CONSUMER FINANCIAL PROTECTION BUREAU
INFORMATION COLLECTION REQUEST – SUPPORTING STATEMENT
EQUAL CREDIT OPPORTUNITY ACT APPRAISAL RULE
(REGULATION B) 12 CFR 1002.14
(OMB CONTROL NUMBER: 3170-0013)

The Bureau of Consumer Financial Protection (Bureau) is providing a supporting statement for changes to Regulation B. This statement addresses the information collection requirements in Regulation B that are affected by the Bureau's final rule as described below. The title of this information collection is ECOA Appraisal Final Rule.

TERMS OF CLEARANCE: In accordance with 5 CFR 1320, OMB has been withholding approval, providing that the agency shall examine public comment in response to the notice of proposed rulemaking and include in this supporting statement submitted to OMB at the final rule stage a description of how the agency has responded to any public comments on the information collection requirements, including comments on maximizing the practical utility of the collection and minimizing the burden.

A. JUSTIFICATION

1. Circumstances Necessitating the Data Collection

In response to the recent mortgage crisis, Congress amended the Equal Credit Opportunity Act (ECOA) to require creditors to automatically provide mortgage applicants with a copy of appraisal reports and valuations prepared in connection with an application for a loan to be secured by a first lien on a dwelling. This change was enacted as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Pub. L. 111-203, 124 Stat. 1376, §1474 (2010).

The Bureau is the agency responsible for rulemaking under ECOA (except with respect to persons excluded from the Bureau's rulemaking authority by section 1029 of the Dodd-Frank Act). Regulation B is the implementing regulation for ECOA. 12 CFR Part 1002. The Bureau is amending Regulation B and its Official Interpretations to implement the new statutory requirement regarding appraisals and other written valuations.

The rule requires creditors to provide copies of appraisals and other written valuations to applicants in certain transactions. Under the rule, copies of all appraisals and other written valuations conducted in connection with an application for a loan to be secured by a first lien on a dwelling must be furnished to applicants free of charge. Copies of these materials must be furnished promptly upon completion, or three business days prior to consummation of the transaction (for closed-end credit) or account opening (for open-end credit), whichever is first to the consumer consent and other applicable provisions of the E-Sign Act, 15 U.S.C. §§ 7001 *et*

seq. Currently, ECOA requires that copies of appraisals be provided only upon request. The rule ensures that consumers receive information prior to closing about how the property's value was determined, including in situations where a valuation other than an appraisal is performed.

The rule also requires that creditors in covered loans (those that are to be secured by a first lien on a dwelling) provide a disclosure within three days of application that informs the applicant 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). As discussed below, this disclosure is not an information collection requirement.

2. Use of the Information

This information collection is required by statute. As discussed above, creditors will furnish copies of appraisals and other written valuations to applicants for credit to be secured by a first lien on a dwelling. Disclosures are not submitted to the federal government.

The information collection requirements in the rule are the provision of copies of appraisals and other written valuations to applicants in certain transactions. Under the rule, copies of all appraisals and other written valuations conducted in connection with an application for a loan to be secured by a first lien must be furnished to applicants free of charge. These copies may be delivered by creditors to consumers physically or electronically.

3. Use of Information Technology

To reduce burden, the Initial Appraisal Disclosure described above may be submitted to consumers electronically subject to compliance with the consumer consent and other applicable provisions of the E-Sign Act, 15 U.S.C. §§ 7001 *et seq*. Disclosures made as an accompaniment to the application form accessed by the applicant electronically also are eligible for an exception to the E-Sign Act consent requirement under Regulation B, § 1002.4(d)(2). Additionally, most disclosures are computer generated. The Bureau expects that creditors will be able transmit copies of appraisals and other written valuations to the loan applicant 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 Truth in Lending Act requirement to provide free copies of written appraisals for higher-risk mortgages. 15 U.S.C. 1639h. 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 creditor need only provide an applicant one copy of each appraisal and other written valuation to comply with all three requirements.

5. Efforts to Minimize Burdens on Small Entities

Of the estimated 14,000 depository institutions and independent mortgage banks that originate mortgage loans, 9,000 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.

As noted in the Bureau's rule, currently, ECOA requires that copies of appraisals be provided upon request. The Bureau believes, based on its outreach, that currently it is routine business practice for appraisals to be sent to consumers for all first lien residential mortgage transactions that result in an origination and that copies of other written valuations in these transactions, as well as written appraisals and other written valuations conducted for applications that do not result in a loan, could be forwarded on to consumers by electronic means in many cases. This should minimize burden by reducing the time and resources necessary to compile and distribute the copies of written appraisals and valuations. Additionally, the Bureau has taken steps in the final rule to minimize the situations in which creditors would need to provide copies of multiple versions of the same appraisal or other written valuation. The ongoing burden is at a per application level.

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. 1691(e). The burdens on respondents are the minimum necessary to comply with the statute, and to assist borrowers in obtaining information about how the property's value was determined by the creditor.

7. Circumstances Requiring Special Information Collection

Information is not reported to the Bureau. There are no special circumstances. The collection of information requirements in the changes to Regulation B are consistent with the applicable guidelines contained in 5 CFR 1320.5(d)(2).

8. Consultation Outside the Agency

The Bureau published a notice of proposed rulemaking in the *Federal Register* for public comment. In preparing the proposal, the Bureau relied upon certain outreach conducted under an interagency process for the higher-risk mortgage appraisals rulemaking process, as well as consumer testing for a proposed Loan Estimate form as part of the TILA-RESPA rulemaking process. The comment period for the Paperwork Reduction Act analysis expired on October 22, 2012. While the Bureau received 68 comments on the proposal, none addressed the Paperwork Reduction Act analysis. Prior to issuing the proposed rule, the Bureau consulted with other Federal agencies consistent with section 1022 of the Dodd-Frank Act. Prior to issuing the final rule, the Bureau consulted again with these agencies 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. While some industry commenters suggested that certain information that was a part of or related to written valuations contained proprietary information, there is no basis in the statute for an exclusion from the copy requirement. The Bureau notes that creditors will have a year to adapt their systems so that any information they may view as proprietary information that may be contained on any written valuations currently does not appear on written valuations that will be provided to consumers on or after January 18, 2014. In addition, the final rule did not adopt the proposal to include written comments and related documents in the copy requirement, and also allows creditors to provide valuations from government-sponsored enterprises (GSEs) on GSE-approved forms for disclosure to consumers, rather that the copy of the detailed information the GSE provides to the creditor which some creditors believed to be proprietary. These steps narrow the scope of what must be disclosed from the proposal, and further reduce any risk that creditors would be required to provide copies of documents that include information that they view as proprietary.

12. Estimated Burden of Information Collection

Creditors will be required to provide copies of appraisals and other written valuations to applicants promptly upon their completion or three days before consummation or account opening, whichever is earlier. In the Initial Appraisal Disclosure, the creditor will be required to

provide a short, written disclosure; this disclosure must be provided within three business days of application. This disclosure is provided by the Bureau and must be given to the applicant. The public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public is not included within the definition of "collection of information" in 5 CFR 1320.3(c)(2) and therefore has no burden under the PRA. Accordingly, the Bureau does not consider this disclosure an information collection and calculates no burden for that disclosure.

The total estimated burden for the roughly 14,000 creditors that originate mortgages and therefore are subject to the rule will be approximately 519,000 hours of ongoing burden annually and 14,200 hours in one-time burden. Since creditors already provide consumers copies of appraisals if a loan closes, the Bureau assumes that there are no required software or information technology upgrades associated with implementing the rule with respect to appraisals, because all of the actions required by the rule are already practiced by the affected institutions; one-time software upgrades may be needed to include other written valuations in the materials provided to applicants. The Bureau expects that the amount of time required to implement each of the changes for a given institution may vary based on the size, complexity, and practices of the respondent, and include reviewing the final rule and training staff on its requirements, as described in the Paperwork Reduction Act section of the final rule.

These burden estimates include additional burden arising from the requirement to disclose copies of valuations other than appraisals. That requirement is included in the statute and the final rule. The final rule reduces this burden, however, by taking into account concerns voiced by several industry commenters who stated that the Bureau's list of examples of documents that must be copied was too broad, including "written comments and other documents" relating to valuation reports. In the commentary to the final rule, the references to "written comments and other documents" have been removed.

The total annualized on-going 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 225,400 hours and the annualized ongoing burden for all non-depository institutions that originate mortgage loans is estimated to be 171,300 hours. These respondents are estimated to incur an additional 5,200 hours and 4,000 hours in one-time burden, respectively. For purposes of the PRA analysis under this rule, the Bureau assumes roughly 85,700 on-going burden hours and 2,000 one-time hours for the non-depository institutions.[1] For purposes of PRA the Bureau assumes half of the burden for non-depository institutions, with the other half allocated to the FTC which shares enforcement authority under Regulation B with the Bureau.

13. Estimated Total Annual Cost Burden to Respondents or Recordkeepers

[1] 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.

The Bureau has not determined that there are any capital or start-up costs other than those captured in item 12 of the supporting statement.

14. Estimated Cost to the Federal Government

As the Bureau does not collect any information, there are no costs to the Bureau associated with this information collection.

15. Program Changes or Adjustments

The Bureau's rule implements in Regulation B the information collection requirements described above. The Bureau's rule makes no changes to the other information collections in Regulation B 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 Bureau 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.