

**Supporting Statement**  
**Appraisals for Higher-Priced Mortgage Loans**  
**OMB Control No. 1557-0313**

**A. Justification.**

**1. *Circumstances that make the collection necessary:***

This information collection relates to section 1471 of the Dodd-Frank Act, which created new Truth in Lending Act (TILA) section 129H establishing special appraisal requirements for “higher-risk mortgages.” For certain mortgages with an annual percentage rate that exceeds the average prime offer rate by a specified percentage, creditors must obtain an appraisal or appraisals meeting certain specified standards, provide applicants with a notification regarding the use of the appraisals, and give applicants a copy of the written appraisals used. The statute permits the OCC to include exemptions from the requirements in any final rule. The OCC implemented these requirements and exemptions thereto in 2013.<sup>1</sup>

**2. *Use of the information:***

The information collection requirements are found in 12 CFR 34.203(c)(1), (c)(2), (d), (e) and (f). This information is required to protect consumers and promote the safety and soundness of creditors making higher-priced mortgage loans (HPMLs) subject to 12 CFR part 34, subpart G. This information is used by creditors to evaluate real estate collateral securing HPMLs subject to 12 CFR 1026.35(c) and by consumers entering these transactions. The collections of information are mandatory for creditors making HPMLs subject to 12 CFR part 34, subpart G.

Under 12 CFR 34.203(e) and (f), a creditor must, no later than the third business day after the creditor receives a customer’s application for a HPML, provide a disclosure that informs consumers of 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). If a loan is a HPML subject to 12 CFR 1026.35(c), then the creditor is required to obtain a written appraisal prepared by a certified or licensed appraiser who conducts a physical visit of the interior of the property that will secure the transaction (Written Appraisal), and provide a copy of the Written Appraisal to the consumer. To qualify for the safe harbor provided under the February 2013 Final Rule, a creditor is required to review the Written Appraisal.

Under 12 CFR 34.203(d)(1), a creditor is required to obtain an additional appraisal (Additional Written Appraisal) for a HPML that is subject to 12 CFR part 34, subpart G if: (1) the seller acquired the property securing the loan 90 or fewer days prior to the date of the consumer’s agreement to acquire the property and the resale price exceeds the seller’s

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<sup>1</sup> 78 FR 10368 (February 13, 2013) (February 2013 Final Rule) and 78 FR 78519 (December 26, 2013) (December 2013 Final Rule).

acquisition price by more than 10 percent; or (2) the seller acquired the property securing the loan 91 to 180 days prior to the date of the consumer's agreement to acquire the property and the resale price exceeds the seller's acquisition price by more than 20 percent.

Under 12 CFR 34.203(d)(3) and (4), the Additional Written Appraisal must meet the requirements described in 12 CFR 34.203(c)(1) and also include an analysis of: (1) the difference between the price at which the seller acquired the property and the price the consumer agreed to pay; (2) changes in market conditions between the date the seller acquired the property and the date the consumer agreed to acquire the property; and (3) any improvements made to the property between the date the seller acquired the property and the date on which the consumer agreed to acquire the property. Under 12 CFR 34.203(f), a creditor is required to provide a copy of any Additional Written Appraisal to the consumer.

**3. *Consideration of the use of improved information technology:***

Respondents may use any type of improved information technology they have available to meet the requirements of this regulation.

**4. *Efforts to identify duplication:***

This information is not available elsewhere.

**5. *If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.***

There are no alternatives that would result in lowering the burden on small institutions, while still accomplishing the purpose of the rule.

**6. *Consequences to the Federal program if the collection were conducted less frequently:***

Less frequent collection would result in safety and soundness concerns.

**7. *Special circumstances necessitating collection inconsistent with 5 CFR part 1320:***

This collection is conducted in accordance with the guidelines in 5 CFR part 1320.

**8. *Efforts to consult with persons outside the agency:***

On November 4, 2016, the OCC issued a notice for 60 days of comment regarding this collection, 81 FR 77001. No comments were received.

The OCC issued a notice for 30 days of comment on January 24, 2017, 82 FR 8259. One comment was received from an individual.

The commenter expressed their opinion that the OCC does not consider public comment and that OMB should ensure that the OCC addresses all legitimate and reasonable public comments in a final rulemaking before an OMB Control Number is assigned or renewed. It is the OCC's practice to consider all comments received and respond to those comments in its *Federal Register* Notices and Supporting Statements.

The commenter believes that the OCC should specifically address in its regulation whether written appraisals performed by certified or licensed appraisers are required on loans less than \$250,000 when the interest rate on that loan exceeds the average prime offer rate by 1.5 points or more. The commenter pointed out that § 34.43(a) does not require appraisals on real estate transactions less than \$250,000 while § 34.203(c) seems to suggest that appraisals are required if interest rate on the mortgage exceeds the average prime offer rate by 1.5 points or more. The requirements in § 34.203(c) for appraisals for higher-priced mortgage loans (HPMLs) apply to all loans that meet the definition of HPMLs that are not within the exemptions contained in the HPML rule. As such, the HPML rule applies to loans below \$250,000. The agencies addressed the interaction of the appraisal rule (and the \$250,000 threshold exemption) and the HPML rule in the preamble to the final HPML rule.<sup>2</sup> As stated in the preamble, the \$250,000 threshold exemption in the appraisal rule does not apply to HPML loans.

The commenter believes that the OCC should improve the quality of its rulemaking by thoughtful consideration of existing regulations and not adopt new, overlapping and duplicative regulations. The commenter cited, as an example of multiple federal regulations on a single topic, § 34.203(e) and (f) as duplicative of 12 CFR 1002.14. In proposing and adopting new regulations, the OCC carefully considers whether existing regulations address the issue at hand or can be relied on to reduce the scope or burden of a new rule. While there may appear to be overlap in some regulations, such as those cited by the commenter, rules issued by two different agencies typically cover different parties. As such, a rule issued by one agency would not legally bind parties who are subject to the rules of a different agency.

The commenter requested clarification of why a single act of omission by a bank should violate multiple regulations, such as in 12 CFR 1002.14 and 34.2003, when a creditor that fails to provide a copy of the appraisal to the consumer three business days prior to consummation of the transaction. A single act or omission by a person or entity may legally violate different applicable provisions of law.

The OCC, pursuant to section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996,<sup>3</sup> published several notices (EGRPRA) to identify outdated or otherwise unnecessary regulatory requirements imposed on insured depository institutions, one of which included 12 CFR part 34, subpart G.<sup>4</sup> No comments were received regarding this regulation

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<sup>2</sup> See 78 FR 10368, 10375-10376 (February 13, 2013).

<sup>3</sup> See Public Law 104-208 (1996), codified at 12 U.S.C. 3311(b).

<sup>4</sup> See 80 FR 79724 (December 23, 2015).

during that process and, as a result, no changes were made in the final rule.<sup>5</sup> In addition, the change requested by the commenter cannot be made in this PRA notice as it would require a rulemaking.

**9. *Payment to respondents.***

There is no payment to respondents.

**10. *Any assurance of confidentiality:***

There is no assurance of confidentiality.

**11. *Justification for questions of a sensitive nature:***

Not applicable. No personally identifiable information is collected.

**12. *Estimate of Hour Burden Including Annualized Hourly Costs:***

For the Initial Appraisal Disclosure, the creditor is required to provide a short, written disclosure within three business days of application. Because this disclosure is supplied by the federal government for purpose of disclosure to the public, this is not classified as an information collection, and no burden is assigned to it for purposes of this PRA analysis.

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 and providing a copy of the Written Appraisal to the consumer. Additionally, 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 provision.

It is estimated that respondents will take, on average, 15 minutes for each HPML to review the Written Appraisal and to provide a copy of the Written Appraisal. It is also estimated that respondents will take, on average, 15 minutes for each HPML to investigate and verify the need for an Additional Written Appraisal and, where necessary, 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.

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<sup>5</sup> 82 FR 8082 (January 23, 2017).

### Exemption 1

Only a small minority of refinances involve cash out beyond the levels permitted for this exemption. Therefore, most refinance loans may qualify for this exemption. It is assumed that the exemption for certain refinances in the December 2013 Final Rule affects all of the refinance loans analyzed under Section 1022(b)(2) of the February 2013 Final Rule. It was estimated that a total of 3,800 new Written Appraisals would occur as a result of the February 2013 Final Rule (including home purchase, home equity, and refinance loans). In the December 2013 Final Rule, it was estimated that refinances would account for approximately 1,200 of these 3,800 new Written Appraisals that would occur as a result of the February 2013 Final Rule. Thus, the exemption for certain refinances in December 2013 Final Rule eliminated approximately 32 percent of the new Written Appraisals that were estimated to occur as a result of the February 2013 Final Rule.

### Exemption 2

Based on HMDA data, 12 percent of all HPMLs are under \$25,000. This implies that there will be, proportionately, 12 percent fewer appraisals based on the exemption for small dollar loans.

### Exemption 3

Many of the transactions secured by manufactured homes involve either refinances (all of which are conservatively assumed to be covered by the exemption for certain refinances), or smaller dollar loans (which cover many types of manufactured housing transactions). While covered HPMLs above smaller dollar levels that are secured by existing manufactured homes and not land may be newly-exempted, these transactions will need alternative valuations under the February 2013 Final Rule. In addition, such loans secured by new manufactured homes and not land also will need alternative valuations. Such loans secured by new manufactured homes and land will need an appraisal.

**Summary of PRA Burden Hours**

Estimated Number of Respondents [a]	Estimated Number of Appraisals Per Respondent [b]	Estimated Burden Hours Per Appraisal [c]	Estimated Total Annual Burden Hours <sup>6</sup> [d] = (a*b*c)
<b>Review and Provide a Copy of Written Appraisal</b>			
1,399	0.16	0.25	<b>55</b>
<b>Investigate and Verify Requirement for Additional Written Appraisal</b>			
1,399	0.85	0.25	<b>299</b>
<b>Review and Provide a Copy of Additional Written Appraisal</b>			
1,399	0.02	0.25	<b>8</b>

Respondents must also review the instructions and legal guidance associated with the February 2013 Final Rule and train loan officers regarding the requirements of the February 2013 Final Rule. These one-time costs are as follows:

<sup>6</sup> Totals rounded.

**19,586 hours.**

**Total Burden: 19,946 hours.**

**Cost of Hour Burden:**

**19,948 x \$107 = \$ 2,134,436.**

To estimate average hourly wages we reviewed data from May 2015 (released in March 2016) for wages (by industry and occupation) from the U.S. Bureau of Labor Statistics (BLS) for depository credit intermediation (NAICS 522100). To estimate compensation costs associated with the rule, we use \$107 per hour, which is based on the average of the 90th percentile for seven occupations adjusted for inflation (2 percent), plus an additional 30 percent to cover private sector benefits. Thirty percent represents the average private sector costs of employee benefits.

**13. *Estimate of annualized costs to respondents:***

None.

**14. *Estimate of annualized costs to the government:***

None.

**15. *Changes in burden:***

There are no changes in burden.

**16. *Information regarding collections whose results are planned to be published for statistical use:***

The OCC has no plans to publish the information for statistical use.

**17. *Display of expiration date.***

Not applicable.

**18. *Exceptions to certification statement.***

None.

**B. Collections of Information Employing Statistical Methods.**

Not applicable.