

**CONSUMER FINANCIAL PROTECTION BUREAU
INFORMATION COLLECTION REQUEST – SUPPORTING STATEMENT
HIGHER-RISK MORTGAGE APPRAISALS
TRUTH IN LENDING ACT (REGULATION Z) 12 CFR 1026.XX
(OMB CONTROL NUMBER: 3170-0015)**

The Bureau of Consumer Financial Protection (CFPB or the Bureau) is providing a supporting statement for proposed changes to Regulation Z. This statement addresses the information collection requirements in Regulation Z that are affected by the CFPB's proposed changes as described below.

TERMS OF CLEARANCE: None.

A. JUSTIFICATION

1. Circumstances Necessitating the Data Collection

In response to the recent mortgage crisis, Congress amended the Truth in Lending Act (TILA) to require creditors originating mortgages with an annual percentage rate that exceeds the average prime offer rate by a specified percentage (higher-risk mortgage loans) to obtain an appraisal or appraisals meeting certain specified standards, provide applicants with a notification regarding the use of appraisals, and give applicants a copy of written appraisals used. These changes were enacted as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Pub. L. 111-203, § 1471, 124 Stat. 1376, 2185 (2010). Section 1471 of the Dodd-Frank Act adds a new section to TILA, section 129H, addressing appraisal requirements for higher-risk mortgage loans.

Responsibility for rulemaking under TILA generally rests with the Bureau.¹ However, section 129H requires six agencies to jointly prescribe implementing regulations regarding appraisals for higher-risk mortgage loans: the Board of Governors of the Federal Reserve System, the Office the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Federal Housing Finance Agency, and the Bureau (Agencies). Pursuant to section 129H, the proposed rule was jointly developed and issued by the Agencies. In addition to amending other portions of the Code of Federal Regulations, the proposal would amend the Bureau's Regulation Z and its Official Interpretations. 12 CFR Part 1026.

The information collections under the proposed rule include (1) providing a disclosure within three days of application that informs the consumer regarding the purpose of the appraisal, that the creditor will provide the consumer a copy of any appraisal, and that the consumer may choose to have a separate appraisal conducted at the expense of the consumer (Initial Appraisal Disclosure); (2) requiring creditors to obtain a written appraisal meeting certain standards for

¹ The Board of Governors of the Federal Reserve System has rulemaking authority under TILA for motor vehicle dealers as defined in section 1029 of the Dodd-Frank Act. 15 U.S.C. 5519; 15 U.S.C. 1604(a).

higher-risk mortgage loans and provide a free copy of the appraisal to consumers (Written Appraisal); and (3) requiring an additional written appraisal for properties sold within the last 180 days and providing free copies of these appraisals to consumers (Additional Written Appraisal). The information collections are required by statute, are necessary to protect consumers, and promote the safety and soundness of creditors making higher-risk mortgage loans.

2. Use of the Information

For loans that fall within section 129H, creditors will be required to obtain a Written Appraisal that meets certain standards. Creditors will also be required to obtain an Additional Written Appraisal when the loan is secured by property that has been sold within the last 180 days. The CFPB anticipates that creditors will use these appraisals to determine the value of the collateral for higher-risk mortgage loans, and that these appraisals will assist in preventing potential mortgage fraud by sellers, borrowers and other participants in a residential real estate transaction. Creditors will be required to provide an Initial Appraisal Disclosure and copies of written appraisals obtained by the creditor for higher-risk mortgage loans to consumers. The CFPB anticipates that this information will assist consumers in understanding valuations for property securing higher-risk mortgage loans. The Initial Appraisal Disclosure, Written Appraisal and Additional Written Appraisal are not submitted to the federal government.

3. Use of Information Technology

The Initial Appraisal Disclosure and copies of written appraisals may be provided to applicants in electronic form, subject to compliance with the consumer consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act (E-Sign Act), 15 U.S.C. 7001 *et seq.* Additionally, most disclosures are computer generated. The CFPB expects that creditors will be able transmit the required copies to applicants either electronically or in hard copy.

4. Efforts to Identify Duplication

This information collection does duplicate, in part, two other Federal efforts. Specifically, the information collection requirement duplicates in part the Equal Credit Opportunity Act (ECOA) requirement to provide free copies of written appraisals to applicants. 15 U.S.C. 1691(e). In addition, the requirement also duplicates in part the National Credit Union Administration's regulation requiring national credit unions to provide copies of appraisal reports to loan applicants upon request. 12 CFR 701.31(c)(5). However, where duplicative requirements apply, a lender need only provide an applicant one copy of each written appraisal to comply with all three requirements.

5. Efforts to Minimize Burdens on Small Entities

Of the estimated 18,000 depository institutions and independent mortgage banks that originate mortgage loans, 10,000 are estimated to fall below the small entity thresholds of \$175 million in assets for depository institutions and \$7 million in assets for independent mortgage banks. ECOA currently requires creditors to provide copies of appraisals upon request. Based on its outreach, the Bureau believes that it is routine business practice for appraisals to be sent to consumers for all first lien transactions that result in an origination. This should minimize burden by reducing the time and resources necessary to compile and distribute the copies of written appraisals the rule requires.

6. Consequences of Less Frequent Collection and Obstacles to Burden Reduction

This information is not submitted to the federal government. These disclosures are required by statute, 15 U.S.C. 1639h. The burdens on respondents are the minimum necessary to comply with the statute, to assist consumers in obtaining information about how the property's value was determined by the creditor, and to promote safe and sound lending with respect to higher-risk mortgage loans.

7. Circumstances Requiring Special Information Collection

Information is not reported to the CFPB. There are no special circumstances. The collection of information requirements in the proposed changes to Regulation Z are consistent with the applicable guidelines contained in 5 CFR 1320.6.

8. Consultation Outside the Agency

The Agencies published a notice of proposed rulemaking in the *Federal Register* for public comment. The comment period for the Paperwork Reduction Act analysis will expire on October 22, 2012. The Agencies issued the proposal jointly and consulted extensively prior to publishing the proposal. The Bureau also consulted with the Department of Housing and Urban Development and the Federal Trade Commission consistent with section 1022 of the Dodd-Frank Act.

9. Payments or Gifts to Respondents

No payments or gifts are provided to respondents.

10. Assurances of Confidentiality

There are no assurances of confidentiality provided to respondents.

11. Justification for Sensitive Questions

This information collection does not include questions of a sensitive nature.

12. Estimated Burden of Information Collection

The total estimated burden for the roughly 9,500 creditors who originate higher-risk mortgage loans and are therefore subject to the proposed rule, including Bureau respondents, would be approximately 139,000 hours of ongoing burden annually and 73,000 hours in one-time burden. Since creditors already order appraisals, provide consumers copies of appraisals if a loan closes, and calculate and compare annual percentage rates to average prime offer rates as a regular course of business, the Bureau assumes that there are no required software or information technology upgrades associated with implementing the rule, because all of the actions required by the rule are already practiced by the affected institutions. Affected creditors also must incur material costs in distributing copies of appraisals, which are estimated to be approximately \$400 per year for all affected creditors.² The Bureau expects that the amount of time required to implement each of the proposed changes for a given institution may vary based on the size, complexity, and practices of the respondent.

13. Estimated Total Annual Cost Burden to Respondents or Recordkeepers

The total annualized on-going hour burden for the depository institutions and credit unions with more than \$10 billion in assets (including their depository affiliates) that originate mortgage loans is estimated to be roughly 31,000 hours and the annualized ongoing burden for all non-depository institutions that originate mortgage loans is estimated to be 31,000 hours. These respondents are estimated to incur an additional 18,000 hours and 10,000 hours in one-time burden, respectively. As discussed previously, for purposes of the PRA analysis under this proposed rule, the Bureau would assume roughly 16,000 on-going burden hours and 5,000 one-time hours for the non-depository institutions.³ The associated material costs are estimated to be approximately \$360 for depository institutions and credit unions with more than \$10 billion in assets and \$18 for non-depository institutions. For purposes of PRA the Bureau would assume \$9 of material costs for non-depository institutions.

14. Estimated Cost to the Federal Government

As the CFPB does not collect any information, the cost to the CFPB is negligible.

15. Program Changes or Adjustments

The CFPB's proposal would implement in Regulation Z the information collection

² Based on its outreach and research, the Bureau assumes that the average appraisal is 20 pages long and that printing a copy of an appraisal costs \$0.10 per page. The Bureau assumes that 84% of appraisals are sent via e-mail, 15.75% of appraisals are sent via the United States Postal Service, and 0.25% of appraisals are sent via courier. Mailing an appraisal is assumed to cost \$2.12 based on the cost of first class mail for a 3.7oz letter (20 pages of 20 lb paper weighs 3.2oz with a 0.5oz allowance for an envelope), sending an appraisal via a courier is assumed to cost \$17 (\$15 for courier fees and \$2 for replication costs) in material costs, and sending a copy via e-mail is assumed to cost \$0.05 of material cost. This corresponds to a \$0.73 expected material cost per appraisal.

³ There may be a small additional burden for privately insured credit unions estimated to originate mortgages. The Bureau will assume half of the burden these institutions.

requirements described above. The CFPB's proposal makes no changes to the other information collections in Regulation Z since the last OMB approval.

16. Plans for Tabulation, Statistical Analysis, and Publication

The results of the information collection will not be published.

17. Display of Expiration Date

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading consumers to believe that the regulation sunsets as of the expiration date. Consumers are not likely to be aware that the CFPB intends to request renewal of OMB approval and obtain a new expiration date before the old one expires.

18. Exceptions to the Certification Requirement

None.