



OHIO CREDIT
UNION LEAGUE

December 27, 2010
Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, D.C 20551

**Re: Docket No. R-1394
Comments on Proposed Rules for Appraisal Independence**

Dear Ms. Johnson:

The Ohio Credit Union League (OCUL) appreciates the opportunity to comment on the Federal Reserve Board's (Fed) Regulation Z, Truth in Lending Act, proposal to ensure that real estate appraisers are free to use their independent professional judgment in assigning home values without influence from those with interests in the transaction.

OCUL is the trade association for Ohio's credit unions and advocates on behalf of Ohio's 390 federal- and state-chartered credit unions and their 2.7 million members. The comments reflected in this letter represent the recommendations and suggestions of the OCUL.

Summary of the Proposed Rules

The Fed has issued this interim final rule, The Appraisal Independence Rule, as required under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The rules include many provisions similar to those in the Home Valuation Code of Conduct (HVCC) that was repealed by the Dodd-Frank Act, which applied to loans sold to Freddie Mac and Fannie Mae. Further, this interim final rule is also consistent with the current appraisal rules.

The Dodd-Frank Act establishes new requirements for appraisal independence and requires the Federal Reserve Board to issue a rule under Regulation Z, the Truth in Lending Act, to implement them within 90 days after enactment. This rule will apply to any consumer credit transaction that is secured by the consumer's principal home and will apply to creditors, appraisal management companies (AMC), appraisers, mortgage brokers, realtors, title insurers, and other settlement service providers.



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Recommendations

Definition of Appraisal Management Company (AMC)

Under the Dodd-Frank Act, an AMC is defined as “any external third party authorized either by a creditor of a consumer credit transaction secured by a consumer’s principal dwelling or by an underwriter of or other principal in the secondary mortgage markets, that oversees a network or panel of more than 15 certified or licensed appraisers in a state or 25 or more nationally within a given year.” OCUL believes this definition is confusing and recommends additional guidance or a specific definition that would differentiate between AMCs and appraisal companies that employ appraisers as W-2 employees.

Prohibited Acts

Section 129E (b) 1 of the Truth in Lending Act prohibits a person with an interest in the underlying transaction to compensate, coerce, extort, collude, instruct, induce, bribe, or intimidate a person, AMC, firm, or other entity conducting or involved in an appraisal, or attempting to do so, for the purpose of causing the value assigned to the consumer’s principal dwelling to be based on a factor other than the independent judgment of the appraiser. OCUL suggests that the Fed provide additional guidance on this terminology by defining the word “instruct.” This term can be positive when providing guidance and therefore should not be considered one of the prohibited acts. However, the term can also be negative if an appraiser is instructed to find a specific value in real property.

Conflict of Interest

Section 129E (d) of Truth in Lending Act prohibits appraiser entities related to a creditor by ownership and a creditor’s in-house appraisal staff from involvement in the collateral valuation process for that creditor. For many creditors and providers of valuations and valuation management services, complying with the statute under this interpretation would be impractical or impossible.

However, the interim final rule creates two safe harbors for compliance with the prohibition on conflicts of interest under § 226.42(d) of the proposed rule for persons who prepare valuations or perform valuation management functions and are also employees or affiliates of the creditor:

- (1) One for transactions in which the creditor had assets of more than \$250 million as of December 31st for both of the past two calendar years [§ 226.42(d) (2) of the proposed rule]; and
- (2) The other for transactions in which the creditor had assets of \$250 million or less as of December 31st for either of the past two calendar years [§ 226.42(d) (3)].

OCUL supports the Fed’s decision of creating two safe harbors that are based on the size of the institutions. By adopting a safe harbor based on the stated asset size, most Ohio credit unions having assets of less than \$250 million will have the ability to comply with this section.

Communication with the Appraiser

Sections 129E (c) provides that it shall not be construed as prohibiting a mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, consumer, or any other person with an interest in a real estate transaction from asking an appraiser to:

1. Consider additional, appropriate property information, including information regarding additional comparable properties to make or support an appraisal;
2. Provide further detail, substantiation, or explanation for the appraiser's value conclusion; or
3. Correct errors in the appraisal report.

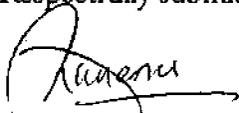
OCUL supports the exception language above because it believes that communication and additional information are key components in determining the value of the property.

Conclusion

Overall, OCUL supports the new appraisal independence proposed rules, which will provide creditors, appraisal management companies, appraisers, mortgage brokers, realtors, title insurers, and other settlement service providers with clear guidance on evaluation of real properties.

The Ohio Credit Union League would like to thank the Federal Reserve Board for the opportunity to comment on this important proposal. OCUL appreciates your consideration of our recommendations in any further actions or final rules adopted. If you would like additional information or suggestions on these proposed rules please do not hesitate to contact the Ohio Credit Union League at (800)486-2917 or jmaneno@ohiocul.org.

Respectfully submitted,



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cc : Mary Dunn, Credit Union National Association General Counsel
Jennifer Ferguson, OCUL Chair
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