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Subject: Regulation Z -- Truth in Lending

Comments:

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Proposal: Regulation Z - Truth In Lending Act
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December 27, 2010 Chairman Ben S. Bernanke Board of Governors of the Federal Reserve System 20th Street and Constitution Avenue, Northwest Washington, DC 20551 Re: Docket R-1394, Regulation Z - Interim Final Rule on Appraisal Independence Dear Chairman Bernanke: As an appraisal management company (AMC) managing a network of 10,000 fee appraisers, we have serviced lenders and relocation companies nationwide for over 30 years. Dwellworks supports the Board's assertion that real estate appraisers must be free to use their independent professional judgment in assigning home values without influence or pressure from those with interest in the transactions. Further, those appraisers should be paid "customary and reasonable" fees and that the free market should determine these fees. We want to offer our comments on the following: Independence Standards We agree with the intention of the independence standards defined by the Act and believe further clarification on three items would strengthen that independence. We seek clarification that supplying an appraiser with a copy of the home purchase contract is not considered "inducing" the appraiser to not use independent judgment in violation of TILA. With regard to AMCs that also provide title insurance and real estate settlement services, we believe that there is potential for a conflict of interest to exist. The interim final rule needs to clarify the necessary guidelines to ensure safeguards are in place. With regard to AMCs that are affiliated with a creditor, we believe that there is potential for a conflict of interest to exist. We believe the appraisal function cannot truly be considered independent when it is under the same "house". We recommend that if these arrangements are allowed, the interim final rule needs to clarify the necessary guidelines to ensure stronger safeguards are in place. Customary and Reasonable Compensation We agree with the Board's interpretation of the statutory language of TILA Section 129E(i) that the marketplace should be the primary determiner of the value of appraisal services and what is considered the customary and reasonable rate of compensation for fee appraisers. We also agree with the defined

presumptions of compliance as stated by § 226.42(f)(2) and § 226.42(f)(3). Although recommended in the interim final rule, we do not believe that the Veterans Administration (VA) fee schedule is an appropriate measure for "customary and reasonable" as it does not consider the cost of managing the appraisal process. We believe this fee schedule is specific to VA appraisals and is not meant to be customary and reasonable, but rather, serves as a benchmark for the highest rate that can be charged. We recommend a federally sponsored fee study be performed to alleviate the complexity of this rule and to assist the creditors in setting the fee schedules that AMCs could be mandated to follow. This would reduce or even eliminate the practice of cost cutting by the

AMCs at the expense of appraisers' fees, and further serve to enhance the quality of the reports and service delivery as the key value propositions that differentiate AMCs against their competitors. We believe the appraiser fee and the fee charged by the AMC should be transparent and reported separately for full disclosure to the borrower and the creditor. This would ensure that the AMCs are charging a fair and appropriate fee for their services to the creditor, and to ensure that the AMCs are paying a "customary and reasonable" fee to the appraiser. Further, by reporting the two fees separately, it will be easier to monitor compliance and to report violations. Registration Fees and How to Fund the Provisions of the Dodd-Frank Act The ASC deserves the industry's full support as they continue their oversight role and take on expanded responsibility for regulatory enforcement of the appraisal provisions of Dodd-Frank. We understand and support the need to provide proper funding to the

ASC to perform its responsibilities. As the provision is currently structured, AMCs will pay a registry fee of \$25 (perhaps as much as \$80) for each appraiser on their panel. We believe this methodology unfairly provides a competitive advantage to the larger AMCs and has the potential to be detrimental to appraisers. Specifically, we believe the proposed appraiser registration fee structure has the potential to: Limit the opportunities of small appraiser firms and sole proprietors in the market. To reduce their registration expense, AMCs will reduce the number of appraisers to include in their network. Cost appraisers additional fees as many AMCs will likely pass-through this registration expense to their appraiser network. Drive smaller AMCs out of business as smaller AMCs will realize lower margins as they will have a larger expense burden on a per transaction basis. In the long run, this will ultimately reduce the unding available for the ASC. Further, this would have

the effect of concentrating further power and leverage in the largest AMC providers. Cost the consumer additional money in the end as the progression of cost flows downstream; and Be difficult to administer and monitor compliance. As an alternative, we believe a "pay as you go" fee per appraisal is a logical alternative. Simply, AMCs would report their monthly volume and pay a fee per appraisal to fund the ASC's efforts. This method would: Not limit an appraiser's opportunities by affording participation in as many AMC networks as they qualify for and desire, without concern for membership fees; Level the playing field for all AMC participants. The smaller and middle-tier companies will not be paying a disproportionate share of the regulatory costs relative to their revenues in this structure; Provide transparency of the costs to run the ASC and spread those costs over the appraisals completed. Annual resets would ensure that the ASC could operate a balanced budget and provide the support articulated above; and Be simple and auditable. Registered AMCs would report volume monthly and remit payment (e.g. \$2/report). Non-compliance and/or misstatement of volume would result in suspension or revocation of license to operate as an AMC. The need to support and fund the

ASC's efforts is indisputable. Estimates of the combined cost of state licensing and ASC registration run as high as \$500,000 per year for the typical AMC. We believe a method that is proportionate to the volume of business an AMC will process is a sensible and fair approach. We very much appreciate the importance of this reform and thank you for considering our comments.
Sincerely, Robert J. Rosing President and CEO Dwellworks, LLC