



June 20, 2012

The Honorable Judy Biggert
Chairwoman
Subcommittee on Insurance, Housing and Community
Opportunity
House Committee on Financial Services
2128 Rayburn House Office Building
Washington, DC 20515

The Honorable Luis Gutierrez
Ranking Member
Subcommittee on Insurance, Housing and Community
Opportunity
House Committee on Financial Services
2128 Rayburn House Office Building
Washington, DC 20515

Dear Chairwoman Biggert and Ranking Member Gutierrez:

On behalf of the more than 25,000 members of our professional appraisal organizations, thank you for the opportunity to testify on real estate appraisal issues relating to “Mortgage Disclosures: How Do We Cut Red Tape for Consumers and Small Businesses?”

As you know, Section 1475 of the Dodd-Frank Act authorized separation of appraisal and appraisal management fees. We support this provision and believe separate disclosure should be required to fully inform borrowers of actual costs paid with regard to the residential appraisal process. This includes both the performance of the appraisal and any administrative and review functions performed by an appraisal management company. We see no consumer benefit with continuing to bundle two separate services, as is current practice today.

Background on Appraisal and AMC Fees

As background, recent consumer research indicates that consumers are paying higher costs for appraisal fees as reported on the Appraisal line of the HUD-1 statement¹. At the same time, our members report significant reductions in appraisal fees, by as much 40 percent. How can this be explained? The explanation for this is simple – consumers are now paying for *appraisal management company* fees through the Appraisal line of the HUD-1.

Traditionally, appraisal management fees were allocated as part of *loan processing or administration* fees or through the interest rate. However this has changed over the years as more lenders have outsourced appraisal functions to third party management companies. This is enabled by interpretations of the Real Estate Settlements Procedures Act, the foundation of which date back to the origins of the HUD-1 in 1974, long before the current appraisal management business model was established. This allows the bundling of appraisal and appraisal management expenses when appraisal management companies are used.

However, the Consumer Financial Protection Bureau (CFPB), through the establishment of a new Consumer Disclosure Form (CDF) and as authorized by the Dodd-Frank Act, has a unique opportunity to improve transparency for borrowers by requiring full disclosure of costs incurred for appraisal services and costs for appraisal management services. The CFPB has issued several drafts of the proposed Consumer Disclosure Form. We applauded a recent draft that was posted to the CFPB website for review in February, which includes clear disclosure of any fee paid to a “Local Appraisal Company” and to an “Appraisal Management Company” (found in both the “Hemlock” and “Butternut” versions in “Chart 1” below).

AMC – “Origination” Charge

Under the draft released in February, the fee paid to the AMC is listed under “Services You Cannot Shop For.” We believe that the AMC service is actually best suited for the “Origination” section of the proposed form. This would help alleviate any concern that consumers may be confused by the AMC and appraisal fee, and for *what* (administration and

¹ See “NAR Survey Shows HVCC Impacting Housing Markets,” available at http://www.realtor.org/wps/wcm/connect/b83165804ef0b3338f18af2db4a1e62f/government_affairs_hvcc_research_results.pdf?MOD=AJPERES&CACHEID=b83165804ef0b3338f18af2db4a1e62f

Chart 1 – Draft Consumer Disclosure Form (February 2012)

Calculating Settlement Fees		Calculating Settlement Costs	
A. Origination Charges	\$2,769	D. Taxes and Other Government Fees	\$2,840
.875 Points (% of Loan Amount)	\$919	Transfer Taxes	\$2,470
Underwriting Fee	\$675	Recording Fees	\$370
Processing Fee	\$300	Other Taxes and Government Fees	\$0
Verification Fee	\$200		
Rate Lock Fee	\$525	E. Prepaids	\$464
Desk Review Fee	\$150	Property Taxes (<u>0</u> months)	\$0
		Homeowner's Insurance Premium (<u>12</u> months)	\$375
		Mortgage Insurance Premium (<u>0</u> months)	\$0
		Prepaid Interest (\$12.76 per day for 7 days @ 4.375%)	\$89
B. Services You Cannot Shop For	\$865		
Flood Determination Fee	\$35	F. Initial Escrow Payment at Closing	\$902
Tax Status Research Fee	\$50	Property Taxes	\$269.44 per month for 3 mo. \$808
Appraisal Fee	\$275	Homeowner's Insurance	\$31.25 per month for 3 mo. \$94
Credit Report Fee	\$30	Mortgage Insurance	\$0 per month for 0 mo. \$0
Lender's Attorney	\$300	Flood Insurance	\$0 per month for 0 mo. \$0
Title – Closing Protection Letter	\$75	HOA/Condo/Co-op	\$0 per month for 0 mo. \$0
Appraisal Management Company Fee	\$100		

processing) or *whom* (the financial institution) the service is provided. Appraisal management functions are those conducted by lenders as part of loan origination. Under traditional lending models, internal appraisal departments were employed to manage appraisal administration. Such services can still be performed internally by a lender today, and when they are, they typically are paid for through interest rate or loan origination charges. However, the same functions can also be outsourced to an AMC.

As such, we believe listing the AMC under Origination would be consistent with how these functions have been paid for in the past. Additionally, we believe that this would be consistent with recent Frequently Asked Questions issued by the Department of Housing and Urban Development, which classifies such services as processing and administrative functions².

Should the CFPB opt not to include AMC fees in the Origination section of the new form, we suggest that the AMC fee be listed directly below the line for the fee paid for the Appraisal to enhance the flow and readability of the document. While we see some benefit to having some distance between the two fees, we believe that it makes more sense for the two lines to be adjacent to one another.

Fee Caps

One complicating factor in separating appraisal and appraisal management company fees on the CDF is the “3 percent points and fees cap” also established by the Dodd-Frank Act. Known as the “Merkley-Klobuchar Amendment,” this provision caps fees paid to banks to 3 percent of the loan amount. How this affects appraisal is that several large, national banks own appraisal management companies. When the appraisal management fees are bundled with appraisal fees on the CDF, the fees fall *outside* of the Merkley-Klobuchar Amendment requirements. However, if they are separated on the

² See 9) Q: What charges are part of the charge in Block 1 of the GFE, “Our origination charge”?

A: Block 1, “Our origination charge” on the GFE contains all charges for origination services performed by or on behalf of a lender and/or a mortgage broker. Origination services includes, but is not limited to, the following: taking of the loan application, loan processing, underwriting of the loan, funding of the loan, acting as an intermediary between a borrower and lender, obtaining verifications and appraisals, and any processing and administrative services required to perform these functions, and

8) Q: Where should fees for processing and administrative services be listed on the HUD-1 Settlement Statement?

A: Processing and administrative services are services to perform origination and title services functions. For the loan origination function, charges for such services are included in the total on Line 801. For the title services function, charges for such services must be included in the title underwriter's or title agent's charge and are shown in the total on Line 1101. Examples of processing and administrative services include, but are not limited to, the following: document delivery, document preparation, copying, wiring, preparing endorsements, document handling, and notarization. Available at <http://www.hud.gov/offices/hsg/ramh/res/resparulefaqs.pdf>

“Mortgage Disclosures: How Do We Cut Red Tape for Consumers and Small Businesses?”

June 20, 2012

CDF, the appraisal management company fees (for those owned by banks) would fall *within* the 3 percent cap, constricting the amount available to other areas of the loan transaction. Obviously, banks that own appraisal management companies and receive AMC fees are concerned about adverse effects this may have on their operations.

On this point, the Dodd-Frank Act authorizes the CFPB to exempt fees from the 3 percent points and fees cap. We have urged the CFPB to exempt appraisal management company fees from the Merkley-Klobuchar Amendment in support of fully disclosing fees and payees to consumers.

Conclusion

In sum, the CFPB has expressed the desire “to help make the costs and risks clear at all stages of the mortgage process – from shopping for a mortgage to signing on the dotted line.” This is not occurring today with regard to appraisal fees; however, it is within reach should the CFPB follow through on the Congressional authorization to separate appraisal and appraisal management fees to consumers.

Thank you again for the opportunity to testify. Please contact Bill Garber, Director of Government and External Relations at 202-298-5586 or bgarber@appraisalinstitute.org or Brian Rodgers, Manager of Federal Affairs at 202-298-5597 or brodgers@appraisalinstitute.org if you would like more information or to arrange a meeting.

Sincerely,

Appraisal Institute
American Society of Farm Managers and Rural Appraisers