

**CONSUMER FINANCIAL PROTECTION BUREAU INFORMATION COLLECTION
REQUEST – SUPPORTING STATEMENT
HIGHER-RISK MORTGAGE APPRAISALS
TRUTH IN LENDING ACT (REGULATION Z) – APPRAISALS FOR HIGHER-PRICED
MORTGAGE LOANS - SUPPLEMENTAL PROPOSAL 12 CFR 1026.35
(OMB CONTROL NUMBER: 3170-0026 / RIN 3170-AA11)**

The Consumer Financial Protection Bureau (Bureau) is dividing certain proposals to amend the Bureau’s Regulations X and Z into separate Information Collection Requests (ICRs) in the Office of Management and Budget (OMB) system (accessible at www.reginfo.gov) to ease the public’s ability to view and understand the individual proposals. Subsequent to the finalization of the rules, the Bureau anticipates that it will recombine the portions of Regulations Z and X that are broken out in the reginfo.gov system into the existing control numbers for Regulations X and Z. Bureau respondents should continue to use the 3170-0015 control number for Regulation Z and 3170-0016 control number for Regulation X throughout this time.

TERMS OF CLEARANCE: N/A

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 authorizes 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 (the Agencies). Pursuant to section 129H, the Agencies jointly developed and issued a final rule on January 18, 2013 (the HPML Appraisals Rule), which was the subject of a supporting statement that the Bureau submitted to the OMB in February 2013. In addition to amending other portions of the Code of Federal Regulations, the rule amends the Bureau’s Regulation Z and its Official Interpretations. 12 CFR Part 1026. To ease compliance burdens, the final rule adopts the term “higher-priced mortgage loan” instead of “higher-risk mortgage loan,” as higher-priced mortgage loan is a term already used in other provisions of Regulation Z.

The information collections under the rule include (1) requiring creditors to obtain a written appraisal meeting certain standards for covered higher-priced mortgage loans and provide a free copy

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).

of the appraisal to consumers (Written Appraisal); and (2) requiring an additional written appraisal for transactions involving the purchase of properties the seller acquired within the last 180 days, when certain price increases have occurred, and providing free copies of this appraisal 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 covered making higher-priced mortgage loans. The final rule also requires providing a disclosure to the consumer applying for a covered higher-priced mortgage loan 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). As previously noted in the supporting statement submitted in February 2013 and as reiterated below, the Initial Appraisal Disclosure is not an information collection requirement because it meets the criteria for the warning label exception.

2. Use of the Information

For higher-priced mortgage loans that fall within section 129H and the final rule which are not eligible for an exemption, 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 higher-priced mortgage loan is used to purchase a principal dwelling that the seller has acquired within the last 180 days, if certain price increase thresholds are met (an increase of more than 10% if the seller acquired the property within the past 90 days, or an increase of more than 20% if the seller acquired the property within the past 91 to 180 days). The Bureau anticipates that creditors will use these appraisals to determine the value of the collateral for covered higher-priced 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 copies of written appraisals obtained by the creditor for covered higher-priced mortgage loans to consumers. The Bureau anticipates that this information will assist consumers in understanding valuations of property securing higher-priced mortgage loans. The Written Appraisal and Additional Written Appraisal are not submitted to the federal government; the Initial Appraisal Disclosure also is 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 Bureau 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 requirement the Bureau has adopted under the Equal Credit Opportunity Act (ECOA)'s Regulation B 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. The initial appraisal disclosure required under ECOA also can be used to satisfy the Initial Appraisal Disclosure requirement in this rule.

5. Efforts to Minimize Burdens on Small Entities

Of the estimated 14,000 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. The Bureau estimates that a high proportion of higher-priced mortgage loans will be qualified mortgages under the Bureau's 2013 ATR Final Rule. By statute, this final rule exempts qualified mortgages from its requirements. Therefore, the qualified mortgage exemption leads to a significant reduction in burden for all depository institutions and independent mortgage banks, including small entities. The rule also further reduces burden by exempting loans for initial construction, bridge loans for less than 12 months, reverse mortgages, loans secured by new manufactured homes, and loans secured by boats, trailers, or mobile homes other than manufactured homes. The supplemental proposal the Agencies are now issuing would further reduce burden by exempting loans that are secured by existing manufactured homes but not land, certain refinances of first-lien mortgages with no cash out except for closing costs, and transactions in an amount of \$25,000 or less (indexed to inflation). Further, the rule as previously adopted already exempts a series of loans from the requirement to obtain an Additional Written Appraisal, including for properties located in rural areas, and other types of transactions specified in the final rule. These exemptions in the final rule as well as in the supplemental proposal were developed by the Agencies after careful consideration of the comments filed on the proposed rule including its ICRs.

As discussed in the supporting statement submitted with the HPML Appraisals Rule, based on its outreach, the Bureau believes that it is routine business practice for appraisals to be performed for 95% of first lien transactions that are purchases and 90% of first lien transactions that are refinances, and sent to consumers for all first lien transactions that result in an origination. Government-sponsored enterprises also require copies of appraisals be sent to consumers. These pre-existing practices minimize the additional burden generated by the rule, as only a portion of appraisals conducted each year will have been caused by the rule (as opposed to pre-existing practices). These pre-existing practices also reduce 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 in covered higher-priced mortgage loan transactions, and to promote safe and sound lending with respect to covered higher-priced mortgage loans.

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 Z are consistent with the applicable guidelines contained in 5 CFR 1320.5(d)(2)

8. Consultation Outside the Agency

Prior to issuing the final rule in January 2013, the Agencies published a notice of proposed rulemaking in the *Federal Register* for public comment. Prior to that proposal, the Agencies conducted outreach with industry and also relied upon certain testing of consumer disclosures carried out by the Bureau in connection with the development of the proposed Loan Estimate form in its 2012 TILA-RESPA Proposal. The Agencies issued the 2012 proposal and the 2013 final rule jointly and consulted extensively prior to publishing the proposal and before finalizing the rule. 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.

The comment period for the Paperwork Reduction Act analysis expired on October 22, 2012. The Agencies jointly reviewed comments received on the rule, including on its ICRs. The Agencies received only one public comment specific to Paperwork Reduction Act compliance. The comment questioned the burden estimates for the reading the final rule and training staff for compliance. As explained in the supporting statement submitted to OMB in February 2013, the Bureau responded that the burden estimates are averages across many types and sizes of financial institutions, and that the exact amount of time may vary from institution to institution. Footnotes 131 and 141 in the Section 1022 analysis of the final rule addressed this comment in further detail.

In developing the supplemental proposal, the Agencies have conducted additional outreach relating to valuation practices, primarily in the manufactured housing segment. The Bureau also has consulted or offered to consult with the Department of Housing and Urban Development, the U.S. Department of Agriculture, the Veteran’s Administration, and the Federal Trade Commission consistent with section 1022 of the Dodd-Frank Act.

Additionally, pursuant to 5 CFR 1320.11(a), 1320.5(a)(1)(iv), and 1320.8(d)(1) the supplemental proposal provides the public and other interested parties 60 days to comment on the information collection requirements as contained therein.

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

TABLE 1

Information collection	Est. Number of Respondents	Est. Number of Appraisals per	Est. Average Burden Hours per	Est. Total Annual Burden Hours

		Respondent	Appraisal	
Providing Written Appraisal				
Depository Inst. > \$10B in total assets + Affiliates	132	3.73	.25	123
Non-Depository Inst. & Credit Unions	2,853	.23	.25	82 ²
Sub-total:	2,985	////////////////	////////////////	205
Verify Requirement of Additional Written Appraisal				
Depository Inst. > \$10B in total assets + Affiliates	132	20.05	.25	662
Non-Depository Inst. & Credit Unions	2,853	1.22	.25	435
Sub-total:	2,985	////////////////	////////////////	1,097
Review and Provide Copy of Additional Written Appraisal				
Depository Inst. > \$10B in total assets + Affiliates	132	.64	.25	21
Non-Depository Inst. & Credit Unions	2,853	.04	.25	14
Sub-total:	2,985	////////////////	////////////////	35
One-time Burden – Review Legal Requirements of Final Rule				
Depository Inst. > \$10B in total assets + Affiliates / Non-Depository Inst. & Credit Unions	2,985	////////////////	12	36,383
CFPB Total On-going Burden:	2,985	85,192	////////////////	1,337*
CFPB GRAND TOTAL:				37,720*

*As a practical matter, the burden hours are rounded to 1,300 hours for on-going burden hours and 37,000 for total annual burden hours.

Creditors will be required to provide an Initial Appraisal Disclosure, investigate and verify the applicability of the requirement for an Additional Written Appraisal, and review and provide copies of written appraisals obtained by the creditor for higher-priced mortgage loans to consumers, to the extent exemptions under the final rule do not apply.

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, verbatim, 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 the Initial Appraisal Disclosure an information collection and calculates no burden for that disclosure.

² The Bureau assumes half of the burden for the IMBs and the credit unions supervised by the Bureau. The FTC assumes the burden for the other half.

The estimated burden for the Written Appraisal requirements includes the creditor’s burden of reviewing the Written Appraisal in order to satisfy the safe harbor criteria set forth in the rule and providing a copy of the Written Appraisal to the consumer. Additionally, as discussed above, an Additional Written Appraisal containing additional analyses is required in certain circumstances. The Additional Written Appraisal must meet the standards of the Written Appraisal. The Additional Written Appraisal is also required to be prepared by a certified or licensed appraiser different from the appraiser performing the Written Appraisal, and a copy of the Additional Written Appraisal must be provided to the consumer. The creditor must separately review the Additional Written Appraisal in order to qualify for the safe harbor provided in the final rule.

The Agencies estimate that respondents will take, on average, 15 minutes for each higher-priced mortgage loan that is subject to the rule to review the Written Appraisal and to provide a copy of the Written Appraisal. The Agencies estimate further that respondents will take, on average, 15 minutes for each higher-priced mortgage loan that is subject to the rule to investigate and verify the need for an Additional Written Appraisal and, where applicable, an additional 15 minutes to review the Additional Written Appraisal and to provide a copy of the Additional Written Appraisal. For the small fraction of loans requiring an Additional Written Appraisal, the burden is similar to that of the Written Appraisal.

The associated on going labor costs of complying with the information collection requirements in this rule are estimated to be the total cost per year is estimated to be \$64,563.73 in ongoing costs and (rounded to the nearest thousand). And \$3,058,354.98 in one-time labor costs to review the regulation³

As discussed above, the Bureau shares the burden associated with Regulation Z with other prudential regulators. For reference, the partner agencies and pertinent OMB control numbers are listed below (see Table 2):

TABLE 2

Agency	Regulatory Citation	OMB Control Number
Department of Treasury, Office of the Comptroller of the Currency	12 CFR Part 34	1557-0313
Board of Governors of the Federal Reserve System	12 CFR Part 226	7100-0199
Federal Deposit Insurance Corporation	12 CFR 34.203(c)	3064-0188
National Credit Union Administration	12 CFR 722.3	3133-0186

³ For complying with the regulations themselves, the hourly wage rate is based on the higher of the loan officer wages at depository institutions of \$31.69 and at non-depository institution of \$32.16. Wages comprised 66.6 percent of compensation for employees in credit intermediation and related fields in Q4 2011, according to the Bureau of Labor Statistics, available at <http://www.bls.gov/ncs/ect/#tables> for a total hourly rate of \$48.29 per hour. All the hourly wage rates are computed similarly from the same source. For reviewing the regulations the bureau assumes this will be done by a combination of attorneys with an hourly rate of \$116.08 and compliance officers with an hourly rate of 52.04 for a blended hourly average rate of \$84.06

Agency	Regulatory Citation	OMB Control Number
Consumer Financial Protection Bureau	12 CFR Part 1026	3170-0015 / 3170-0026

13. Estimated Total Annual Cost Burden to Respondents or Recordkeepers

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 Z the information collection requirements described above. These are new information collections created to enact the amendments made to 12 CFR 1026 which implement the statutory requirements of section 129H of the Truth in Lending Act which was amended by 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.

As illustrated in Table 1 above, if the supplemental proposal were to be adopted, then the total annualized on-going hour burden allocated to the Bureau 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 800 hours (reduced by 100 hours from the 900 hours estimated without the supplemental proposal) and the annualized ongoing burden for all non-depository institutions that originate mortgage loans is estimated to be 500 hours (reduced by 100 hours from the 600 hours estimated without the supplemental proposal). As discussed in the supporting statement submitted with the HPML Appraisals Rule in February 2013, the Bureau continues to estimate that these respondents will incur an additional 36,000 hours in one-time burden, collectively.

Therefore, the Bureau estimates that the changes contained in this supplemental proposal could result in an on-going burden reduction in the form of a program change of approximately, 200 hours (from 1,500 to 1,300). The Bureau estimates the 36,000 hours of the one-time burden to read understand the legal requirements of final rule remains unchanged.

OMB's inventory shows a net increase in burden of about 221 hours. This results in the Bureau making an adjustment to the total estimated number of respondents (from 2,640 to 2,985). A 200 hour reduction in form of a program change is result of the qualified mortgage exemption as provided in the proposed rule.

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. The Bureau will, however, publish a separate notice in the Federal Register informing the public of OMB's decision on the information collection request that the Bureau will submit to OMB at the final rulemaking stage.

18. Exceptions to the Certification Requirement

None.