

June 19, 2018

The Honorable Mick Mulvaney  
Director  
Consumer Financial Protection Bureau  
1700 G. Street NW  
Washington, DC 20552

**Re: Docket No. CFPB-2018-0011 - Request for Information Regarding the Bureau's Adopted Regulations and New Rulemaking Authorities**

Dear Director Mulvaney:

On behalf of the 18,000 members of the largest organization of professional appraisers, thank you for the opportunity to assist the Consumer Financial Protection Bureau (CFPB) in considering whether it should amend any rules it has issued since its creation or issue rules under new rulemaking authority provided for by the Dodd-Frank Act. We respectfully submit the following for review:

**Zero-Tolerance Appraisal Fees**

Our first request involves the TILA/RESPA "Integrated Disclosures" Rule (TRID). TRID requires the "estimated value of property" to be included by the homebuyer to the lender for the loan application to be complete. When it is complete, the lender has 3 business days to provide the homebuyer the loan estimate document. What concerns appraisers is the appraisal fee is considered a charge the homebuyer cannot shop for, subject to a zero-tolerance regime imposed in 2015. Prior to this, appraisal charges had a 10 percent tolerance. This rule forces appraisal service providers to provide estimates on assignments "sight-unseen" and without understanding the complexity of the assignment. Often, when an appraiser receives an assignment, the appraiser does not know the complexity of the property, so the fee proposed to be paid can be much lower than what the property typically calls for, and the appraiser has no recourse.

This rule creates problems for lenders, who are forced to impose strict rules and fee schedules with appraisal service providers. Lenders no longer want "quotes," since it takes time to obtain them as they have to make the disclosure so quickly to the applicant, and because they do not want to be in the position of having to re-disclose or "eat the fee" if an appraisal fee comes back after the assignment higher than disclosed. Therefore, they ask that a fee schedule be agreed to in advance and without consideration of the complexity of the individual assignment to avoid a second disclosure.

The ability of appraisers to quote/invoice based on the complexity of a specific property/assignment, without penalties to the lender or consumer would provide fairness both to consumers in what they pay for an appraisal and in the professional fees paid to the appraiser based on the complexity of the property.

**Appraisal Independence**

Lastly, the Appraisal Institute requests the CFPB reviews the Interim Final Rule amending Regulation Z of the Truth in Lending Act addressing appraisal independence published by the Federal Reserve in 2010 as the first rule from the Dodd-Frank Act ("DFA"). The rule, carried forward by the CFPB, continues to harm consumers and the integrity of the appraisal process. The rule contains two conflicting presumptions of compliance, creating two inconsistent standards in the marketplace. One presumption recognizes independent studies or government

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agency fee schedules that exclude assignments involving known appraisal management companies, while the other presumption (Presumption 1) explicitly allows it.<sup>1</sup> The inconsistent standards result in wide divergence from customary and reasonable fees. In the end, consumers, users of appraisal services, and appraisers themselves would all benefit from a consistent federal standard that is unswerving with the spirit and intent of appraisal independence. We respectfully request the CFPB undertake a review of Regulation Z and the two presumptions of compliance and commence a rulemaking to establish a single consistent federal standard conducted by the agency.

Thank you in advance for your consideration. We would be happy to meet with you to discuss these concerns in person. Please contact Bill Garber, Director of Government and External Relations at 202-298-5586 or [bgarber@appraisalinstitute.org](mailto:bgarber@appraisalinstitute.org) or Brian Rodgers, Manager of Federal Affairs at 202-298-5597 or [brodgers@appraisalinstitute.org](mailto:brodgers@appraisalinstitute.org) to arrange a meeting or for any additional information.

Sincerely,

Appraisal Institute

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<sup>1</sup> 15 U.S. Code § 1639e requires – “Lenders and their agents shall compensate fee appraisers at a rate that is customary and reasonable for appraisal services performed in the market area of the property being appraised. Evidence for such fees may be established by objective third-party information, such as government agency fee schedules, academic studies, and independent private sector surveys. Fee studies shall exclude assignments ordered by known appraisal management companies.”