

From: IMAAG, Bill Kidwell  
Subject: Regulation Z -- Truth in Lending

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Comments:

From: "Bill Kidwell"  
IMMAAG - Follow Up on Appraisal Independence Interim Rules

Ms. Ryan:

There are three very important questions on the minds of IMMAAG users and subscribers: 1) will mortgage brokers be specifically allowed to order appraisals and participate directly in the appraisal process, 2) will appraisal transportability be addressed in some way to make sure that the appraisal is available to serve the needs of multiple potential lenders and 3) what does the HVCC sunset imply to the process.

Answers to those questions appear to require regulatory guidance. However, as I read the language in the bill, it appears that the interim final rule prescribed under Section 1472 (a)(2)(g) is meant to be extremely narrow:

"to prescribe interim final regulations no later than 90 days after the date of enactment of this section defining with specificity acts or practices that violate appraisal independence in the provision of mortgage lending services for a consumer credit transaction secured by the principal dwelling of the consumer or mortgage brokerage services for such a transaction and defining any terms in this section or such regulations."

And, the bill in Section 1472 (a) enumerates acts or practices for which it requires regulatory definition.

"(b) APPRAISAL INDEPENDENCE.-For purposes of subsection (a), acts or practices that violate appraisal independence shall include-

(1) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person, appraisal management company, firm, or other entity conducting or involved in an appraisal, or attempts, to compensate, coerce, extort, collude, instruct, induce, bribe, or intimidate such a person, for the purpose of causing the appraised value assigned, under the appraisal, to the property to be based on any factor other than the independent judgment of the appraiser;

(2) mischaracterizing, or suborning any mischaracterization of, the appraised value of the property securing the extension of the credit;

(3) seeking to influence an appraiser or otherwise to encourage a targeted value in order to facilitate the making or pricing of the transaction; and

(4) withholding or threatening to withhold timely payment for an appraisal report or for appraisal services rendered when the appraisal report or services are provided for in accordance with the contract between the parties.

(c) EXCEPTIONS.-The requirements of subsection (b) shall not be construed as prohibiting a mortgage lender, mortgage broker, mortgage banker, real estate broker,

appraisal management company, employee of an appraisal management company, consumer, or any other person with an interest in a real estate transaction from asking an appraiser to undertake 1 or more of the following:

- (1) Consider additional, appropriate property information, including the consideration of additional comparable properties to make or support an appraisal.
- (2) Provide further detail, substantiation, or explanation for the appraiser's value conclusion.
- (3) Correct errors in the appraisal report."

It strikes me that the questions that our users want to see addressed are beyond the scope of the regulatory mandate in Section 1472(a)(g)(2). Is it fair to assume that the Board will limit its interim final rule to the subject matter delineated in the bill, i.e. definitions of acts or practices that violate appraisal independence?

If the interim final rule is limited in scope to the definitions of prohibited acts and practices, IMMAAG suggests that the Board could clarify the impact of the HVCC Sunset in Section 1472 (a)(j) by a simple statement that the sunset returns the appraisal ordering and operational processes to those which existed prior to the implementation of the policy as long as those practices are consistent with Subtitle F and the interim final rule.

If the Board intends to take a broader approach to the rule making, we ask that the Board consider returning the mortgage broker to the appraisal ordering process and that the issue of appraisal portability be addressed to clarify the expectation that the appraisal may be used by multiple end users as required by the lending process.

I hope we have a chance to discuss this prior to the publishing of the rule.

Thank you,

Bill Kidwell  
IMMAAG