

June 9, 2014

Legislative and Regulatory Activities Division  
Office of the Comptroller of the Currency  
400 7<sup>th</sup> Street, SW, Suite 3E-218  
Mail Stop 9W-11  
Washington, DC 20219  
RE: Docket ID OCC-2014-0002

Gerard Poliquin, Esq.  
Secretary of the Board  
National Credit Union Administration  
1775 Duke Street  
Arlington, VA 22314-3428

Robert deV. Frierson, Secretary  
Board of Governors of the Federal Reserve  
20<sup>th</sup> Street and Constitution Ave., NW  
Washington, DC 20551  
RE: Docket No. R-1486

Monica Jackson  
Office of the Executive Secretary  
Consumer Financial Protection Bureau  
1700 G Street, NW  
Washington, DC 20552  
RE: Docket No. CFPB-2014-0006

Robert E. Feldman  
Executive Secretary  
Attention: Comments/Legal ESS  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street, NW  
Washington, DC 20429  
RE: FDIC – RIN 3064-AE10

Alfred M. Pollard  
General Counsel  
Attention: Comments/RIN 2590-AA61  
Federal Housing Finance Agency  
Eighth Floor, 400 Seventh St., NW  
Washington, DC 20024  
RE: FHFA – RIN 2590-AA61

**RE: Minimum Requirements for Appraisal Management Companies**

To Whom It May Concern:

Quicken Loans Inc. (Quicken Loans) is pleased to submit its comments on the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, National Credit Union Administration, Consumer Financial Protection Bureau, and Federal Housing Finance Agency's (collectively, the "Agencies") proposed rule to implement the minimum requirements in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) to be applied by States in the registration and supervision of appraisal management companies (AMCs).

As background, Quicken Loans is the largest online and second largest, retail residential mortgage lender in the United States. We have been in business for nearly 30 years. Quicken Loans is also a Fannie Mae and Freddie Mac approved Seller/Servicer and a FHA and VA approved mortgagee. As a direct-to-consumer lender based in Detroit, Michigan, we offer mortgage loans in all 50 States and the District of Columbia by way of a centralized business platform. J.D. Power and Associates has ranked Quicken Loans highest in Customer Satisfaction for Primary Mortgage Origination in the U.S. for years 2010, 2011, 2012, and 2013. We've also been named a top-five place to work nationwide in FORTUNE Magazine's annual ranking of "100 Best Companies to Work For" for 2014, marking this the 11<sup>th</sup> consecutive year we've been ranked in FORTUNE's top 30.

## **SUMMARY OF COMMENTS**

We thank the Agencies for allowing us to comment on the proposed minimum requirements for appraisal management companies. While we support a number of the underlying principles laid out in the proposal, we have a number of strong concerns with the way States will have the option to adopt or not adopt the rules without penalty. If a state chooses not to adopt these new proposed minimum requirements, or requirements of their own, an AMC not controlled or owned by an insured depository institution (non-federally regulated AMCs) would be prevented from doing business in that state. This approach is seriously misguided. This would drastically change the mortgage and appraisal markets in those States until they adopt the proposed minimum standards, if they ever choose to.

We propose that the Agencies mirror the proposed AMC minimum requirements to that used with the SAFE Act, requiring States to follow the minimum rules, and give the Agencies the ability to step in if the State does not have the minimum requirements in place by law or regulation and provide oversight and regulation for the AMCs. AMCs should not be punished if a state chooses not to adopt the federal rule and do not have their own rules established. While some States may look to implement standards eventually, we believe that no appraisals should be able to be executed in the state until minimum requirements are established. This would ensure that States make the AMC requirements a priority and that consumers are not punished if a state does not choose to create standards immediately.

## **BACKGROUND**

For many years, loan originators directly commissioned appraisals from appraisers. Unfortunately, this practice allowed unscrupulous participants in the lending process to manipulate valuations in ways that were harmful to consumers and the broader market. Because of this, in 2003, Quicken Loans implemented an appraisal independence process and separated loan production from the appraisal process.

Then, in May 2009, Fannie Mae, Freddie Mac, and FHFA implemented the Home Valuation Code of Conduct (HVCC) in an effort to ensure appraisal independence by requiring the absolute separation within a lender's organization between the appraisal function and loan production. The HVCC applied to all conventional mortgage loans sold to Fannie Mae and Freddie Mac. The HVCC also introduced prohibitions on a lender's use of appraisers selected, retained, or compensated by mortgage brokers, real estate agents, or other third parties.

The Interim Final Rule, amending Regulation Z, implemented changes made to Truth in Lending Act (TILA) by the Dodd–Frank Wall Street Reform and Consumer Protection (Dodd-Frank) Act, was issued by the Federal Reserve Board in December 2010, and supplanted the HVCC. After the Interim Rule was released, Fannie Mae and Freddie Mac replaced HVCC with the similar appraisal independent requirements (AIR). The Interim Final Rule instituted requirements for all consumer credit transactions secured by a dwelling designed to ensure that appraisers are free to use their independent professional judgment in assigning home values without influence or pressure from those with interests in the transactions. Dodd-Frank also made amendments to Financial Institution Reform, Recovery, and Enforcement Act of 1989 (FIRREA) which required the Agencies to promulgate the minimum AMC requirements contemplated by this Proposal.

All of these requirements have had the goal of providing consumers a credible and accurate valuation from an appraiser free of undue influence. The AMC business model

provides lenders a convenient and cost-effective method to obtain a competent appraisal while ensuring compliance with appraisal independence requirements by insulating individual appraisers from any influence or coercion by the lender or other outside parties. Although not the intention of the Agency, the proposed regulations, without full participation of all States, will affect the mortgage industry and consumers drastically and will essentially be taking a step backwards from the previous requirements ensuring consumers with a fair, credible, and accurate valuation from an appraiser free of undue influence.

## **DISCUSSION**

### **1. The important role of AMCs.**

Quicken Loans utilizes and relies on AMCs to comply with appraiser independence requirements and to help manage rules and regulations. This use of AMCs also helps to manage the appraisal process for consumers in a low cost and effective manner.

AMCs perform the following functions for Quicken Loans:

- *Maintaining a roster of qualified appraisers which they screen to determine whether appraisers are qualified, properly licensed, and have professional liability insurance;*
- *Hire and create teams of employees to complete background checks on possible appraisers, maintain licensing, education and compliance with USPAP.*
- *Coordinating and tracking the assignment to the appraiser and completion of the report;*
- *Taking payment for the appraisal services from the lender and processing the payment to the appraiser;*
- *Helping ensure appraiser independence by acting as a liaison between the lender and appraiser when dealing with questions or issues concerning an appraisal;*
- *Automated procedures between the lender and the appraiser, through the AMCs, to minimize human interaction.*
- *Performing a quality control review of the appraisal before sending it to Quicken Loans;*
- *Formatting and uploading the appraisal to the Fannie Mae or Freddie Mac portal; and*
- *Use technology that is already established to maintain compliance with the many rules and regulations associated with AMCs.*

Any regulation that limits the number of AMCs or creates additional barriers to their operation will limit access to credit for consumers by forcing lenders to take over the essential functions AMCs perform. If lenders are forced to take over the essential functions of an AMC, the unintended consequences would include the potential impact on appraisal independence. The goal to allow the appraiser to provide the consumer with a credible and accurate valuation free of undue influence could be compromised by unscrupulous participants in the lending process.

Quicken Loans currently has an affiliate that operates as an AMC, Title Source Inc. The potential impact of a state not adopting the minimum regulations proposed

would force Quicken Loans to take on the role of an AMC, which includes the list mentioned above. In addition to taking on the tasks previously mentioned, Quicken Loans would have to hire a large number of additional employees to handle the many tasks it would be undertaking, at an increased cost of business.

An additional advantage AMCs provide consumers, is “fee certainty” while still assigning a well-qualified appraiser for the assignment. AMCs normalize fees at a local level, typically by quoting county level pricing to lenders. Consumer pricing in turn is based on AMC’s ability to average their underlying costs (including individual fee appraiser charges) across a larger population. AMCs pay appraisers what is determined to be “Customary and Reasonable” for that specific assignment. The increase in costs will be passed onto consumers who will also bear the costs of lessened competition. Specifically for Quicken Loans, the additional work involved and additional employees that would need to be hired, would drive up costs that would eventually be passed onto the consumer. Increasing these costs would hurt the consumers that the proposed regulations are trying to protect, taking away the ability of providing much needed financing for those same consumers.

2. **Require States to implement the minimum AMC standards established by the Agencies.**

As indicated, under the proposed rule, AMCs not owned and controlled by an insured depository (non-federally regulated AMCs) would be prevented from offering appraisal services for federally-regulated transactions in States that do not implement the minimum AMC requirements. Quicken Loans believes that this would have the unintended effect of preventing non-federally regulated AMCs from providing appraisal services for many transactions. Congress did not intend this outcome.

Under amendments to FIRREA, the Agencies are required to establish minimum requirements for AMC registration and supervision. Quicken Loans believes that Congress did not intend to make the implementation of the requirements by the States discretionary. Quicken Loans agrees with the Mortgage Bankers Association (MBA) and strongly urges that the final rule makes clear that States must implement at least the minimum standards established by the Agencies or risk oversight by a governing body provided by the Agencies, similar to what was used under the SAFE Act.

3. **Provide lenders access to the Appraisals Subcommittee’s (ASC) AMC National Registry for compliance purposes.**

Quicken Loans believes that lenders should also have access to the ASC’s AMC National Registry. In order to manage its compliance requirements, a lender will need to know if the firm it is hiring to perform an appraisal is an AMC or an appraisal firm. Lenders cannot be expected to rely on a firm’s self-identified label. Consequently, Quicken Loans urges the regulators to explicitly provide that the ASC make the AMC National Registry accessible to lenders.

4. **If the Agencies choose not to require the States to implement the minimum AMC standards under the Proposal, then the Federal financial institution regulatory agencies should act as the default register for AMCs.**

If the agencies choose not to require States to implement the minimum standards under the Proposal, Quicken Loans again agrees with the MBA, and believes that that the Federal financial institution regulatory agencies should serve as the default registry to administer the standards in the proposed rule for non-federally regulated AMC's doing business in States which do not enact rules that comply with the minimum AMC standards. The proposed rule already would allow the Appraisal Subcommittee to provide alternative means for federally regulated AMC's to submit registration information for a State or States where the AMC operates that has not established a process for accepting such information. Quicken Loans also strongly urges you to adopt a similar "backstop" for the Federal financial institution regulatory agencies to act as the registry for non-federally regulated AMC's.

Section 3353(f) of FIRREA states that:

*No appraisal management company may perform services related to a federally related transaction in a State after the date that is 36 months after the date on which the regulations required to be prescribed under subsection (a) are prescribed in final form unless such company is registered with such State or **subject to oversight by a Federal financial institutions regulatory agency.***

Quicken Loans also strongly believes that Congress's intent in enacting this language was to allow the Federal financial institution regulatory agencies to serve as the default registry for non-federally regulated AMC's operating in States unable to enact rules that comply with the minimum AMC standards in the Proposal.

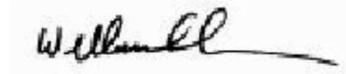
## **Conclusion**

In conclusion we thank the Agencies for allowing us to comment on the proposed minimum requirements for appraisal management companies. While Quicken Loans supports a number of the underlying principles laid out in the proposal, we have a number of strong concerns with the way States will have the option to adopt the rules or not without penalty. If a state chooses not to adopt these new proposed minimum requirements, or requirements of their own, an AMC would be barred from doing business in that state. Because of the unintended consequences that would be caused by the proposed rules as they are proposed today, Quicken Loans strongly urges the Agencies to require all States to adopt the minimum standards proposed by the Agencies.

Among the concerns of having an AMC barred from doing business, another concern of Quicken Loans is the amount of additional costs that will be incurred on the behalf of the lenders creating processes, technology and additional manpower to fix the void that would be left from the AMC's that would be unable to operate. These additional costs will impact the consumers directly by driving up prices, along with the potential impact on appraisal independence.

Quicken Loans would like to propose that the Agencies mirror the proposed AMC minimum requirements with those used in the same manner as the SAFE Act, requiring States to follow the minimum rules, and give the Agencies the ability to step in if the States does not have the minimum requirements in place by law or regulation and provide oversight and reporting for AMC's.

We thank you for this opportunity in allowing us to comment. Should you have any further questions, please contact Shawn Krause at (313) 373-7773 or at [ShawnKrause@quickenloans.com](mailto:ShawnKrause@quickenloans.com).

A handwritten signature in black ink, appearing to read "William Emerson", with a long horizontal flourish extending to the right.

William Emerson  
CEO  
Quicken Loans Inc.