MORTGAGE BANKERS ASSOCIATION®
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RE: Appraisals for Higher-Priced Mortgage Loans—Supplemental Proposal

Ladies and Gentlemen,

The Mortgage Bankers Association[1] (MBA) appreciates the opportunity to comment on this supplemental proposal (Proposal) issued on August 8, 2013 by the Consumer Financial Protection Bureau (CFPB), along with the Board of Governors of the Federal Reserve System (Fed), the Federal Deposit Insurance Corporation (FDIC), the Federal Housing Finance Agency (FHFA), the National Credit Union Administration (NCUA), and the Office of the Comptroller of the Currency (OCC)(collectively the Agencies). This Proposal would amend the final rule which implemented changes to Regulation Z (Reg. Z) required by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), which was issued by the Agencies on January 18, 2013 ("Final Rule").

MBA commends and approves of the Agencies' work in developing this Proposal which would exempt all qualified mortgages (QMs) from the Higher-Priced Mortgage Loan (HPML) Appraisal

[1] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,200 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: www.mortgagebankers.org.

Rule and align different definitions of business day. MBA also supports the Agencies' proposal to exempt streamline refinances and loans secured by an existing manufactured home and not land from the HPML Appraisal Rule. Finally, MBA believes, however, that the Agencies should increase the proposed exemption for lines of credit from $25,000 to $100,000, because absent an increase in this smaller loan size threshold, the proposal is likely to harm consumers with low balance loans by either increasing their rates or depriving them of needed credit.

Exempt all Qualified Mortgages (QMs) from the HPML Appraisal Rule

MBA strongly supports the Agencies' proposal to revise the cross-referenced definition of QM to include all QMs "as defined pursuant to TILA section 129C."[2] This proposal would have the effect of expanding the definition of QMs that are exempt from the HPML Appraisal Rule to cover QMs as defined by the Department of Housing and Urban Development, Department of Veterans Affairs, Department of Agriculture, and the Rural Housing Service. QMs from these agencies will be subject to stringent product requirements and other consumer safeguards. Accordingly, MBA appreciates the Agencies' decision that these QMs need not also be subject to additional requirements.

Align Different Definitions of Business Day

MBA also supports the Agencies' proposal to define "business day" in the Final Rule to mean "all calendar days except Sundays and the legal public holidays specified in 5 U.S.C. 6103(a)." The Agencies propose this definition for consistency with the existing Reg. Z mortgage disclosure timing requirements and the CFPB's proposed rules for combined mortgages disclosures under TILA and the Real Estate Settlement Procedures Act (RESPA). MBA supports the alignment of compliance requirements and the reduction of regulatory burden whenever possible and appreciates the Agencies' efforts to move toward a common definition of business day.

Exempt Streamline Refinances

MBA is pleased that the Agencies' propose to exempt from the HPML Appraisal Rule certain types of refinancings commonly known as "streamlined" refinances. Streamlined refinances were developed to allow greater efficiencies in the mortgage process and lower costs for certain consumer refinances. Specifically, these programs enable consumers to refinance the balance of a mortgage loan through an abbreviated application and underwriting process. Streamline refinances are an important tool to serve existing borrowers including those who may be in danger of falling behind in their mortgage payments. These programs help stabilize housing markets, particularly those most impacted by the decline in home values. When a lender makes a streamlined refinance mortgage loan, the chief goal is securing payment relief for the borrower. Additional valuation of the collateral is unnecessary under the circumstances.

Provide a Simple Test for Eligibility under the Proposal

The Agencies have requested comment on what protections are warranted to ensure that loans covered by this proposal do not harm borrowers through an increase in principal balance or unreasonable fees. MBA believes that the guiding philosophy should be to try to ensure that a

[2] 15 U.S.C. 1639c.

streamlined refinance loan leaves a borrower in a better position than they would have been in had they not obtained the loan.

In order to ensure that only streamline refinance loans that attempt to leave a borrower better off are exempt from the HPML Appraisal Rule, MBA suggests that the Agencies adopt the same test that Fannie Mae employs for the Home Affordable Refinance Program (HARP). HARP is intended to assist borrowers refinance mortgage loans who have otherwise been unable to refinance because the value of their homes have declined.[3] In order to be eligible for a HARP refinance, Fannie Mae uses this simple test: the new loan must put the borrower "in a better position by reducing their monthly principal and interest payments or moving them from a more risky loan structure (such as interest-only or short-term adjustable rate mortgage) to a more stable product." Freddie Mac has a similar test.[4]

MBA believes that a straightforward test such as the one used by Fannie Mae for the HARP program, if implemented properly, will facilitate lender participation in these programs and thus help a wider number of borrowers to obtain the payment relief that streamline refinances are intended to provide.

Do Not Require Alternative Valuations

MBA strongly urges the Agencies not to require a creditor to provide a copy of an alternative valuation for streamline refinances which are exempt from the HPML Appraisal Rule. In the case of the streamline refinance, an alternative valuation does not provide any consumer protection function and may unnecessarily inhibit a process that is intended to help consumers. When the consumer is not increasing the amount of debt through a streamline refinance, there is no benefit from obtaining an appraisal or an alternative valuation.

Include Servicers and Sub-servicers

The proposal would amend 12 CFR Part 34 and Reg Z. to exempt streamline refinances from the HPML Appraisal Rule as long as "[t]he owner or guarantor of the refinance loan is the current owner or guarantor of the existing obligation." At the time a refinance loan is originated, however, it will often be the servicer or sub-servicer that originates the new loan. The current language in the proposal would exclude the servicer or sub-servicer from originating a streamline refinance loan exempt from the HPML Appraisal Rule. MBA does not believe it was the Agencies' intent to only allow the owner or guarantor of the existing obligation to originate the refinance loan. Accordingly, MBA suggests that the proposed language for 12 CFR Part 34 and Reg. Z be revised to permit loans originated by the servicer or sub-servicer to also be exempt from the HPML Appraisal Rule.

Increase Proposed Exemption for Extensions of Credit to $100,000

MBA appreciates the Agencies proposal to exempt from the HPML Appraisal Rule extensions of credit of $25,000 or less. However, MBA urges the Agencies to expand the exemption to track

[3] HARP, like streamline refinances, is a valuable tool for keeping borrowers in their home.
[4] To be eligible for HARP under Freddie Mac's program a new loan must reduce the borrower's interest rate and or the principal and interest mortgage payment; replace a adjustable-rate, interest-only, or balloon/reset loan with a fixed-rate loan; or reduce the terms of the loan (e.g., from 30 years to 15 years).

the smaller loan threshold established under the QM rule for purposes of the 3 percent limit on points and fees. The CFPB's QM rule currently requires that points and fees may not exceed 3 percent of the total loan amount, but higher thresholds are provided for smaller loans below $100,000. MBA believes harmonizing this proposal with the QM rule would reduce undue regulatory burden.

According to HMDA data from 2011, more than 40 percent of loans balances below $100,000 hit the HPML trigger. Absent an increase in the smaller loan size threshold, the proposal is likely to harm consumers with low balance loans by either increasing their rates or depriving them of needed credit.

Exempt Loans Secured by an Existing Manufactured Home and Not Land and Do Not Place Restrictions on the Existing Exemption for Loans Secured by a New Manufactured Home and Not Land

MBA supports exempting transactions secured solely by an existing (used) manufactured home and not land. MBA also urges the Agencies to not add requirements to the existing exemption for transactions secured by a new manufactured home and not land from the HPML Appraisal Rule. MBA opposes conditioning the HPML Appraisal Rule exemption for loans secured by new manufactured homes on the creditors provision of an alternative valuation or third-party estimate. MBA believes such a requirement would only cause consumer confusion.

Conclusion

MBA again appreciates the opportunity to comment on this Proposal and looks forward to working with the Agencies to further develop and operationalize these important rules.

Should you have questions or wish to discuss any aspect of these comments further, please contact Ken Markison, Vice President and Regulatory Counsel, at kmarkison@mortgage bankers.org or Joe Gormley, Assistant Regulatory Counsel, at jgormley@mortgagebankers.org.

Sincerely,

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