BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

DIVISION OF CONSUMER AND COMMUNITY AFFAIRS

DATE:	December 6, 2013
TO:	Dodd Frank Meetings Docket
FROM:	Federal Reserve Board Staff
SUBJECT:	Docket No. R–1443 - Appraisals for Higher-Priced Mortgage Loans, Supplemental Proposal (12 CFR 226.43)

The Dodd Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) amended the Truth in Lending Act (TILA) to establish special appraisal requirements for higher-priced mortgage loans (HPMLs).[1] The Dodd-Frank Act required six federal agencies to prescribe rules implementing these provisions jointly: the Federal Reserve Board (Board), the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), the Federal Housing Finance Agency (FHFA), and the Consumer Financial Protection Bureau (Bureau) (together, the Agencies).

Specifically, new TILA section 129H mandates, among other requirements, that, for an HPML, a certified or licensed appraiser must perform an appraisal that includes a physical inspection of the property's interior. The Agencies issued final rules to implement these requirements in January 2013 (January 2013 Final Rule). 78 Fed. Reg. 10368 (Feb. 13, 2013).

Exemptions. The Dodd-Frank Act exempts "qualified mortgages" (as defined in regulations issued by the Bureau, *see* 12 CFR 1026.43) and open-end home equity lines of credit from the HPML appraisal requirements.[2] The Act grants the Agencies authority to exempt other transactions if the Agencies believe that the exemption is in the public interest and promotes creditors' safety and soundness.[3] The Agencies used this authority in the January 2013 Final

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[1] Public Law 111-203, 124 Stat. 1376, section 1471; TILA section 129H, 15 U.S.C. 1639h. *See also* 12 CFR 226.43(a)(3) (Board) and 1026.35(a) (Bureau) (defining "higher-priced mortgage loan").

[2] TILA section 129H(f), 15 U.S.C. 1639h(f) (cross-referencing TILA section 129C, 15 U.S.C. 1639c, which defines "qualified mortgage" and confers authority to prescribe regulations further defining "qualified mortgage" on the Consumer Financial Protection Bureau, the U.S. Department of Housing and Urban Development, the U.S. Department of Veterans Affairs, the U.S. Department of Agriculture, and the Rural Housing Service).

[3] TILA section 129H(b)(4)(B), 15 U.S.C. 1639h(b)(4)(B).

Rule to exempt reverse mortgages, temporary construction loans, bridge loans of 12 months or less connected with a home purchase, and loans secured by mobile homes, boats, trailers, or new manufactured homes.

Supplemental Proposal. The preamble to the January 2013 Final Rule stated that the Agencies would consider exemptions for three additional types of transactions that commenters requested the Agencies consider: (1) small dollar loans; (2) streamlined refinance loans; and (3) loans secured by "existing" (used) manufactured homes.

In July 2013, the Agencies issued a supplemental proposal to exempt these transactions from the HPML appraisal requirements (2013 Supplemental Proposal). 78 FR 48548 (Aug. 8, 2013). The Supplemental Proposal sought comment on whether any of these exemptions should be conditioned on the creditor meeting an alternative standard to estimate the value of the property securing the transaction and providing that information to the consumer. Comment was also sought on the appropriate scope of, and possible conditions on, the existing exemption for loans secured by new manufactured homes.

Public Outreach. To inform the Agencies in drafting the 2013 Final Rule and the proposal that preceded it, 77 Fed. Reg. 54722 (Sept. 5, 2012) (2012 Proposed Rule), the Agencies conducted a series of public outreach meetings in January and February of 2012. A comprehensive summary of these meetings is available at http://www.federalreserve.gov/newsevents/rr-commpublic/industry_meetings_20120210.pdf.

In addition to reviewing public comments on the 2012 Proposed Rule, staff of the Board separately and with other Agencies conducted additional public outreach during the period from April to October of 2013. A summary of additional outreach meetings in which Board staff participated is below.[4]

April 19, 2013

Participants: Lorna Neill (Board)

Alys Cohen (National Consumer Law Center)

Summary: The representative for National Consumer Law Center focused on concerns about consumer protection related to possible exemptions from the HPML appraisal rules for small loans and refinance loans. For example, the representative expressed concerns about consumers not having appraisals on small loans because these appraisals might raise their loan-to-value ratio to high levels and they might be needed for low-value home purchases. The representative also suggested that appraisals for refinance loans could help uncover appraisal fraud on the earlier home purchase transaction.

[4] During this period, staff from the Bureau had separate communications with some members of the public regarding this rulemaking. Only meetings in which Board staff participated are summarized in this memorandum.

April 30, 2013

Participants: Kara Handzlik and Lorna Neill (Board); Owen Bonheimer, Jocelyn Chandler, and William Matchneer (Bureau); Charlotte Bahin (OCC)

John Van Alst (National Consumer Law Center)

Summary: The representative for the National Consumer Law Center expressed views about the limitations on obtaining accurate valuations of manufactured homes based on a variety of existing methods for valuing manufactured homes. The representative also discussed various factors that can affect the value of a manufactured home.

May 1, 2013 (email)

Participants: Carmen Holly (Board)

John Brenan (Appraisal Foundation)

Summary: The representative for Appraisal Foundation explained the methodologies associated with appraising manufactured homes as personal property and real property and expressed his understanding of the rationale behind different valuation practices.

May 2, 2013

Participants: Carmen Holly and Lorna Neill (Board); Owen Bonheimer, Jocelyn Chandler, and William Matchneer (Bureau); Pamela Yu (NCUA); Charlotte Bahin, Robert Parson, and Mitch Plave (OCC); Suzy Gardner and Benjamin Gibbs (FDIC); Ming-Yuen Meyer-Fong (FHFA)

Jo Ann Meyer Stratton (Independent Appraiser)

Summary: Ms. Stratton conducts manufactured home appraisals in rural areas, and expressed support for requiring appraisals of manufactured homes. Ms. Stratton shared information about appraisal issues in manufactured home lending, explained the various methods of appraising manufactured homes, and responded to questions about challenges in appraising manufactured homes, especially in rural areas. She expressed the view that finding appropriate comparables and competent appraisers is not generally a major barrier.

May 6, 2013

Participants: Kara Handzlik, Carmen Holly, and Lorna Neill (Board); Owen Bonheimer, Jocelyn Chandler, William Matchneer, and Anthony Romano (Bureau); John Brolin, Vin Vieten, and Pamela Yu (NCUA); Charlotte Bahin, Carolyn

Engelhardt, and Kevin Lawton (OCC); Sandra Barker and Benjamin Gibbs (FDIC); Ming-Yuen Meyer-Fong (FHFA)

Doug Ryan, Robin LeBaron, and Howard Banker (Fair Mortgage Collaborative)

Summary: Representatives of the Fair Mortgage Collaborative provided information related to appraising manufactured homes, including the advantages and disadvantages of current valuation practices. They elaborated on findings in their publications: Robin LeBaron, FAIR MORTGAGE COLLABORATIVE, Real Homes, Real Value: Challenges, Issues and Recommendations Concerning Real Property Appraisals of Manufactured Homes (Dec. 2012), available at http://cfed.org/assets/pdfs/Appraising_Manufacture_Housing.pdf and Howard Baker and Robin LeBaron, FAIR MORTGAGE COLLABORATIVE, Toward a Sustainable and Responsible Expansion of Affordable Mortgages for Manufactured Homes (March 2013), available at http://cfed.org/assets/pdfs/IM_HOME_Loan_Data_Collection_Project_Report.pdf.

May 16, 2013

Participants: Kara Handzlik (Board); Owen Bonheimer, Jocelyn Chandler, and William Matchneer (Bureau); Sandra Barker, Suzy Gardner, and Benjamin Gibbs (FDIC); Susan Cooper and Ming-Yuen Meyer-Fong (FHFA)

Robert Murphy (Fannie Mae)

Summary: The Fannie Mae representative discussed different manufactured home appraisal methods and their associated costs and provided background on Fannie Mae Selling Guide requirements related to manufactured homes.

May 23, 2013

Participants: Kara Handzlik, Carmen Holly, and Lorna Neill (Board); Owen Bonheimer, Jocelyn Chandler, and William Matchneer (Bureau); John Brolin and Vincent Vieten (NCUA); Charlotte Bahin and Robert Parson (OCC); Sandra Barker, Suzy Gardner, Benjamin Gibbs, and Kimberly Stock (FDIC); Charlotte Bahin, Krista LaBelle, Kevin Lawton, Robert Parson, and Mitch Plave (FHFA)

Jennifer Hopkins (New Hampshire Community Loan Fund)

Summary: The representative of New Hampshire Community Loan Fund provided information on current valuation practices for manufactured home loans, the challenges that may arise, and the costs associated with these practices. She indicated that her organization regularly obtains appraisals for new and used manufactured homes with land, and that finding competent appraisers and appropriate comparables has not been a hindrance in their manufactured home financing programs.

May 23, 2013

Participants: Lorna Neill (Board)

Dan Rinzema (DataComp)

Summary: The representative for DataComp, a manufactured home appraisal provider, shared information about valuation methods and related issues in manufactured home lending. The provider explained valuation methods using comparable sales that DataComp uses to assess manufactured home values and the uses lenders make of DataComp appraisals.

May 29, 2013

Participants: Lorna Neill (Board)

Sherrie Clevenger (National Association of Automobile Dealers (NADA))

Summary: The representative of NADA, a manufactured home cost service provider, shared information about appraisal and related issues in manufactured home lending, including an explanation of the cost guide products offered by NADA for manufactured home and how they are used.

June 4, 2013

Participants: Lorna Neill (Board)

Ron Haynie (Independent Community Bankers of America)

Summary: The community bank representative shared information about appraisals and related issues in manufactured home lending for community banks, including the extent and type of manufactured home lending engaged in by community banks (*e.g.*, chattel, real property, government-backed, held in portfolio).

August 13, 2013

Participants: Mandie Aubrey and Lorna Neill (Board)

Ann Grochala (Independent Community Bankers of America)

Summary: The representative for Independent Community Bankers of America identified areas of greater concentrations of manufactured home lending by community banks and discussed possible sources for information about manufactured home list price data and manufactured home valuation practices among rural lenders.

August 21, 2013

Participants: Lorna Neill (Board)

Jason Boehlert (Manufactured Housing Institute)

Summary: The representative of Manufactured Housing Institute, a manufactured home trade association, discussed data regarding manufactured home lending (indicating, for example, that 60 percent of all manufactured home loans are originated by five or six lending institutions, and that most manufactured home loans are non-government-insured). The representative responded to questions about new manufactured home financing arrangements and mentioned factors on which creditors determine the valuation method to be used. The representative discussed resources for obtaining more information about manufactured home lending in rural areas and among community banks.

September 4, 2013

Participants: Mandie Aubrey , Kara Handzlik, and Lorna Neill (Board); Benjamin Gibbs, Suzy Gardner, and Sandra Barker (FDIC); Charlotte Bahin and Kevin Lawton (OCC); Robert Witt (FHFA), Owen Bonheimer and Jocelyn Chandler (Bureau)

Barry Noffsinger, Jennifer Rose, and Jamie Glazowski (CU Factory Built of San Antonio Credit Union), Danielle Howard (Triad Financial Services, Inc. (Triad))

Summary: The manufactured home lender representatives discussed their respective valuation practices for new and used manufactured homes, with and without land. For example, the CU Factory Built representatives indicated that CU Factory Built generally obtains appraisals with interior inspections for loans secured by new manufactured homes plus land and does not close the loan and disburse funds until the home is sited. These representatives indicated that appraiser availability is not an issue. The Triad representative indicated that it uses a different valuation method for loans secured by new manufactured homes plus land, based on a percentage mark-up of the manufacturer’s invoice and a separate appraisal of the site. This representative expressed concerns about the added costs of an interior inspection requirement for new manufactured homes. Representatives for both lenders indicated that they generally conduct full appraisals for loans secured by used homes and land. The representatives also responded to questions regarding their geographic reach, the disposition of their loans, portfolio performance, closing costs, valuation costs, mark-ups, and the use of third-party valuation vendors. For example, the Triad representative indicated that Triad does not use third-party cost service values for new homes, but does so for used homes.

October 1, 2013

Participants: Lorna Neill (Board)

Rebecca Peace (Pennsylvania Housing Finance Agency)

Summary: The Pennsylvania Housing Finance Agency (PHFA) representative responded to questions seeking clarification regarding the PHFA's public comment letter on the 2013 Supplemental Proposal. The PHFA representative clarified concerns about the proposed requirement that, for a refinance to be exempt from the HPML appraisal rules, the existing obligation and the refinance must have the "same guarantor." The representative explained the practical implications of this proposed requirement on their loan programs.