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Subject: Regulation Z -- Truth in Lending

Comments:

Date: Dec 23, 2010

Proposal: Regulation Z - Truth In Lending Act

Document ID: R-1394

Document Version: 1

Release Date: 10/18/2010

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This letter provides a response to the Federal Reserve Board's ruling regarding Dodd-Frank on behalf of the New Jersey Chapter of the American Guild of Appraisers ("Guild"). It is quite important, in analyzing the Federal Reserve Board's ruling regarding Dodd-Frank, to understand the different positions held by appraisers, lenders, and appraisal management companies (AMCs). It is also imperative that the interests of the consumer, or borrower, be considered in this discussion. The Guild is particularly sensitive to the well being of the borrower in the lending transaction. We believe of all the parties involved in the residential mortgage transaction, the independent appraiser's role is most closely aligned with, and protective of, the borrower's interests. Prior to HVCC (May 2009), much of the interaction between appraisers and lenders was built on local relationships between loan originators and independent real estate appraisers. Although appraisal management companies had been in the market for over twenty years, the market share of work handled by AMCs was roughly fifteen percent. This was the market's natural balance for AMC demand. Prior to HVCC, the vast majority of appraisal fees were directly passed through from consumer to appraiser with no markup in price. According to a 2009 national study by Mercury Network of over 200,000 non-AMC conventional lending appraisals, customary and reasonable appraisal fees were in the \$325-\$400 range. VA fee schedules at that time were between \$350-\$500 for the same level of work required. The VA schedule reflects typical fees paid and not the highest fee allowed (as reported by some organizations). Most anecdotal evidence agrees with these fee ranges. Rules imposed by the HVCC dissolved existing relationships between appraisers and loan originators. There was no longer an "open market" system by which appraisers could independently act as entrepreneurs. Within the first year (post HVCC) lenders and banks proceeded to outsource appraisal ordering and quality control responsibilities to ostensibly "third party" AMCs. Many of these AMC's were

in fact, owned by the banks involved in the transaction and were "third party" in form but not in substance. The participation of AMC's in lending transactions that had been about fifteen percent increased to about eighty percent. Consequently, the banks' control of the appraisal market increased dramatically. Due to HVCC regulations, the direct pass through of appraisal fees has ended, and the transparency in fees paid by the consumer to the appraiser disappeared. Interestingly, while the cost to the consumer increased substantially, the fees paid to appraisers dropped considerably. Where did the excess fees billed to consumers go? In the spring of 2010, as the President of the NJ Chapter of the American Guild of Appraisers, I had the opportunity to meet with hundreds of real estate appraisers through a series of meetings across New Jersey. It became clear at that time where the missing money was going. Consumers that previously paid \$350-\$375 for a typical residential appraisal were being billed in excess of \$400 on HUD-1 closing statements. Appraisers were being forced to accept assignments from AMCs for \$175-\$275, since bank-related AMC's now effectively controlled the appraisal market. Often the difference between what the consumer was being charged and what the appraiser was being paid was in excess of \$200. The AMCs, which were created to provide only clerical and administrative services, were profiting more than the appraisers who provide professional services! This practice continues today. Appraisers in New Jersey - a fairly representative state in this respect have been locked into a system that no longer allows appraiser independence to set reasonable fees with willing partners. Consumers are being charged more, while appraiser fees have been severely cut. This is the predictable outcome where one party in the system, in this case banks and their related AMCs, effectively control the post-HVCC appraisal market and extract monopolistic rents. I ask you to consider these facts when deciding on final rules regarding customary and reasonable fees. ["The Board interprets the statutory language of TILA Section 129E(i) to signify that the marketplace should be the primary determiner of the value of appraisal services, and hence the customary and reasonable rate of compensation for fee appraisers."] This was ideal and made complete sense when the marketplace was comprised of the willing partners of appraisers and consumers and not the newly created marketplace between appraisal management companies and appraisers held hostage by AMCs controlling eighty percent of the market. TAVMA and other third party organizations have made claims that there is value to the services AMCs provide to appraisers. As an independent practicing fee appraiser, I must take exception to those statements. Marketing, administrative, communication, and billing efforts have not been assisted by appraisal management companies. Marketing to appraisal management companies is extremely difficult. In many cases, New Jersey appraisers are required to pay fees in order to sign up with AMCs! Most are located out of state and require agreements that include indemnity and hold harmless agreements. Appraisers have lost the ability to act independently. There are no cost savings to appraisers regarding billing. We still invoice for service using the same methods we always did. The only difference is we wait longer for payment with less chance for collection from out of state entities. Prior to this third party system, we relied on the New Jersey Division of Banking (DOB) to pressure lenders for payment, with great success. The DOB has no authority over third party AMCs. Lines of communication are poor. Typically, appraisers wait days for information necessary to complete assignments. This information had been provided quickly when appraisers were working directly with lenders. All of these problems - low pay, unnecessary AMC fees, poor administrative services, and the present lack of appraiser independence - pose a serious threat to the long term appraisal market.

Existing appraisers in New Jersey cannot support themselves under this system, and few qualified individuals will be drawn to this field under its present circumstances. The New Jersey Chapter of the American Guild of Appraisers agrees with the following statements from Anne O'Rourke and Appraisal Buzz: "Appraisers recognize the valuable services AMC's provide to the lending community, however, the benefits enjoyed by a lender from the AMC's national coverage, loan underwriting functions, appraiser independence compliance, etc should not be borne by the appraiser through the reduced appraiser fees paid by AMC's. "The existence of Presumption 1 is in conflict with the Congressional intent of Title 14 of the Dodd-Frank Act. In order to protect lenders and consumers, Congress recognized the critical importance of engaging appraisers at a fee that allows for thorough analysis and diligence by the most competent appraiser. Not engagement based on lowest fee and rushed completion expectations. "Solutions: Removal of Presumption 1 in order to remain compliant with original Congressional intent as defined in Presumption 2 "If removal of Presumption 1 is not an option: Clarification that 100% of the fee paid by the consumer is the fee to be paid to the appraiser. Appraisal Management Company fees must be paid by the institution receiving the benefit of these services, the lender, not the consumer. AMC management fees can be defined any number of ways and customarily by Request For Proposal. " In New Jersey, the concentration of market power in AMC's has resulted in higher fees to consumers, lower payments to appraisers, and the destruction of the appraiser's ability to act as an independent businessman. There are no benefits in this system to anyone but the AMC's and the owners of the AMC's, which are often out of state banks. Reinstatement of an appropriately market-based set of "customary and reasonable" appraisal fees, as described by the VA fee schedules or the Mercury Network study, will partly resolve the present problems in the residential appraisal market. The present level of payments to appraisers does not represent the working of a free market, but the unfortunate outcome of a monopolistic control by well financed middlemen that contribute quite little of any value to either consumers or appraisers. The Guild urges the Federal Reserve Board to craft a final rule that protects appraisers and consumers in residential mortgage transactions. Regards, Daniel Drelich, President NJ Chapter of the American Guild of Appraisers OPEIU/AFL-CIO