DRAFT/DELIBERATIVE: Template for Reviewing Regulatory Analyses.

Title: Integrated Mortgage Disclosures Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z)
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Commented [A1]: This is the best analysis to date by a significant margin. The big story here is that the Bureau fully monetized and aggregated some of the cost and cost savings estimates. Still a long way to go in a number of ways – most importantly in analyzing market failure and assessing the NET benefits of the rule.

Sec. 1022 (and GIPRA):

1. ***Universe*** – Does the analysis assess the costs and benefits to persons identified by the Act, including consumers, covered persons, 1026 covered persons, and consumers in rural areas?

   Yes.

2. ***Content*** – Does the analysis assess the potential loss of access to consumer financial products and services?

   It considers potential loss of access, but I'm not sure I would say it "assesses" loss of access.

Cost-benefit analysis best practices (based on OMB Circular A-4):

3. ***Is there a clear statement of the problem the rule is intended to address?***

   There isn't a clearly demarcated section devoted to this, but it does mention that the duplicative forms have been regarded as inefficient.

4. ***Does the analysis identify a market failure?***

   No. Duplication was a government failure. The intent of RESPA is to encourage shopping, and therefore improve competition. This is implicitly acknowledged, but market power is not identified as a market failure.

5. ***Does the analysis present evidence of a market failure?***

   No, but the duplication inefficiency is self-evident.

6. ***Does the analysis define an appropriate baseline? Does it use the baseline consistently?***

   Yes.

7. ***Does the analysis define an appropriate time horizon?***

   No. Some upfront costs are weirdly amortized over five years.

8. ***Does the analysis identify a range of regulatory alternatives, including potential alternatives to regulation? What alternatives to regulation were identified (such as additional enforcement)?***

Under the proposal, most changes to the actual terms of the transaction after issuance of the Closing Disclosure three days before closing would have triggered an obligation to redisclose and to provide an additional three-business-day waiting period.

In developing the final rule, the Bureau also considered an alternative under which the creditor would have been solely responsible for delivering the Closing Disclosure to the consumer, without acknowledging that a settlement agent can provide the Closing Disclosure on behalf of the creditor.

In addition, in response to industry feedback, the Bureau considered an approach that would bifurcate the Closing Disclosure into TILA-required and RESPA-required disclosures, with the creditor being responsible for the former, and the settlement agent being responsible for the latter.

9. ***Are benefits connected to market failure?***
   No, but cost savings are connected to a government failure.

10. ***Does the analysis assess the potential effectiveness of the regulation?***

    The bureau tested the revised form but does not monetize improvements in competition.

11. ***Does the analysis correctly identify and account for costs, benefits, and transfers for each alternative? Does it explicitly identify and account for impacts on credit access and availability?***

    For the most part, yes. Quantified cost and costs savings are appropriate. However, the discussion of efficiency gains from increased shopping does not include a discussion of transfers.

12. ***Are costs, benefits, and transfers quantified for each alternative? Does it explicitly identify and account for impacts on credit access and availability?***

    Some costs and benefits are quantified for the primary alternative, but none of the others.

13. ***Are costs, benefits, and transfers monetized for each alternative? Does it explicitly identify and account for impacts on credit access and availability?***

    Some costs and benefits are monetized for the primary alternative, but not the others.

14. ***Are future costs and benefits discounted to present value using appropriate rates?***

    Estimates are presented on an annual basis – but the bureau oddly amortized an upfront cost. There may be some justification for that, but I haven't seen that often.

15. ***Does the analysis identify key sources of uncertainty?***

    No.

16. ***Does the analysis conduct sensitivity analyses for sources of uncertainty?***

    No.

17. ***Was the analysis put out for public comment prior to finalizing?***

    Yes.

18. ***The following questions should be included in a thorough evaluation, but are more difficult, time-consuming, and/or less-objective: Is the analysis transparent and reproducible? Is it transparent in its assumptions? Does it rely on the best available science and evidence? Does it comply with data quality standards?***