MHI
Manufactured Housing Institute

October 12, 2012

Mr. Robert deV. Frierson
Secretary
Attention: Docket No. R-1443, RIN 7100-AD90
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Mr. Alfred M. Pollard
General Counsel
Attention: Comments/RIN 2590-AA58
Federal Housing Finance Agency
Eighth Floor
400 Seventh Street, SW
Washington, DC 20024

Ms. Monica Jackson
Office of the Executive Secretary
Attention: Docket No. 2012-0031, RIN 3170-AA11
Bureau of Consumer Financial Protection
1700 G Street, NW
Washington, DC 20552

Ms. Mary Rupp
Secretary of the Board
Attention: RIN 3133-AE04
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

Mr. Robert E. Feldman
Executive Secretary
Attention: Comments/Legal ESS
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Office of the Comptroller of the Currency
Attention: Docket ID OCC-2012-0013
250 E Street, SW
Mail Stop 2-3
Washington, DC 20219

Re: Appraisals for Higher-Risk Mortgage Loans

Dear Ladies and Gentlemen:

The Manufactured Housing Institute ("MHI") appreciates the opportunity to submit comments in response to the proposed rule with request for comment on appraisals for higher-risk mortgage loans published in the Federal Register on September 5, 2012 by the Bureau of Consumer Financial Protection, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Housing Finance Agency, the National Credit Union Administration and the Office of the Comptroller of the Currency (the "Agencies").[1]

MHI is the national trade organization representing all segments of the factory-built housing industry. MHI members include manufactured home lenders and retailers, manufactured home

[1] 77 *Federal Register* 54722.

2111 Wilson Blvd. Suite 100 Arlington, VA 22201 Tel: 703.558.0400 Fax: 703.558.0401
http://www.manufacturedhousing.org info@mfghome.org

community owners, home builders and suppliers and other entities that are affiliated with the factory-built housing industry. MHI members also include 50 affiliated state organizations.

MHI supports the Agencies' proposed rule to exempt from the definition of "higher-risk mortgage loan" any loan that is secured solely by a residential structure, and recommends expanding this exemption to cover manufactured home loans that are secured by both a residential structure and by real estate. Traditional real estate appraisal methods are not well-suited to determining the value of manufactured homes and are unable to establish meaningful valuations that would help sustain the affordability of manufactured homes for low- and moderate-income consumers. For the reasons described in our comments, MHI submits that the uniqueness of the manufactured housing market supports an exemption for all manufactured home loans regardless of whether or not the home is attached to land and supports a determination by the Agencies to exempt all manufactured home loans from the new appraisal requirements, consistent with the public interest and the safety and soundness of creditors.

Our comments first provide background on the manufactured housing industry including a description of the affordability and quality standards of manufactured homes. Our comments next describe the reasons for our recommendation to exempt all manufactured home loans from the definition of higher-risk mortgage loan and therefore from the new appraisal requirements.

The Manufactured Housing Industry

Manufactured housing provides quality, affordable housing for more than 22 million low- and moderate-income families. The median annual income of manufactured homeowners is nearly 50 percent less than the median annual income of all homeowners.[2] According to the US Census Bureau, in 2011, manufactured housing represented 72 percent of all new homes sold under $125,000; 47 percent of all new homes sold under $150,000 and 27 percent of all new homes sold under $200,000.

One of the many reliable features of manufactured housing is the delivery of quality and value to consumers through technological advancements and cost savings associated with the factory-built process. Based on US Census data, the cost of manufactured homes is between 10 and 35 percent less than the cost of comparable site-built homes.[3] The affordability of manufactured homes has long made these homes the preferred housing choice for many low- and moderate-income families, such as first-time homebuyers and retirees.

[2] 2009 American Housing Survey.

[3] In 2011, the average cost per square foot of a manufactured home was $41.22 as compared to the average cost per square foot of a site-built single-family home, $83.38. *See* http://www.census.gov/construction/mhs/pdf/sitebuiltvsmh.pdf.

Unlike site-built homes, manufactured homes are built almost entirely in a controlled manufacturing environment and transported to the home-site where they are completed in accordance with federal building codes and enforcement regulations administered by the Department of Housing and Urban Development (commonly referred to as the "HUD Code"). The HUD Code regulates manufactured home design, construction, installation, strength, durability, resistance to natural hazards, fire safety, electrical systems, energy efficiency and other features of manufactured homes. Manufactured homes are inspected by a HUD-approved third party during construction of the home at the home-site to help ensure adherence to the HUD Code. In sum, the manufactured housing industry abides by a robust quality assurance program that offers strict adherence to regulatory codes and controls throughout the manufacturing and site-installation process.

Exemptions from the Definition of Higher-Risk Mortgage Loan- Question 11

The Agencies' proposed revisions to Regulation Z would implement a new provision of the Truth in Lending Act ("TILA"), added by the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"), that establishes new appraisal requirements for higher-risk mortgage loans. Under the Dodd-Frank Act, a mortgage loan is higher-risk if it is secured by a consumer's home and has an interest rate above a certain threshold.[4] For higher-risk mortgage loans, the Agencies' proposed rule would require creditors to use a licensed or certified real estate appraiser who would prepare a written report based on a physical inspection of the interior of the property. The Agencies' proposed rule would also require creditors to disclose to loan applicants information about the purpose of the appraisal and to provide consumers with a free copy of any appraisal report.

Section 129H(b)(4)(B) of TILA, as added by the Dodd-Frank Act, provides the Agencies with authority jointly, by rule, to exempt classes of loans from the new appraisal requirements for higher-risk mortgages, provided that the Agencies determine that the exemption is in the public interest and promotes the safety and soundness of creditors. In reliance upon this statutory authority, the Agencies' proposed rule would exclude from the definition of higher-risk mortgage loan any loan that is secured solely by a residential structure, which would in turn exempt this class of loans from the new appraisal requirements.[5]

The preamble to the Agencies' proposed rule explains that section 129H of TILA was intended to apply exclusively to loans that are secured at least in part by real estate and requires that appraisals be performed by a licensed or certified appraiser as historically referenced in Federal regulations to refer to appraisers who are credentialed to appraise

[4] The definition of higher-risk mortgage excludes a qualified mortgage and a reverse mortgage. TILA § 129H(f).

[5] The proposed exemption would apply to any loan secured solely by a "residential structure," as that term is used in the definition of "dwelling" in Regulation Z, 12 C.F.R. § 1026.2(a)(19).

real estate. The preamble to the Agencies' proposed rule states the Agencies' understanding that loans secured solely by a residential structure, such as a manufactured home, typically more closely resemble titled vehicle loans. The Agencies refer to outreach calls to manufactured housing industry representatives who indicated that a traditional real estate appraisal performed by a licensed or certified appraiser is neither appropriate nor feasible for the majority of manufactured home financing transactions.

Additionally, the preamble to the Agencies proposed rule indicates that the sales price of a manufactured home that is not attached to land is typically lower than the cost of both the manufactured home and the land to which it is attached. Therefore, the Agencies conclude that requiring appraisals with interior property visits may be extremely expensive relative to the cost of the manufactured home and may result in reduced lending in the manufactured home segment of the housing market.

The Agencies request comment on whether this proposed exemption is appropriate. MHI agrees with the Agencies' proposed exemption from the definition of higher-risk mortgages for manufactured homes that are secured by residential structures, and believes that the Agencies should expand the exemption from the definition of higher-risk mortgage to cover all manufactured home loans. MHI submits that the uniqueness of the manufactured housing market supports an exemption for all manufactured home loans regardless of whether or not the home is attached to land.

Due to the absence of comparable sales data and the frequency of sales in rural areas, traditional real estate appraisals by a licensed or certified real estate appraiser are unable to establish meaningful valuations of manufactured homes. While manufactured homes are considered a long-term housing option, the majority of manufactured homes are not considered an improvement or an enhancement of the real property upon which they are sited.

Traditional real estate appraisal methods are not well-suited to determining with accuracy the value of manufactured homes and may result in inappropriate home valuation to the detriment of consumers and manufactured home lenders. MHI recommends that the Agencies exempt all manufactured home loans from the definition of higher-risk mortgage for the following reasons.

First, licensed and certified real estate appraisers do not capture sales data from retail dealerships, land lease communities and home-only transactions where no real estate is involved. Without a database of previous sales to draw upon, appraisers are unable to develop an accurate value for manufactured homes. Reliable valuations depend upon access to actual data collected from the sale of comparable properties. In addition, according to industry data, the site-built appraisal methodology fails to produce accurate valuations of manufactured homes more than 20 percent of the time for transactions that are secured by real estate.

Second, manufactured homebuyers who purchase both the manufactured home and the land to which it is attached are predominantly located in rural areas. In these areas, comparable resale or valuation data and Multiple Listing Service data is typically unavailable or unreliable because the identified comparable sales are often a great distance from the home that is for sale. Further, manufactured homes located in rural markets can often remain available for sale for extended periods of time due to a lack of housing demand in many rural communities. For these reasons, manufactured home foreclosures in rural areas are often relocated to sales locations where they can be viewed by numerous prospective purchasers to improve the speed and price for resale.

Third, existing home valuation practices employed by the manufactured housing industry best reflect home values while limiting risk to consumers and lenders and recognizing the unique challenges faced by the manufactured housing market. The home valuation practices now utilized by the manufactured housing industry take into account a variety of factors in assessing home values, including for example, sales price as determined by the market in which the home is sold and related cost estimates of construction, such as set-up and delivery, that are unique to each particular market.

Lenders frequently determine the maximum loan amount of previously-owned manufactured homes by relying upon resources as the National Automobile Dealers Association ("NADA") Guide.[6] The dominant method of financing purchases of manufactured homes is a personal property loan. Personal property lenders frequently determine the maximum loan amount of new manufactured homes using pricing data that includes information on the manufacturer's cost to the selling retailer. Each manufactured home is built to the specification of the retailer and the manufacturer certifies to the retailer the authenticity and accuracy of the wholesale cost of the home at the point of manufacture. In order to calculate a maximum loan amount, lenders rely heavily on pricing data that includes information on the manufacturer's cost.

Fourth, the Agencies should exempt all manufactured homes from the definition of higher-risk mortgage because existing valuation methods for manufactured homes cost consumers substantially less than traditional property appraisals. In most jurisdictions, existing manufactured home valuations are performed at no cost to consumers. In contrast, the likely cost of a traditional property appraisal for a manufactured home will exceed $500, which is about five percent of the loan amount for a $10,000 manufactured home loan. According to the Census Bureau, the median purchase price of the nation's existing 8.7 million manufactured homes is $27,000.[7] The Agencies' conclusion that requiring appraisals with

[6] HUD's Title I program uses the NADA Guide and a physical inspection to adjust for site additions and the physical condition of the home.

[7] 2009 American Housing Survey.

interior property visits may be extremely expensive relative to the cost of the manufactured home and may result in reduced lending in the manufactured home segment of the housing market applies to manufactured home financing regardless of whether the home is attached to land.

Finally, whether or not a manufactured home loan is secured solely by a residential structure or by both a residential structure and the land to which it is attached, each home is manufactured in a controlled manufacturing process and in accordance with the HUD Code, which ensures the application of consistent, quality standards.[8]

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For the reasons described in our letter, MHI recommends that the Agencies proposed rule on appraisals for higher-risk mortgage loans exempt all manufactured home loans from the new appraisal requirements in order to sustain the affordability of manufactured homes for low- and moderate-income consumers.

Thank you for your consideration of our comments.

Sincerely,

Jason Boehlert
Vice President, Government Affairs

[8] On average, since 1995, 73 percent of all new manufactured home sales have been titled as personal property Census Bureau, 2011 Manufactured Housing Survey.