structure of the relationship, settlement agents and banks will need to assess the technological mechanisms they use to interact. Formerly, it may have simply involved faxing or emailing draft disclosures for review. However, the closing disclosure includes certain fields that are best completed by the creditor, and others that are more appropriate for the settlement agent to complete. Use of a technology platform will help streamline this interaction; however, it will also require integration with existing systems to make sure that closing dates are appropriate calculated, data is properly mapped over and reporting can be run to verify timely and accurate disclosures. This may represent a significant additional implementation cost for institutions.

Process challenge

In addition to technology solutions, the fundamental change in the relationship between creditor and settlement agent will necessitate adjustments to contractual agreements and policy/procedural requirements imposed on agents. Moreover, changes to closing process flows will be required to accommodate this.

Potential solutions

Assessment of technology options to facilitate this interaction and review of service line agreements to identify any potential need for renegotiation will be vital to solving these challenges. While liability concerns are driving many lenders towards in-house completion of the closing disclosure, this represents a fundamental operational and cultural shift for lenders and title agents. Because of this, lenders and the title industry continue to seek creative solutions outside of assigning full control of the document to the lender or the title agent, including:

<u>Purchase vs. refinance</u>

Lenders fully control the closing disclosure in refinances, while title agents play a larger role in completing the disclosure for purchase transactions, given the increased need for their expertise where there is a transfer of title.

<u>Early vs. final closing disclosure</u>

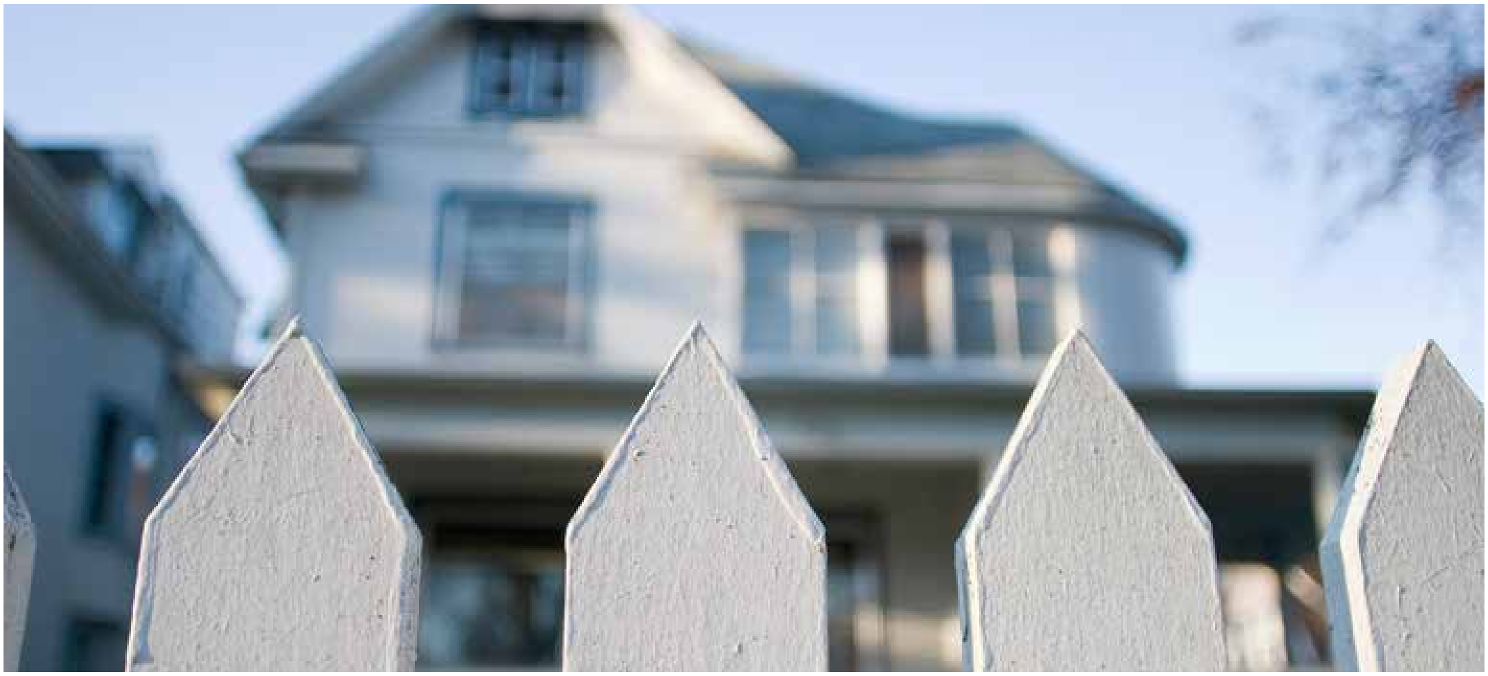
Lender controls initial generation of closing disclosure; title agents have permission to make certain revisions leading up to closing, and to generate the final closing disclosure to be reviewed at the closing table.

<u>Online platform-based interactive tool</u>

Lender and settlement agent interact through subscription to an online platform that enables joint completion of disclosure information, final approvals and controlled versioning.

Regardless of the model ultimately selected, the content of the closing disclosure necessitates reassessment of the methods used for sharing data and draft documents between the lender and title agent, whether it be manual in nature (e.g., faxing), a fully integrated vendor solution, or basic online interaction platforms built by lenders or title agents.

In addition, it is in the creditor's best interest to educate settlement agents about the rule requirements and socialize the creditor's technology and process changes to confirm a base-line level of comprehension of the new expectations. The creditor is ultimately responsible for the disclosure to be provided accurately and timely, and therefore bears significant risk if settlement agents are not capable of complying with the compliance, reporting, technology and/or process demands.



Pipeline loans

Background

The new disclosures cannot be used for applications received before 1 August 2015. Accordingly, any pre-existing applications in the pipeline as of 1 August 2015 will need to be handled under the old rules until those loans are closed. Therefore, for the duration of processing and closing on the pre-existing pipeline applications, two different disclosure processes and related technologies must be in place.

Technology challenge

Creditors must determine what, if any, technology solutions for their technology platforms may exist to help manage these parallel regulatory needs. At a minimum, technology capability to identify the pre-existing pipeline loans will be needed to scope the impact of this requirement and track proper processing and closing of those mortgages. Depending on the date an application is received, additional technology solutions will also be required for completing "old" disclosures, as well as applying "old" variance caps and timeframes.

Process challenge

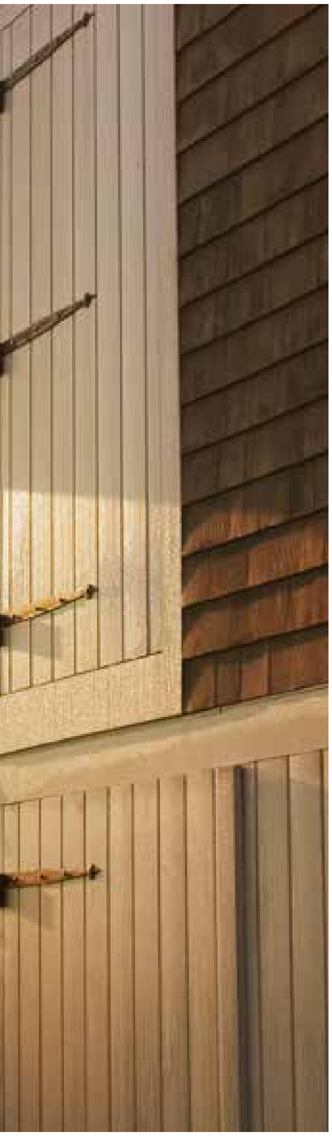
Processes and procedures will need to address the handling of these pipeline applications under existing requirements, parallel to handling new applications under the new requirements. Employees may face difficulties in recognizing which processes apply for which loans, and have trouble following the applicable process flows and policies and procedures.

Potential solutions

Creditors should proactively work to develop an approach towards creating a seamless transition to the new disclosure requirements, including maintaining existing processes and technologies for applications received prior to the effective date. Employees and affiliates will need to receive training on when each parallel process and technology functionality should be used, and will need to be monitored for appropriate compliance throughout the process. Additional attention should be paid to tracking pre-existing pipeline loan progress through comprehensive pipeline loan portfolio monitoring and reporting. Comprehensive monitoring and reporting will enable creditors to confirm that pipeline loans are moving through the origination process timely, are being disclosed properly pursuant to prior requirements, and are being properly reviewed for quality control purposes. Moreover, it will help creditors, over time, recognize when their parallel processes can be retired.

How EY can help

EY's Financial Services Advisory Team provides insights into emerging industry trends, helps address new consumer compliance requirements and assists with deploying the right program to satisfy the increased regulatory demands. EY is already helping institutions implement RESPA/TILA changes, including the following types of support:



Regulatory transformation, operational change management, preparation and response

EY can provide a full service approach to the compliance, operations, customer experience and technology components of RESPA/TILA. Recognizing the scope of challenges posed by this new rule, EY is prepared to provide thorough support through assessments, operational change management, third-party vendor interaction and risk-management, evaluation and education, and process and technology solution mapping. EY's ability to identify potential regulatory gaps allows us to deliver defined, actionable recommendations for closing gaps, supporting training and remediation efforts and documenting end-to-end compliance.

Customer impact and complaint management

Complaint management is a primary concern for many financial institutions, especially in light of the Rule's broad customer impact. EY has experience assisting organizations with assessing customer impacts and redesigning complaint management functions through a customer experience lens. EY's approach includes new customer interaction organizational design, improved communication and employee customer interaction readiness through employee training initiatives, and dynamic customer complaint reporting and data mining.

Client-focused strategies

Based on a comprehensive understanding of your institution's needs, as well as the regulatory environment you are facing, EY can enable you to best position your organization for timely compliance with these new challenging requirements. EY professionals have extensive industry and regulatory experience and analytical skills applicable to each unique client situation. EY applies their experience in RESPA/TILA compliance, as well as their depth of knowledge around banking operations, compliance challenges and institutional risk concerns, to support your complex regulatory implementation efforts.

Contacts

Maureen Day
Partner, Advisory
Financial Services
Ernst & Young LLP
+1 212 773 2783
maureen.day@ey.com

Madeline Miller
Executive Director, Advisory Financial Services
Ernst & Young LLP
madeline.miller@ey.com
+1 212 773 7615

Stephanie White-Booker
Executive Director, Advisory Financial Services
Ernst & Young LLP
stephanie.whitebooker@ey.com
+1 214 969 8027

Rustin Rethemeyer
Senior Manager, Advisory Financial Services
Ernst & Young LLP
rustin.rethemeyer@ey.com
+1 312.879.2031

Marc Heon
Senior Manager, Advisory Financial Services
Ernst & Young LLP
marc.heon@ey.com
+1 617 585 1842

To learn more about our services and how we can help, please visit www.ey.com/us/financialservices.

EY | Assurance | Tax | Transactions | Advisory

About EY
EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit ey.com.

Ernst & Young LLP is a client-serving member firm of Ernst & Young Global Limited operating in the US.

EY is a leader in serving the global financial services marketplace
Nearly 43,000 EY financial services professionals around the world provide integrated assurance, tax, transaction and advisory services to our asset management, banking, capital markets and insurance clients. In the Americas, EY is the only public accounting organization with a separate business unit dedicated to the financial services marketplace. Created in 2000, the Americas Financial Services Office today includes more than 6,900 professionals at member firms in over 50 locations throughout the US, the Caribbean and Latin America.

EY professionals in our financial services practices worldwide align with key global industry groups, including EY's Global Wealth & Asset Management Center, Global Banking & Capital Markets Center, Global Insurance Center and Global Private Equity Center, which act as hubs for sharing industry-focused knowledge on current and emerging trends and regulations in order to help our clients address key issues. Our practitioners span many disciplines and provide a well-rounded understanding of business issues and challenges, as well as integrated services to our clients.

With a global presence and industry-focused advice, EY's financial services professionals provide high-quality assurance, tax, transaction and advisory services, including operations, process improvement, risk and technology, to financial services companies worldwide.

SCORE No. CK0892
1411-1347307 NY
ED None

ey.com