CAMP
CALIFORNIA ASSOCIATION OF
MORTGAGE PROFESSIONALS

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December 27, 2010

Jennifer Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

RE: Docket #R-1394 and RIN No. AD-7100-56

This letter is in response to the Board's request for public comment regarding the Interim Final Rule implementing new requirements for appraisal independence for consumer credit transactions secured by the consumer's principal dwelling. The California Association of Mortgage Professionals (CAMP) would like to offer our suggestions to ensure Section 129E of the Truth In Lending Act protects consumers by ensuring appraisal independence and accuracy, and preserving access to affordable mortgage terms and settlement services.

CAMP is a non-profit, professional trade association of more than 1,800 licensed mortgage brokers and affiliated service providers across California. The Association serves as a forum for financial education, community outreach, innovation, networking, legislative and regulatory advocacy, and it provides benefits and public relations for its membership. We are dedicated to the highest standards of professional and ethical conduct and committed to lending integrity, consumer protection and the preservation of maximum reasonable access to the American dream of homeownership.

CAMP Loan Originators volunteer, serve and work in the communities. We are small business owners that play an important role in the local marketplace to foster positive competition in order to ensure that the consumer receives the best service at that lowest combination of rates and fees.

We are pleased that Congress responded to the serious problems caused by the HVCC by passing language to repeal it in the Dodd-Frank Wall Street Reform and Consumer Protection Act. The HVCC has resulted in higher costs for appraisals, poor service, and the inability of a consumer to use one appraisal for more than one lender. In addition, appraisals under the HVCC are often of poor quality and it is difficult, if not impossible, to make corrections to inaccurate information on an appraisal report. While the evidence of the negative consequences of the HVCC is overwhelming, there is no indication that the HVCC actually worked to prohibit improper influence on appraisers and ensure appraisal independence.

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We commend the Federal Reserve Board for its work to develop appraisal independence rules that do not negatively impact consumers' ability to access a range of mortgage products and services to meet their needs, including not specifying differences between mortgage origination channels for the ordering of appraisals. Our comments below are focused on ensuring the Rule does not unintentionally diminish the accuracy or quality of home appraisals or increase the cost of obtaining a mortgage loan for consumers.

Ordering Appraisals

CAMP is pleased that the Interim Final Regulation does not prohibit mortgage brokers from ordering appraisals. While the HVCC changed the standards of who may order appraisals, CAMP has supported the past position of the Federal Reserve Board when reforming Regulation Z. The Board addressed this issue and declined to find that "any particular procedure for ordering an appraisal necessarily promotes" fraudulent appraisals. Rather, the Board found that "coercion of appraisers" whether by lenders or brokers "is an unfair practice," and determined that appraisal regulations should apply equally to lenders and brokers alike. The Board decided that the evidence does not support applying appraisal regulations differently to lenders and brokers, as was done in HVCC. We are pleased that the Board continued its prior position on this issue in this Rule and has applied appraisal standards to all involved in the real estate transaction without favoring one origination channel over another.

We believe the Rule should provide more specificity with respect to the process of ordering appraisals. While it is clear in the Rule that the appraisal function must be separate and distinct from the loan production and underwriting process, there remains ambiguity about how an appraisal may be ordered. We believe such ambiguity about the ordering of appraisals must be clarified to avoid misinterpretations about who may order appraisals.

In addition, to further ensure those who order appraisals are not violating appraisal independence rules, we suggest that the Interim Final Regulations require National Mortgage Licensing System (NMLS) numbers of the ordering originator to be listed on appraisal reports. Under the SAFE Act, loan originators must meet certain requirements to achieve a NMLS license, including: background check, finger printing, federal and state exams, 20 hours of pre-licensing education, 8 hours continuing education. By requiring the NMLS number of the loan originator ordering the appraisal to be included on the appraisal report, the accountability of the SAFE Act is carried over into the appraisal process.

We also suggest that loan originators who order an appraisal be required to certify in writing that they did not engage in any act or practice that violates appraisal independence. This will allow all NMLS loan originators to be involved in ordering appraisals, while holding them to a higher standard of accountability by

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requiring a certification that there was no coercion in the process. This creation of standards that CAMP proposes is unprecedented in the arena of home valuations, but we believe it will ensure the Rule's purpose of preventing coercion is achieved.

It is important to keep in mind that the HVCC was implemented originally as a settlement between Fannie Mae/Freddie Mac and Washington Mutual - a bank, not mortgage brokers. The evidence used to support the implementation of HVCC was promulgated due to coercion from banking institutions, not mortgage brokers. As such, we believe it is important that the Rule more specifically define how and by whom appraisals may be ordered, require NMLS numbers to be included on the appraisal report, and require certification in writing that the loan originator did not violate the appraiser's independence.

Appraisal Fees

The Rule should only allow consumers to be charged bona fide appraisal fees that can be substantiated and such fees should be disclosed. Under the HVCC, there were countless cases of management companies charging consumers an appraisal fee, but the appraiser who actually did the report was paid a substantially reduced fee for their services. We believe this is harmful to consumers and that consumers should only pay for the work associated with a quality appraisal on the home they wish to purchase or refinance.

Consumers will be best served by a streamlined process, as opposed to the elaborate labyrinth that has been developed under the HVCC. The Rule should eliminate the needless bureaucracy that has been put in the process between the person making the order and the appraiser who is conducting the inspection.

Compensation for Appraisal Services

The Rule should prohibit anyone from profiting from the appraisal process outside of the appraiser, including the payment of commissions for ordering appraisals. Commissions paid for ordering appraisals should be prohibited.

We strongly support the language in the Dodd-Frank Act that prohibits appraisers and AMCs from having a direct or indirect interest, financial or otherwise, in the property or transaction. While we understand the Board's concern about the impact on the marketplace of this strict prohibition, we believe the final regulations should strictly implement this very important standard.

Portability of Appraisal Reports

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The Rule should allow for appraisal portability. Portability will keep costs down for the consumer, as it will eliminate the need for consumers to purchase additional appraisals from each lender if they are shopping for the best mortgage product for their circumstances. If portability is allowed, consumers would not be obligated to purchase a new appraisal if they find a lower cost mortgage with a different lender. This would be consistent with Federal Reserve Board policies to encourage shopping.

Thank you for your consideration of our views on this important issue of appraiser independence. We look forward to working with the Federal Reserve Board as you work to prohibit improper influence on appraisers and ensure appraisal independence in the final Rule.

Sincerely,

Dale DiGennaro

Dale DiGennaro
President, California Association of Mortgage Professionals