8800 NW 62nd Avenue
PO Box 6200
Johnston, Iowa 50131-6200
515-286-4300 • 800-532-1423
515-280-4140 FAX
www.iowabankers.com

Via Electronic Delivery to:
http://www.regulations.gov

September 6, 2013

Robert deV. Frierson, Secretary
Board of Governors, Federal Reserve System
20th Street and Constitution Avenue NW.
Washington, DC 20551
Docket No. R–1443

Monica Jackson, Office of the Executive Secretary
Bureau of Consumer Financial Protection
1700 G Street NW.
Washington, DC 20552
Docket No. CFPB-2013-0020

Robert E. Feldman, Executive Secretary
Attention: Comments/Legal ESS
Federal Deposit Insurance Corporation
550 17th Street NW.,
Washington, DC 20429

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
400 7th Street SW., Suite 3E–218
Mail Stop 9W–11
Washington, DC 20219
Docket ID OCC–2013–0009

RE: Truth in Lending Act Appraisals for Higher-Priced Mortgage Loans - Supplemental Proposal

Ladies and Gentlemen,

The Iowa Bankers Association (IBA) is a trade association representing approximately 345 banks and savings and loan associations operating in the state of Iowa. Our membership is predominantly comprised of banks and savings associations deemed to be "small" for purposes of the Community Reinvestment Act (CRA) with a handful of "intermediate small" and large banks. Our member banks offer a variety of in-house portfolio residential mortgage loan products including adjustable rate mortgage loans, balloon loans and fixed rate loans. Some of our members also originate long term fixed rate and ARM loans that are sold to secondary investors. The in-house portfolio mortgage products offered by IBA members, including balloon mortgages, meet the unique needs of rural Iowa where housing prices are much lower and many borrowers are self-employed. Our members originate and service these in-house loans; therefore, they apply careful underwriting standards to covered applications as the safety and soundness of these institutions are dependent on their borrowers' ability to repay covered loans.

The IBA submits this letter to the Consumer Financial Protection Bureau, the Office of Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Board of Governors of the Federal Reserve System (collectively, the "Agencies") in response to the supplemental proposal to amend to

the final rule issued by the Agencies January 18, 2013 (2013 Interagency Appraisals Final Rule), effective January 18, 2014. We appreciate the Agencies' efforts to respond to industry questions and concerns as these final rules are studied, analyzed and the impacts are identified. The short comment period afforded the industry during the initial rule proposal process did not allow for comprehensive study of the rule nor proper consideration of potential complications or unintended consequences. It will be vitally important for this "give and take" process to continue as the mandatory compliance dates draw near in order to reduce the further restriction of credit in the consumer market place, to mitigate fair lending implications and create as little disruption as possible to an already tentative real estate market.

We offer the following limited comments regarding the Agencies' current proposed amendments:

I. <u>Definition of "business day"</u> – The Agencies are proposing to define "business day" in a manner that is consistent with the definition of "business day" for Regulation Z's disclosure timing requirements – "all calendars days except Sundays and the legal public holidays specified." The IBA fully supports this proposed amendment. Our members repeatedly report the most challenging aspects of the upcoming Dodd-Frank Act mortgage rules are the inconsistent definitions among regulations, varied timing requirements and complex and differing exemptions. Aligning the definition of "business day" with Regulation Z's disclosure timing requirements will reduce regulatory burden, facilitate compliance and reduce consumer confusion by reducing the number of disclosures consumers might receive at various times during the loan process.

II. <u>Expansion of Qualified Mortgages that are exempt from the HPML appraisal rules</u> – The Agencies seek comment on a proposal to expand the types of Qualified Mortgages that are exempt from the HPML appraisal rules to include Qualified Mortgages as defined by HUD, VA, USDA and RHS. Again, the IBA supports this expansion and believe it is consistent with the spirit of TILA section 129C, which grants authority to the U.S. Department of Housing and Urban Development, Department of Veterans Affairs, Department of Agriculture, and the Rural Housing Service to define the types of loans insured or guaranteed by their agencies that are "Qualified Mortgages."

We also ask the Agencies to consider including Balloon Payment Qualified Mortgages (as defined in § 1026.43(f)) in the exemption from the HPML appraisal rules. Currently the exemption for "Qualified Mortgages as defined in 12 CFR 1026.43(e)" does not include Balloon Payment Qualified Mortgages, yet these loans go through rigorous underwriting procedures similar to Qualified Mortgages as defined in § 1026.43(e) and must be held in a creditor's portfolio for at least three years. It seems counter-intuitive to require an appraisal on *any* Qualified Mortgage, regardless of loan pricing or a balloon feature, when the basic premise of the ATR-QM rule is that creditors are to *"make a reasonable and good faith determination at or before consummation that the consumer will have a reasonable ability to repay the loan according to its terms."* And in making that reasonable determination, the creditor must consider the *"consumer's current or reasonably expected income or assets, <u>other than the value of the dwelling</u>, including any real property attached to the dwelling, that secures the loan."* If the creditor is not to consider the value of the dwelling securing the loan when making its credit

decision, what value does the appraisal bring to the Balloon Payment Qualified Mortgage transaction in return for the additional cost to the consumer?

Thus, we request the Agencies consider expanding the existing exemption for Qualified Mortgages as defined in § 1026.43(e) to al Qualified Mortgages as defined in § 1026.43.

III. Valuations for Streamlined Refinances – The Agencies are also proposing to exempt from the HPML appraisal rules certain "streamline" refinances where the owner or guarantor of the refinance loan is the same owner or guarantor of the existing obligation. Again, the IBA supports the general premise of this expanded exemption. We not however, support the requirement that the refinanced loan may not result in a balloon payment. This stipulation effectively negates the ability of small creditors to take advantage of the appraisal exemption for balloon loan borrowers and more importantly, Balloon Payment Qualified Mortgage borrowers.

Whether or not a loan has a balloon feature does not change the fact the value of the property securing the existing and refinanced loan is rarely a factor in determining the borrower's eligibility for the refinance. Balloon payment mortgages are originated with the expectations of both the creditor and borrower that the borrower will be able to refinance the loan when the balloon payment comes due. The owner or guarantor of the existing loan retains the same level of credit risk – the streamline refinance does not change the collateral component of that risk. Streamline refinances that meet the other requirements included in this proposed exemption (that do not result in negative amortization or interest-only payments and for which the loan proceeds can only be used to pay off the existing outstanding principal balance on the loan to be refinanced and pay closing or settlement charges) do not increase the borrower's risk either. Rather, typically streamline refinances provide relief for borrowers in a number of ways including for example, (1) streamline refinances with the same owner or guarantor typically have lower closing costs than refinancing with another creditor; (2) most borrowers prefer to refinance the balloon payment rather than pay it in full; (3) often streamline refinances provide payment relief to borrowers and help them avoid default or foreclosures; and (4) borrowers may be able to take advantage of lower interest rates or restructure their mortgage debt to build equity more quickly.

For these reasons, we respectfully request the Agencies remove the prohibition on refinanced loans having a balloon payment or qualify that such refinances cannot have a balloon payment occurring within the first five years in a manner consistent with the Balloon Payment Qualified Mortgage provisions.

IV. Extensions of Credit for $25,000 or Less – We applaud the Agencies proposal to add an exemption for small dollar loans to the HPML appraisal exemptions. The cost of an independent, interior inspection appraisal on small dollar loans significantly raises total costs for the very consumers who more than likely have the tightest budgets without sufficient offsetting benefits to these borrowers. We encourage the Agencies, however, to consider increasing this threshold amount to an amount consistent with Regulation Z's coverage threshold (currently $53,000). Aligning the threshold exemption for the HPML appraisal requirements and Regulation Z coverage will reduce regulatory burden, facilitate compliance

for creditors and reduce the negative impact on consumers with limited incomes struggling to come up with enough cash to close a residential mortgage loan.

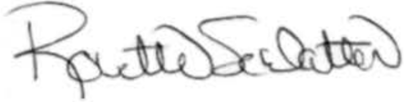
V. Home Equity Loans - In purchase transactions it is common for creditors to obtain an appraisal to determine the collateral value when fully analyzing the credit risk associated with the transaction (and typically required if the loan is to be sold to a secondary market investor, Fannie Mae or Freddie Mac or if based on the transaction amount, an appraisal is required by FIRREA.) Consumers also benefit from the appraisal obtained when financing a purchase to ensure they have not paid more than the current market value of the property. The same is not always necessarily true for HPMLs made for the purpose other than home purchase or refinance of home purchase; e.g., home equity loans. As currently written, home equity loans, even a Balloon Payment Qualified Mortgage that is home equity loan and is also an HPML, are subject to the appraisal requirement regardless of loan amount or estimated equity in the property. Thus a rural, small creditor could make a Balloon Payment Qualified Mortgage with an APR that is just over the 1.5% or 3.5% threshold (depending on lien position) for a relatively small dollar amount or short term and now be forced to obtain an independent, interior appraisal on a transaction the creditor knows to be a very low credit risk. It is important to note these “home equity loans” are often in a first lien position with established borrowers. For example, several of our rural member banks have reported borrower frustration when the creditor is requiring a borrower to escrow for a HPML, home improvement loan in a first lien position (because the borrower’s home is debt free at the time of application). These borrower will be further exasperated when told they will now not only have to escrow but will also have to obtain an appraisal when borrowing for example, $30,000 for a kitchen remodel on a home currently valued at $100,000 for tax purposes. These loans present very little credit risk to the creditor or borrower and that risk is not mitigated or validated by an independent, interior appraisal.

We ask the Agencies to carefully consider providing an additional exemption from the HPML appraisal requirement for home equity loans (non-purchase or refinance purchase money) due to the diminished value of the appraisal in comparison to the additional cost of the appraisal to the borrower.

VI. January 18, 2013 Effective Date - As appreciative as we are for the Agencies’ response to stakeholder feedback and concerns, with each proposal to amend and clarify initial “final” rules issued in January 2013, it becomes increasingly obvious to our members they will NOT likely be able to evidence compliance with the final rules by the January 2014 deadlines. The initial final rules provided institutions with 12 full months to prepare, but the implementation reality is institutions have a far-shorter implementation timeframe because until the final rules are truly “final,” rather than a moving target, important compliance and safety and soundness decisions cannot be made and implemented. Massive regulatory changes such as these do not successfully occur in most institutions over the course of three to six short months. We implore the Agencies to delay the effective date of this rule, as well as the other mortgage lending provisions, for a period of six to twelve months from the date the last amendment to the “final” rules are issued.

Again, thank you for the opportunity to provide comments on these proposed amendments to the Regulation Z's HPML appraisal rules as well as the considerable time and effort expended by the Agencies on this project. If you have questions about these comments, please contact the undersigned at 515-286-4361 or via e-mail at rschlatter@iowabankers.com.

Sincerely yours,



Ronette Schlatter, CRCM
Senior Compliance Coordinator