MetLife®

December 27, 2010

Jennifer J. Johnson, Secretary
Board of Governors of the
Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

RE: Docket No. R-1394 and RIN No. AD-7100- 56
Regulation Z Interim Final Rule, Valuation Independence
Docket No. R-1394 and RIN No. AD-7100-56

Dear Ms. Johnson:

MetLife Bank N.A. supports the interim final regulations ("Interim Final Rule") that were released on October 18, 2010 regarding appraisers having the ability to use their independent professional judgment in assigning values to homes without improper influence or pressure from the parties with interests in the transactions. We would like clarification on a few of the provisions in this Interim Final Rule. More specifically, we would like clarification on the Coercion section, the Permitted Actions section, and the Customary and Reasonable Compensation sections.

Section 42(c)(1)-2 Coercion

The comment that a "covered person" as defined in the Interim Final Rule to be a creditor or any person that provides settlement services, "may provide incentives, such as additional compensation, to a person that prepares valuations or performs valuation management functions, as long as the covered person does not cause or attempt to cause the value assigned to the consumer's principal dwelling to be based on a factor other than the independent judgment of a person that prepares valuations."

We do not know how such incentives can be managed to assure that any additional compensation is not used to influence the valuation provider. Mentioning that additional compensation can be provided to the person

performing the valuation could open the door for potential problems with influence or coercion and such incentive could be regarded as "reward" for reporting of a targeted value, though not specifically stated.

Section 42 (c)(3)(iv), (v), (vi) Permitted Actions

"The Board believes that the acts and practices allowed under current Sec. 226.36(b)(1)(ii)(D) through (F) do not compromise the exercise of independent judgment in estimating the value of the consumer's principal dwelling. The Board therefore includes the examples of permitted practices provided under current Sec.
226.36(b)(1)(ii)(D) through (F) in new Sec. 226.42(c)(3)(iv) through (vi). Section 226.42(c)(3)(iv) provides that an example of an action that does not violate Sec. 226.42(c)(1) or (2) is obtaining multiple valuations for the consumer's principal dwelling to select the most reliable valuation."

We are concerned that allowing "multiple valuations" could promote value shopping with appraisals, with the judgment of the lender or the appraisal management company ("AMC") used as to which is the most relevant. Secondary appraisals are allowed under the existing guidelines for specific situations and that should be sufficient for alternative valuations, if one is necessary.

Section 42(f) Customary and Reasonable Compensation

Section 226.42(f) implements TILA § 129E(i), which requires creditors and their agents to compensate fee appraisers (appraisers who are not creditor employees) at a rate that is "'customary and reasonable for appraisal services in the market area of the property being appraised.' (TILA § 129E(i)(1)) The statute states that evidence for reasonable and customary fees *may be established by objective third-party information, such as government agency fee schedules, academic studies, and independent private sector surveys." (emphasis added)*

The initial comment in the Interim Final Rule notes that the fee level may be established by external and objective indices such fee schedules and metrics. However, today, these indices and matrices do not exist, and government agency fee schedules are often set to reflect the loan programs of the agency and not geographic market rates for appraisals required for other loan programs. Lenders will not be able to rely on such items to establish customary and reasonable compensation that for compliance on April 1, 2011. The academic studies, private sector surveys, and agency fee schedules will have to be created, reviewed and compensation grids will have to be programmed into existing systems. These system changes will require several months for most lenders. If the stated factors must be used to determine reasonable and customary fees, we strongly urge that the timing for this provision be extended to allow for development of necessary criteria and for system implementation.

Alternatively, lending institutions have long complied and relied upon the fee schedules of the vendors in the geographic areas in which they are lending to establish the fee paid for appraisal services and we suggest that this practice is sufficient to determine "reasonable and customary" fees. Provided that these schedules can be documented and can be reasonably associated with the historical records of fee charges made by the lender over a period of time, possibly two years, such lender developed information should provide reliable support for the "reasonable and customary" fee compensation required by the regulation.

The Interim Final Rule further states that in the first presumption of compliance (§226.42(f)(2)) that a creditor and its agent are presumed to have compensated at a customary and reason rate if the amount of the compensation is reasonably related to recent rates for appraisal services performed in the geographic market of the property. The creditor or its agent must identify recent rates and make any adjustments necessary to account for specific factors, such as the type of property, the scope of work, and the fee appraiser's qualifications and that the creditor and its agent do not engage in any anticompetitive actions that violate federal or state law. This section seems to lend support for the foregoing recommendation of using local fee schedules in support of the compensation paid.

Section 42(f)(2)(i) Compensation Must Be Reasonably Related to Recent Rates

The Interim Final Rule states "that generally a rate would be considered ``recent'' if it had been charged within one year of the creditor's or its agent's reliance on this information to qualify for the presumption of compliance under § 226.42(f)(2). This comment also states that, for purposes of the presumption of compliance under § 226.42(f)(2), a creditor or its agent may gather information about recent rates by using a reasonable method that provides information about rates for appraisal services in the geographic market of the relevant property. The comment further provides that a creditor or its agent may, but is not required to, use or perform a fee survey."

This is another example within the Interim Final Rule where recent rates paid and justified with local fee schedules and data would be acceptable for establishing the "reasonable and customary" fee compensation. Use of historical lender fee compensation then that is within the earlier mentioned two year time span, should be acceptable as support for the presumption of compliance under TILA. If lenders can use recent rates paid as the rates compared to the local appraisers' fee schedules, lenders would be able to comply with the Interim Final Rule requirement for reasonable and customary fees by the April 1 effective date.

Sincerely,

Susan M. Potteiger
MetLife Bank, N. A.
AVP
Chief Appraiser