



Credit Union National Association

601 Pennsylvania Ave., NW | South Building, Suite 600 | Washington, DC 20004-2601 | PHONE: 202-638-5777 | FAX: 202-638-7734

cuna.org

September 6, 2013

Ms. Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: Appraisals for Higher-Priced Mortgage Loans – Supplemental Proposal;
Docket No: CFPB-2013-0020

Dear Ms. Jackson:

The Credit Union National Association (CUNA) appreciates the opportunity to submit comments regarding the joint supplemental proposal on appraisals for “Higher-Priced Mortgage Loans” (HPML). Specifically, the Consumer Financial Protection Bureau, National Credit Union Administration, Federal Reserve Board, Federal Deposit Insurance Corporation, Federal Housing Finance Agency, and the Office of the Comptroller of the Currency (referred to collectively as the agencies) issued a proposal to amend the final rule on appraisals under Regulation Z that the agencies adopted in January of this year. By way of background, CUNA is the country’s largest credit union trade organization, representing our nation’s state and federal credit unions, which serve nearly 97 million members.

CUNA’S VIEWS ON THE PROPOSED RULE

CUNA supports the agencies’ efforts to revisit the final rule on appraisals to determine whether additional exemptions from the appraisal requirements for HPMLs are appropriate.¹ As a result of definitional changes to HPMLs under the Dodd-Frank Act, more credit unions are covered by the rules necessary to implement such changes. While credit unions are typically not motivated to make these types of loans, more and more of them are becoming subject to the rules as a result of these changes. In light of that, additional regulatory relief is welcome for covered credit unions.

¹ Under the final rule, HPML is defined as a closed-end consumer credit transaction secured by the consumer’s principal dwelling where the annual percentage rate (APR) exceeds the average prime offer rate (APOR) by: 1.5 percentage points for a first-lien non-jumbo loan; 2.5 percentage points for a first-lien jumbo loan; or 3.5 percentage points for a junior-lien loan. 12 CFR 1026.35(a)(1).



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The proposed exemptions would be in addition to the final rule's existing exemptions for a transaction that is:

- A loan that is a "qualified mortgage" under the CFPB's ability to repay rule;
- A reverse mortgage transaction;
- A loan for initial construction of a dwelling;
- A temporary bridge loan (for 12 months or less);
- A loan secured by a new manufactured home; and
- A transaction secured by a mobile home, boat, or trailer.

The proposal would amend the final rule to allow exemptions from the HPML appraisal requirements for: (1) transactions secured by existing manufactured homes excluding land; (2) certain "streamlined" refinancings; and (3) transactions of \$25,000 or less.

We generally support each of the proposed exemptions. However, we urge other changes described below that would provide additional flexibility for creditors that make HPMLs.

Proposed Exemptions from Appraisal Requirements for Higher-Priced Mortgage Loans

Loans Secured Solely by Existing Manufactured Home and Not Land

In the final rule, the agencies exempted several classes of loans from the HPML appraisal rules, including transactions secured by a "new manufactured home." However, the final rule does not exempt transactions secured solely by an existing (used) manufactured home from the HPML appraisal requirements. The proposal would exempt transactions secured solely by an existing manufactured home excluding land from the HPML appraisal requirements.

We support the proposed exemption for loans secured solely by existing manufactured homes and do not believe these loans should be covered by the appraisal requirements for HPMLs. Further, we believe the increased costs of complying with the final rule's appraisal requirements could have a deterrent effect as applied to existing manufactured homes and not land. That is, the value of the existing manufactured home, while likely in excess of the proposed threshold amount discussed below, will often be much lower than that of other types of property, including new manufactured homes. For these reasons, we support the proposed exemption for loans secured solely by existing manufactured homes and not land.

Certain Refinancings

The proposal would also exempt from the HPML appraisal rules certain types of refinancings with characteristics common to products often referred to as "streamlined" refinances. Specifically, the proposal would exempt an extension of

credit that is a refinancing in which the owner or guarantor of the refinance loan is the current owner or guarantor of the existing obligation. In addition, the regular periodic payments under the refinance loan must not result in negative amortization, cover only interest on the loan, or result in a balloon payment. Finally, the proceeds from the refinance loan may be used solely to pay off the outstanding principal balance and to pay closing or settlement charges. Federal government agencies—HUD, VA, and USDA—as well as the GSEs have developed “streamlined” refinance programs to address consumer, creditor, and investor risks.²

CUNA supports the proposed exemptions for certain “streamlined” refinancings from the final rule’s appraisal requirements. We believe such exemptions will enable many consumers to refinance the balance such mortgages through an abbreviated application and underwriting process, which is consistent with the refinance programs noted above. In addition, eliminating the HPML appraisal requirement for “streamlined” refinancings will encourage creditors to offer such loans. These loans, like the government programs, would allow consumers with little or no equity in their homes, as well as consumers with significant equity in their homes, to restructure their mortgage debt, often at lower interest rates or payment amounts than under their existing loans.

Extensions of Credit for \$25,000 or Less

The proposal would also provide an exemption from the HPML appraisal rules for extensions of credit of \$25,000 or less, indexed every year for inflation.

CUNA supports a threshold exemption from the HPML appraisal requirements. We believe interior inspection appraisals on these loans would significantly raise total costs as a proportion of the loan. While we believe additional information is beneficial to the consumer, for such small dollar loans, the increased cost could outweigh the additional information to the consumer. We believe a threshold above \$25,000 is more appropriate and would provide greater relief to creditors that make HPMLs. We urge the agencies to raise the exempt threshold to cover credit extensions of up to \$50,000.

Proposed Definition of “Business Day”

The term “business day” is used in two requirements of the final rule, both pertaining to the timing of disclosure provided to the consumer-applicant. The proposal would define “business day” in the final rule to mean “all calendar days except Sundays and the legal public holidays specified in 5 U.S.C. 6103(a), such as New Year’s Day, Martin Luther King Day, Washington’s Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving, and Christmas Day.”

² Under existing GSE “streamlined” refinance programs, Freddie Mac and Fannie Mae purchase and guarantee “streamlined” refinance loans for consumers under HARP (whose existing loans have loan-to-value ratios (LTVs) over 80%) as well as for consumers whose existing loans have LTVs at or below 80%.

We support the proposed changes to the definition of “business day.” We agree that the proposed definition would provide for consistency with disclosure timing requirements under both the existing Regulation Z mortgage disclosure timing requirements and the CFPB’s proposed rules for combined mortgage disclosures under TILA and RESPA.

Proposed Effective Date

We support the proposed effective date of January 18, 2014. However, we urge more time for compliance with the entire rule, of up to six months, to facilitate the efforts of covered credit unions, as well as the appraisers utilized by those credit unions, to implement changes required under the rule.

Thank you for the opportunity to express our views on the agencies joint proposal to provide additional exemptions from the final rule’s appraisal requirements for HPMLs. If you have any questions about our comments, please do not hesitate to contact CUNA Deputy General Counsel Mary Dunn or me at (202) 508-6743.

Sincerely,



Luke Martone
Senior Assistant General Counsel