

September 09, 2013

National Credit Union Administration  
Gerald Poliquin, Secretary of the Board  
1775 Duke Street  
Alexandria, VA 22314-3428

RE: Comments on Appraisals for Higher-Priced Mortgage Loans - Supplemental Proposal

Dear Gerald Poliquin,

Re:RIN 3133-AE21

I am writing on behalf of the California and Nevada Credit Union Leagues (Leagues), the largest state trade association for credit unions in the United States, representing the interests of more than 400 credit unions and their 10 million member-consumers.

The National Credit Union Administration (NCUA) and five other federal agencies (Agencies) issued a supplemental proposal to amend Regulation Z as it relates to appraisals for "Higher-Priced Mortgage Loans (HPMLs)." The proposal would amend the Regulation Z Final Rule that is effective January 18, 2014. The Leagues welcome the opportunity to provide comments to the NCUA regarding the joint supplemental proposal.

The proposal would amend the Final Rule to allow exemptions for: (1) transactions secured by existing manufactured homes and not land, (2) certain "streamlined" refinancings, and (3) transactions of \$25,000 or less. The Agencies also propose to amend the definition of "business day." The Leagues generally support the proposed amendments and we ask the Agencies to consider the following comments.

#### **Proposed Changes to Exempt Transactions**

For HPMLs the Final Rule requires lenders to obtain a written appraisal performed by a "certified or licensed appraiser" who conducts a physical visit of the interior of the property, provide applicants with a notice regarding use of appraisals, and give applicants a copy of the appraisals used. The Final Rule currently exempts the following types of transactions from the appraisal requirements for HPMLs:

- A loan that is a "qualified mortgage" under the CFPB's ability to repay rule;
- Transactions secured by a new manufactured home;
- Transactions secured by a mobile home, boat, or trailer;
- Transactions to finance initial construction of a dwelling;
- Temporary bridge loans (12 months or less); and
- Reverse mortgage loans.

### Loans Secured Solely by Existing Manufactured Homes and Not Land (1026.35(c)(2)(ii)(B))

As noted above, transactions secured by a “new manufactured home” are exempted in the Final Rule. However, the Final Rule does not exempt transactions secured solely by an existing (used) manufactured home and not land. Under the proposal, transactions secured solely by an existing manufactured home and not land would be exempt from the HPML appraisal requirements, regardless of whether the home is titled as realty by operation of state law.

The Leagues support the proposed exemption for loans secured solely by existing manufactured homes and not land. We believe the current valuation methods for these loans are sufficient, provide lenders with reasonably accurate information to ensure a safe and sound loan, and saves costs for consumers. An exemption for these loans will support continued consumer access to HPML financing for existing manufactured homes – a vital source of affordable housing.

### Certain Refinancings (1026.35(c)(2)(vii))

The proposal would also exempt from the HPML appraisal rules certain types of refinancings often referred to as “streamlined” refinances. Specifically, the proposal would exempt an extension of credit that is a refinancing when:

1. The owner or guarantor of the refinance loan is the current owner or guarantor of the existing loan;
2. The periodic payments under the refinance loan must not: (a) result in negative amortization, (b) cover interest only, or (c) result in a balloon payment; and
3. The proceeds from the refinance may only be used to pay off the existing loan and any closing or settlement charges.

The Leagues whole-heartedly support the proposed exemption for streamlined refinances for the following reasons. First, streamlined refinances do no increase the indebtedness of the borrower nor change the collateral security for the lender. Second, federal government agencies, HUD, VA, and USDA, do not require appraisals under their “streamlined” refinance programs. The GSEs do not require appraisals when they are confident in an estimate of value under their streamlined refinance programs. Third, these “streamlined” refinancing programs reduce the risk of foreclosures and help borrowers better afford their mortgages. Under government sponsored and private streamlined refinance programs consumers with little or no equity in their homes, as well as consumers with significant equity in their homes, can restructure their mortgage debt, often at lower interest rates or payment amounts than under their existing loans.

### Extensions of Credit for \$25,000 or Less (1026.35(c)(2)(viii))

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. The threshold would adjust for inflation every year, based on the percentage increase of Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). Thus, under the proposal, if the CPI-W decreases in an annual period, the percentage increase would be zero, and the dollar amount threshold for the exemption would not change.

The Leagues support a threshold exemption from the HPML appraisal requirements and suggest a higher threshold. The primary concern for proposing this exemption is the expense to consumers. A requirement for an interior inspection appraisal on smaller loans will significantly raise the total costs as a percentage of the loans and would likely hinder consumers’ use of home equity loans. The Leagues recommend a threshold of \$50,000.

### **Proposed Changes to Business Day Definition (1026.2(a)(6))**

The term “business day” is used with respect to two requirements in the Final Rule – providing an appraisal disclosure (by the third business day after application) and providing a copy of each written appraisal (no later than three business days prior to consummation of the loan).

The Leagues support the Agencies proposal to amend the definition of business day to: “All calendar days except Sundays and the legal public holidays specified in 5 U.S.C. 6103(A).” We agree with the need for consistency with other disclosure timing requirements under Regulation Z and the CFPB’s proposed rules for combined mortgage disclosures under Truth in Lending Act (TILA) and Real Estate Settlement Procedures Act (RESPA).

### **Proposed Effective Date**

In general, the Leagues’ support the proposed effective date of January 18, 2014, the same date on which the Final Rule will become effective. However, should a Final Rule require creditors to meet additional conditions to qualify for the proposed exemptions, a later and appropriate effective date should be established to allow to allow creditors sufficient time to adjust their compliance systems if necessary.

### **Conclusion**

The Leagues support the proposed exemptions from the HPML appraisal requirements for transactions secured by existing manufactured homes and not land and for “streamlined” refinances. We also support a threshold exemption and suggest a threshold of \$50,000. We believe the business day definition is appropriate, as is the proposed effective date if no additional conditions are placed on lenders.

The Leagues thank you for the opportunity to comment on the supplemental proposal and for considering our views and the issues.

Sincerely,

Diana Dykstra  
President and CEO  
California Credit Union League

cc: California and Nevada Credit Union Leagues