

**BUREAU OF CONSUMER FINANCIAL PROTECTION
PAPERWORK REDUCTION ACT SUBMISSION
INFORMATION COLLECTION REQUEST**

**SUPPORTING STATEMENT PART A
TRUTH IN LENDING ACT (REGULATION Z) – APPRAISALS FOR HIGHER-
PRICED MORTGAGE LOANS
(OMB CONTROL NUMBER: 3170-0026)**

OMB TERMS OF CLEARANCE: When OMB last approved this collection on March 4, 2014 there were no Terms of Clearance.

ABSTRACT: The Truth in Lending Act (TILA) requires 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.

PART A. JUSTIFICATION

1. Circumstances Necessitating the Data Collection

The Truth in Lending Act (TILA) requires 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 January 2013 Final Rule). In addition to amending other portions of the Code of Federal Regulations, the January 2013 Final Rule amended the Bureau's Regulation Z

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).

and its Official Interpretations. 12 CFR Part 1026. To ease compliance burdens, the January 2013 Final Rule adopted 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 this rule include (1) requiring creditors to obtain a written appraisal meeting certain standards for covered higher-priced mortgage loans and provide a free copy 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. This 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). Pursuant to 5 CFR 1320(c)(2), the Initial Appraisal Disclosure is not an information collection requirement as it requires the furnishing of a disclosure, the language of which was written entirely by the Bureau and must be provided verbatim to the borrower. In July 2013, the Agencies issued a supplemental proposal to amend the January 2013 Final Rule to include certain new exemptions and to modify certain exemptions in that rule.

2. Use of the Information

For higher-priced mortgage loans that fall within section 129H and the January 2013 Final Rule which are not eligible for an exemption, creditors are required to obtain a Written Appraisal that meets certain standards. Creditors are also 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). Creditors use these appraisals to determine the value of the collateral for covered higher-priced mortgage loans, and these appraisals assist in preventing potential mortgage fraud by sellers, borrowers and other participants in a residential real estate transaction. Creditors are required to provide copies of written appraisals obtained by the creditor for covered higher-priced mortgage loans to consumers. This information assists 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.* In addition, most disclosures are computer generated.

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 the January 2013 Final Rule.

5. Efforts to Minimize Burdens on Small Entities

Of the estimated 18,000 depository institutions and independent mortgage banks that originate mortgage loans, 14,600 are estimated to fall below the small entity thresholds (which have been revised effective January 2016) of \$550 million in assets for depository institutions and \$38.5 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, the January 2013 Final Rule exempts qualified mortgages from its requirements. The supplemental rule broadens this exemption to include mortgages deemed qualified mortgages under HUD, USDA, or VA rules that may be issued, as well as mortgages that meet the criteria for qualified mortgages in the Bureau's 2013 Ability to Repay (ATR) Final Rule.² Therefore, the qualified mortgage exemption leads to a significant reduction in burden for all depository institutions and independent mortgage banks, including small entities. The January 2013 Final 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 rule further reduces 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). The January 2013 Final Rule also 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 January 2013 Final Rule as well as those in the supplemental rule were developed by the Agencies after careful consideration of the comments filed on the proposed rule including its ICRs.

Under the supplemental rule, the exemptions for certain transactions secured by manufactured homes were modified effective July 18, 2015. In particular, to be eligible for the exemption for a transaction secured by a manufactured home and not land (whether a new or existing home), the creditor is required to provide to the consumer one of the types of alternative valuation information specified in the supplemental rule no later than three business days before

² The supplemental rule exempts mortgages that meet the criteria for qualified mortgages under Bureau, HUD, VA, USDA, or RHS rules regardless of whether that loan is considered a "covered transaction" under the 2013 ATR Final Rule. *See* 78 FR 78527-78528.

consummation. In addition, the exemption for a transaction secured by a new manufactured home and land has been narrowed, so that the exemption only applies to the requirement that the appraisal include a physical inspection of the interior of the home; the rest of the January 2013 Final Rule will apply to such transactions. In either case, transactions secured by manufactured homes remain eligible for any of the other exemptions from this rule, including the exemptions for qualified mortgages, loans in an amount of \$25,000 or less (indexed for inflation), and certain refinances. The Bureau estimates that the paperwork burden associated with the provision of alternative valuation information for transactions secured by manufactured homes and not land, and with compliance with all of the rule's other requirements (except for the interior inspection requirement) for transactions secured by new manufactured homes and land, is less than the burden would have been if these exemptions had not been adopted.

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 is consistent with the applicable guidelines contained in 5 CFR 1320.5(d)(2).

8. Consultation Outside the Agency

In accordance with 5 CFR 1320.8(d)(1), on November 4, 2016 the Bureau published a *Federal Register* notice (FRN) allowing the public 60 days to comment on this proposed extension of this currently approved collection of information. No comments were received. Further, and in accordance with 5 CFR 1320.5(a)(1)(iv), the Bureau has published a notice in the *Federal Register* allowing the public 30 days to comment to OMB on the submission of this information collection request

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. The Bureau does not collect any information under this collection and thus a Privacy Impact Assessment (PIA) and System of Records Notice (SORN) are not required.

11. Justification for Sensitive Questions

The CFPB through this collection does not ask any questions of respondents therefore there are no questions of a sensitive nature being asked; including personal identifying information.

12. Estimated Burden of Information Collection

Exhibit 1: Burden Hour Summary

Information Collection Requirement	No. of Respondents ¹	Type of Information Collection	Frequency	Annual Responses	Average Response Time	Annual Burden Hours	Annual Cost ²
Providing Written Appraisal							
Depository Inst. > \$10B in total assets + Affiliates	71	3rd Party Disclosure	2.31	164	0.25	41	\$2,211.90
Non-Depository Inst. & Credit Unions	1,976	3rd Party Disclosure	0.07	133	0.25	17	\$917.13
Verify Requirement of Additional Written Appraisal							
Depository Inst. > \$10B in total assets + Affiliates	71	3rd Party Disclosure	19.12	1358	0.25	340	\$18,342.56
Non-Depository Inst. & Credit Unions	1,976	3rd Party Disclosure	0.84	1669	0.25	209	\$11,275.28
Review and Provide Copy of Additional Written Appraisal							
Depository Inst. > \$10B in total assets + Affiliates	71	3rd Party Disclosure	0.96	68	0.25	17	\$917.13
Non-Depository Inst. & Credit Unions	1,976	3rd Party Disclosure	0.04	83	0.25	10	\$539.49
Totals:	2,047⁴	-	//////////	3,475	//////////	516	\$27,837.53

¹ Respondents include all institutions estimated to originate HPMLs that are subject to 12 CFR 1026.35(c).

² The Bureau calculates annual cost using the average hourly wage rate of loan officers as published by the Bureau of labor statistics of \$36.14, available at http://www.bls.gov/oes/current/oes_nat.htm, adjusted to account for employee benefits using the cost of wages as a percentage of total compensation for credit intermediation and related activities of 67%, available at <http://www.bls.gov/news.release/ecec.t10.htm>, to estimate total hourly compensation of \$53.95.

³ 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.

⁴ The number of respondents reflects the exemptions discussed in section 5. The Bureau estimates that there are 18,000 entities originating mortgage loans that have the potential to be affected by this rule, but after accounting for exemptions to the HPML appraisals loan requirements, the Bureau estimates that 2,047 entities may experience burden as a result of this rule.

In developing the burden estimate, the Bureau identified covered entities using public loan-level Home Mortgage Disclosure Act (HMDA) data covering higher-priced mortgage loans originated in 2015. The Bureau used estimates of lending activity based on the HMDA data, in

conjunction with financial data from a number of other surveys and reports,³ to project the lending activity of non-depository institutions not filing HMDA reports.

Creditors are 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 that exemptions do not apply.

In the Initial Appraisal Disclosure, the creditor is 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.

Based on its outreach, described in Item 8 above, 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 HPML Appraisals 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 HPML Appraisals Rule requires.

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

³ In its analysis, the Bureau included data from the Nationwide Mortgage Licensing System (NMLS) Mortgage Call Report, the Federal Financial Institutions Examination Council (FFIEC) Reports of Condition and Income (Call Reports), the National Credit Union Administration (NCUA) Credit Union and Corporate Call Reports, and the FFIEC’s National Information Center (NIC).

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.

13. Estimated Total Annual Cost Burden to Respondents or Recordkeepers

The Bureau has determined that there are not any ongoing material costs associated with this information collection.

14. Estimated Cost to the Federal Government

There are no costs to the Bureau associated with this information collection.

15. Program Changes or Adjustments

Exhibit 2: Summary of Burden Changes

	Total Respondents	Annual Responses	Burden Hours	Cost Burden (O & M)
Total Annual Burden Requested	2,047	3,475	516	\$0
Current OMB Inventory	2,985	85,192	37,720	\$0
Difference (+/-)				
Program Change				
Discretionary				
New Statute				
Violation				
Adjustment	-938	-81,717	-37,204	0

The significant decrease in annual responses, burden hours, and cost burden is largely due to the elimination of one-time burden associated with legal review of the requirements of the final rule. This burden has been reduced to zero now that the final rule has been in effect for three years. The Bureau has also made use of newly available data which enables the Bureau to better estimate the percentage of loans which are exempt from the HPML appraisals requirements due to their Government Sponsored Entity conforming characteristics. This has led to a reduction in both the number of loans for which the appraisals requirements apply and the number of respondents making those loans.

16. Plans for Tabulation, Statistical Analysis, and Publication

The results of the information collection will not be published.

17. Display of Expiration Date

The OMB number will be displayed in the PRA section of the final rule and in the codified version of the Code of Federal Regulations. Further, the OMB control number and expiration date will be displayed on the Federal government’s electronic PRA docket at

<http://www.reginfo.gov/public/do/PRAOMBHistory?ombControlNumber=3170-0026>).

18. Exceptions to the Certification Requirement

The Bureau certifies that this collection of information is consistent with the requirements of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3) and is not seeking an exemption to these certification requirements.

PART B. STATISTICAL METHODS

This collection of information does not involve the use of a survey or other statistical methods.