Housing Assistance Council
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September 9, 2013

Mr. Robert deV. Frierson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW Washington, DC 20551

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

Mr. Robert E. Feldman
Executive Secretary
Attention: Comments/Legal ESS
Federal Deposit Insurance Corporation
550 1ihStreet, NW Washington, DC 20429

Mr. Alfred M. Pollard
General Counsel
Federal Housing Finance Agency
Eighth Floor
400 Seventh Street, SW Washington, DC 20024

Ms. Mary Rupp Secretary of the Board Attention:
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

Office of the Comptroller of the Currency
Attention: Docket ID OCC-2013-0009
400 H Street, SW Suite 3E-218
Mail Stop 9W-218
Washington, DC 20219

Re: Appraisals for Higher Priced Mortgage Loans – Supplemental Proposal

(Submitted via http://www.regulations.gov and emailed to RegComments@fhfa.gov)

Dear Agencies:

The Housing Assistance Council (HAC) respectfully submits reply comments to The Federal Reserve Board, The Consumer Financial Protection Bureau, The Federal Deposit Insurance Corporation, The Federal Housing Finance Agency, The National Credit Union Administration, and The Office of the Comptroller of the Currency in response to an August 8th, 2013 Federal Register Notice requesting comments on Appraisals for Higher-Priced Mortgage Loans Supplemental Proposal FRB Docket No. R-1443, CFPB Docket No. CFPB-2013-0020, FDIC Truth in Lending Act (Regulation Z), FHFA (RIN) 2590-AA58, NCUA RIN 3133-AE21, OCC Docket ID OCC-2013-0009, 78 Fed. Reg. 48548.

HAC is a national nonprofit organization that has supported affordable housing efforts in rural areas of the United States since 1971. With more than 40 years of experience supporting and developing affordable housing across rural America, the Housing Assistance Council is uniquely positioned to comment on the provision of rural affordable housing finance.

This proposed rule is intended to amend Regulation Z, which implements the Truth In Lending Act (TILA). TILA requires creditors to disclose the costs and terms of credit to enable consumers to compare credit terms and shop for loans. Additional disclosures are required for loans secured by consumers' homes. The Dodd-Frank Wall Street Reform and Consumer Protection Act requires appraisals for "higher risk mortgages." An earlier rule implemented this requirement for certain mortgage loans with higher interest rates which were labeled as higher priced mortgage loans (HPML). The rule requires creditors to obtain at least one appraisal (more than one under certain circumstances) that meets specified standards and to provide a copy (at no charge) of that appraisal to the applicants. This rule proposes several exemptions to the requirement to obtain an appraisal. The discussion section of the proposed rule also looks at existing requirements for appraisals on HPMLs and asks whether some of these should be modified.

Within the Notice, the Agencies solicited responses to 52 questions. Rather than address each question individually, HAC's response speaks to our concerns regarding the impact of this rule on low- and moderate-income rural residents.

Many of the questions posed in the Notice directly involve, or are related to, issues with manufactured housing. Manufactured housing is an important source of housing for millions of Americans, especially those with lower incomes, and in rural areas. There are approximately 7 million occupied manufactured homes in the U.S., comprising about 7 percent of the nation's housing stock. More than half of all manufactured homes are located in rural areas, making this form of housing especially important to rural America.

Over the past few decades the physical and structural attributes of manufactured housing have improved substantially. But important elements related to the sale, finance, appraisal, and placement of this type of housing have not progressed as well. Today the majority of manufactured homes are still financed with personal property, or 'chattel,' loans. With shorter terms and higher interest rates, personal property loans are generally less beneficial for the consumer than more conventional mortgage financing. These finance issues are often exacerbated by the sales system commonly used for manufactured homes. Manufactured homes are typically sold at retail sales centers where salespersons or 'dealers' receive commissions. In some cases, dealers resort to high-pressure sales tactics or unscrupulous lending practices trapping consumers into unaffordable loans.

We agree with a number of other entities that it is in the best interest of owners, buyers, manufacturers, lenders and retailers of manufactured homes to integrate manufactured housing, to the extent practicable, into the larger housing market in the United States.

We urge that any exemptions or exceptions from appraisal requirements , now or in the future, be narrowly crafted and avoid incentivizing lenders, dealers, or others to take steps that are not in the best interests of homeowners, buyers, or the larger manufactured home marketplace. In particular, it is important to avoid rules which would incentivize manufactured home dealers to steer consumers to title homes as personal property or to give dealers and lenders disincentives to treat manufactured homes as real estate.

Current rules exempt new manufactured home transactions from HPML appraisal requirements and the Notice proposes to add an exemption for existing manufactured homes without land. HAC recommends that only manufactured home transactions without land should be exempted from HPML appraisal requirements.

Additionally, it is not clear whether the terminology of a loan being secured by a home and not land excludes consideration of a home situated on land under a long term leasehold interest. Homes on properties with a long term lease can and should be valued commensurate with the terms of the lease.

Creditor concerns were discussed in the Notice regarding the ability to undertake appraisal requirements for new manufactured homes which have yet to be sited. USPAP procedures for appraising site built homes based on plans and specifications already exist. The appraisal is based on a site visit by the appraiser and the proposed home to be built based on plans and specifications. When construction is complete, the appraiser or a qualified inspector confirms whether the finished home meets the same specifications. Similar procedures are possible for manufactured homes.

Consumers entering into higher priced loans secured by their primary residence should have as much information as possible including an estimate of the values of their home. Exemptions that already exist should be eliminated. Manufactured homes, affixed to owned land or on land with a long term lease -- whether new or existing - should be appraised as real estate regardless of individual State property classifications.

For all other manufactured home HPMLs, consumers should have as much information as possible. As stated in the Notice, manufactured home lenders typically rely upon the manufacturer's invoice for the new home for valuation purposes. This should be provided to the consumer and can be done at little or no cost. As in the automobile industry, the dealer invoice may omit manufacturer incentives and rebates and therefore may not represent the actual cost paid by the dealer. Creditors should also be required to obtain replacement cost estimates performed by a trained, independent appraiser from a nationally published cost service as discussed in the Notice and provide this information to the consumer. Although some parties have expressed concern about the utility of third party estimate, we believe that consumers will be better informed with more information.

The Notice also proposes an exemption from the appraisal requirement for "streamlined refinance" which is typically a transaction between an existing creditor and consumer. "Streamlined refinance" loans are designed to quickly alter the terms of an existing loan and minimize the costs in doing so with the intent of reducing risk to both consumer and creditor. It should not be assumed that this is the result of a streamlined transaction. Any "streamlined refinance" that results in higher payments, higher interest rates or longer loan terms for the consumer should not be exempt from valuation requirements. Only transactions that clearly lower the consumer's risk should be exempt. Transactions that involve loans that have previously been refinanced should not be exempt to prevent an accumulation of high fees from eroding the consumer's equity.

The Agencies are also proposing an exemption from the HPML appraisal rules for extensions of credit of $25,000 or less, indexed every year for inflation. This would allow smaller loans, whether loans for purchase, refinance, or home equity purposes to be made without the higher relative expense of an appraisal. These smaller loans may be subject to an existing first mortgage loan which could jeopardize the consumer's equity. Based on 2011 HMDA data, nearly 43 percent of all high cost home loans of $25,000 or less were made in small towns and rural areas. These same areas accounted for over 50 percent of the loans on manufactured homes. As with "streamlined refinance," HAC recommends that creditors should also be required to obtain replacement cost estimates performed by a trained, independent appraiser from a nationally published cost service and provide this information to the consumer.

HAC applauds the Agencies for seeking further information on the accuracy and validity of alternative valuations developed from local market comparable sales. Providing creditors with more than one option for obtaining an alternative valuation would provide flexibility in choosing the most appropriate option for the transaction. This information may not be perfect, but would serve as a useful indicator to better inform consumers. Creditors should be required to use at least one of these alternative methods and provide the information to the consumer as a condition of any exemption from the HPML appraisal requirements. At a minimum, creditors must be required to provide to the consumer any valuation used to determine the security for the loan.

HAC is pleased to have this opportunity to provide comments on the ATR proposed rule. Please do not hesitate to contact me if you need additional information or clarification of our comments.

Sincerely,

Moises Loza
Executive Director