

Supporting Statement
Appraisals for Higher-Priced Mortgage Loans – Supplemental Proposal
OMB Control No. 1557-0313

A. Justification.

1. Circumstances that make the collection necessary:

This information collection relates to section 1471 of the Dodd-Frank Act, which created new Truth in Lending Act (TILA) section 129H establishing special appraisal requirements for “higher-risk mortgages.” For certain mortgages with an annual percentage rate that exceeds the average prime offer rate by a specified percentage, creditors must obtain an appraisal or appraisals meeting certain specified standards, provide applicants with a notification regarding the use of the appraisals, and give applicants a copy of the written appraisals used. The statute permits the OCC to include exemptions from the requirements in any final rule.

On February 13, 2013, the 2013 Agencies (OCC, FRB, FDIC, CFPB, FHFA, and NCUA) published a final rule (February 2013 Final Rule) (78 FR 10368), which goes into effect on January 18, 2014. The February 2013 Final Rule included several exemptions. (OMB approved the ICR for the February 2013 Final Rule on February 22, 2013.)

On August 8, 2013, the Agencies issued a notice of proposed rulemaking (Supplemental Proposal) to propose additional exemptions from the February 2013 Final Rule for certain transactions. The OCC submitted an ICR relating to the Supplemental Proposal on August 8, 2013. On October 24, 2013, OMB filed a comment in response to the ICR, directing the OCC to “examine public comment in response to the NPRM and describe in the supporting statement of its next collection any public comments received regarding the collection as well as why (or why it did not) incorporate the commenter’s recommendation” and requiring that the next submission to OMB must include the draft final rule. No comments were received addressing the information collection requirements.

The Agencies are now finalizing the Supplemental Proposal (Supplemental Final Rule).

2. Use of the information:

The collection of information requirements in the February 2013 Final Rule are found in 12 CFR 34.203(c)(1), (c)(2), (d), (e) and (f). This information is required to protect consumers and promote the safety and soundness of creditors making higher-priced mortgage loans (HPMLs) subject to 12 CFR part 34, subpart G. This information is used by creditors to evaluate real estate collateral securing HPMLs subject to 12 CFR 1026.35(c) and by consumers entering these transactions. The collections of information are mandatory for creditors making HPMLs subject to 12 CFR part 34, subpart G.

The February 2013 Final Rule requires that, within three business days of application, a creditor provide a disclosure that informs consumers of the purpose of the appraisal, that the creditor will provide the consumer a copy of any appraisal, and that the consumer may choose to have a separate appraisal conducted at the expense of the consumer (Initial Appraisal Disclosure). If a loan is a HPML subject to 12 CFR 1026.35(c), then the creditor is required to obtain a written appraisal prepared by a certified or licensed appraiser who conducts a physical visit of the interior of the property that will secure the transaction (Written Appraisal), and provide a copy of the Written Appraisal to the consumer. To qualify for the safe harbor provided under the February 2013 Final Rule, a creditor is required to review the Written Appraisal.

A creditor is required to obtain an additional appraisal (Additional Written Appraisal) for a HPML that is subject to 12 CFR part 34, subpart G the seller acquired the property securing the loan 90 or fewer days prior to the date of the consumer's agreement to acquire the property and the resale price exceeds the seller's acquisition price by more than 10 percent; or (2) the seller acquired the property securing the loan 91 to 180 days prior to the date of the consumer's agreement to acquire the property and the resale price exceeds the seller's acquisition price by more than 20 percent.

The Additional Written Appraisal must meet the requirements described above and also analyze: (1) the difference between the price at which the seller acquired the property and the price the consumer agreed to pay; (2) changes in market conditions between the date the seller acquired the property and the date the consumer agreed to acquire the property; and (3) any improvements made to the property between the date the seller acquired the property and the date on which the consumer agreed to acquire the property. A creditor is also required to provide a copy of the Additional Written Appraisal to the consumer.

3. Consideration of the use of improved information technology:

Respondents may use any type of improved information technology they have available to meet the requirements of this regulation.

4. Efforts to identify duplication:

This information is not available elsewhere.

5. Methods used to minimize burden if the collection has a significant impact on substantial number of small entities:

This collection does not have a significant impact on a substantial number of small entities.

6. Consequences to the Federal program if the collection were conducted less frequently:

Less frequent collection would result in safety and soundness concerns.

7. Special circumstances necessitating collection inconsistent with 5 CFR Part 1320:

This collection is conducted in accordance with the guidelines in 5 CFR 1320.6.

8. Efforts to consult with persons outside the agency:

On August 8, 2013, the Agencies issued a notice of proposed rulemaking (Supplemental Proposal) (78 FR 48548) for comment. No comments were received in regarding the information collection requirements.

9. Payment to respondents.

There is no payment to respondents.

10. Any assurance of confidentiality:

There is no assurance of confidentiality.

11. Justification for questions of a sensitive nature:

Not applicable. No personally identifiable information is collected.

12. Estimate of Hour Burden Including Annualized Hourly Costs:

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For the Initial Appraisal Disclosure, the creditor is required to provide a short, written disclosure within three business days of application. Because this disclosure is supplied by the federal government for purpose of disclosure to the public, this is not classified as an information collection, and the Agencies have assigned it no burden for purposes of this PRA analysis.

The estimated burden for the Written Appraisal requirements includes the creditor's burden of reviewing the Written Appraisal in order to satisfy the safe harbor criteria set forth in the February 2013 Final Rule and providing a copy of the Written Appraisal to the consumer. Additionally, an Additional Written Appraisal containing additional analyses is required in certain circumstances. The Additional Written Appraisal must meet the standards of the Written Appraisal. The Additional Written Appraisal is also required to be prepared by a certified or licensed appraiser different from the appraiser performing the Written Appraisal, and a copy of the Additional Written Appraisal must be provided to the consumer. The creditor must separately review the Additional Written Appraisal in order to qualify for the safe harbor provided in the February 2013 Final Rule.

The Agencies continue to estimate that respondents will take, on average, 15 minutes for each HPML to review the Written Appraisal and to provide a copy of the Written Appraisal. The Agencies further continue to estimate that respondents will take, on average, 15 minutes for each HPML to investigate and verify the need for an Additional Written Appraisal and, where necessary, an additional 15 minutes to review the Additional Written Appraisal and to provide a copy of the Additional Written Appraisal. For the small fraction of loans requiring an Additional Written Appraisal, the burden is similar to that of the Written Appraisal.

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The Agencies use the estimated burden from the PRA section of the February 2013 Final Rule as the baseline for analyzing the impact the three exemptions in the Supplemental Proposal. The estimated number of appraisals per respondent has been updated to account for the exemption for qualified mortgages adopted in the February 2013 Final Rule, which had not been accounted for in the table published at that time, as discussed in the PRA section of the February 2013 Final Rule. 78 FR 10368, 10430-31 (February 13, 2013). In addition, the impact of the Supplemental Proposal Final Rule has been considered as follows:

Exemption 1

The Agencies find that, currently, only a small minority of refinances involve cash out beyond the levels permitted for this exemption. As a result, the Agencies believe that most refinance loans may qualify for this exemption. The Agencies assume that the exemption for certain refinances in the Supplemental Proposal Final Rule affects all of the refinance loans analyzed under Section 1022(b)(2) of the February 2013 Final Rule. It was estimated that a total of 3,800 new Written Appraisals would occur as a result of the February 2013 Final Rule (including home purchase, home equity, and refinance loans). In the Supplemental Proposal, it was estimated that refinances would account for approximately 1,200 of these 3,800 new Written Appraisals that would occur as a result of the February 2013 Final Rule.¹ Thus, the exemption for certain refinances in Supplemental Proposal Final Rule would eliminate approximately 32 percent of the new Written Appraisals that were estimated to occur as a result of the February 2013 Final Rule.

Exemption 2

Based on the HMDA 2011 data, the Agencies find that 12 percent of all HPMLs are under \$25,000. The Agencies believe that this implies that there will be, proportionately, 12 percent fewer appraisals based on the exemption for small dollar loans.

Exemption 3

¹ There were 12,000 refinances affected by the February 2013 Final Rule, and out of those the Agencies estimated that 10 percent did not have a full appraisal performed in the absence of the February 2013 Final Rule, resulting in $10\% \times 12,000 = 1,200$ of refinances that would be estimated to obtain an appraisal as a result of the February 2013 Final Rule (and which would not be obtained as a result of the Supplemental Proposal Final Rule).

The Agencies find that many of the transactions secured by manufactured homes involve either refinances (all of which are conservatively assumed to be covered by the exemption for certain refinances), or smaller dollar loans (which cover many types of manufactured housing transactions).² While covered HPMLs above smaller dollar levels that are secured by existing manufactured homes and not land may be newly-exempted, these transactions will need alternative valuations under the February 2013 Final Rule. In addition, such loans secured by new manufactured homes and not land also will need alternative valuations. Such loans secured by new manufactured homes and land will need an appraisal. In the February 2013 Final Rule, the Agencies did not reduce the paperwork burden estimates to account for the exemption for new manufactured homes adopted at that time. The Agencies therefore conservatively make no adjustment to the data in the first panel of Table 3 in the February 2013 Final Rule as a result of that exemption.³

The numbers above affect only the first panel in Table 3 of the PRA section of the February 2013 Final Rule. Refinances are not subject to the requirement to obtain an Additional Written Appraisal under the February 2013 Final Rule, and it is assumed that none of the smaller dollar loans or the loans secured by manufactured homes and not land were used to purchase homes being resold within 180 days with the requisite price increases to trigger that requirement

² The Agencies believe that a substantial proportion of the existing manufactured homes that are sold would be sold for less than \$25,000. According to the Census Bureau 2011 American Housing Survey Table C-13-00, the average value of existing manufactured homes is \$30,000.

http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=AHS_2011_C1300&prodType=table. The estimate includes not only the value of the home, but also appears to include the value of the lot where the lot is also owned. According to the AHS Survey, the term “value” is defined as “the respondent’s estimate of how much the property (house and lot) would sell for if it were for sale. Any nonresidential portions of the property, any rental units, and land cost of mobile homes, are excluded from the value. For vacant units, value represents the sales price asked for the property at the time of the interview, and may differ from the price at which the property is sold. In the publications, medians for value are rounded to the nearest dollar.” <http://www.census.gov/housing/ahs/files/Appendix%20A.pdf>.

³ The Agencies assume that manufactured housing loans secured solely by a manufactured home and not land are reflected in the data provided by the institutions to the datasets that are used (Call Reports for Banks and Thrifts, Call Reports for Credit Unions, and NMLS’s Mortgage Call Reports), and thus are reflected in the loan projections utilized for the table below.

The Agencies conservatively included all non-QM HPML MH loans reported in HMDA and projected based on the Call Reports data in its paperwork burden calculations for the February 2013 Final Rule. The Agencies did not possess sufficient information at the time to estimate the proportion of non-QM HPML MH affected by the February 2013 Final Rule. No new data is used in the Supplemental Proposal Final Rule, and the Agencies still do not possess sufficient information to estimate the proportion of non-QM HPML MH affected by the Supplemental Proposal Final Rule. Thus, the Agencies continue to conservatively assume that all non-QM HPML MH loans reported in HMDA and projected based on the Call Reports data are subject to the full appraisal requirement, resulting in no change in the Table of paperwork burden below.

While the Agencies assume that all non-QM HPML MH loans are affected, and thus the paperwork burden reported might be an overestimate, the Agencies are possibly underestimating the burden to the extent that there exists systematic underreporting or non-reporting of MH loans to HMDA by creditors who are subject to reporting. The Agencies assumed that this underreporting is occurring on a massive scale. For the purposes of the PRA analysis, the Agencies assume that there is no underreporting.

(and thus the exemptions for those loans will not reduce any burden associated with that requirement). Only the first panel in Table 3 from the February 2013 Final Rule is being updated and the estimates in the second and third panels remain the same.

**Summary of PRA Burden Hours for Information Collections in HPML Appraisals
Final Rule Once Exemptions in the Supplemental Proposal are Adopted⁴**

Estimated Number of Respondents	Estimated Number of Appraisals Per Responde t ⁵	Estimated Burden Hours Per Appraisal	Estimated Total Annual Burden Hours
[a]	[b]	[c]	[d] = (a*b*c)
Review and Provide a Copy of Written Appraisal			
1,399	0.16	0.25	55
Investigate and Verify Requirement for Additional Written Appraisal			
1,399	0.85	0.25	299
Review and Provide a Copy of Additional Written Appraisal			
1,399	0.02	0.25	8

⁴ Some of the intermediate numbers are rounded, resulting in “Estimated Total Annual Burden Hours” not precisely matching up with columns a, b, and c.

⁵ The “Estimated Number of Appraisals Per Respondent” reflects the estimated number of Written Appraisals and Additional Written Appraisals that will be performed solely to comply with the February 2013 Final Rule. It does not include the number of appraisals that will continue to be performed under current industry practice, without regard to the February 2013 Final Rule’s requirements.

Respondents must also review the instructions and legal guidance associated with the February 2013 Final Rule and train loan officers regarding the requirements of the February 2013 Final Rule. The Agencies continue to estimate that these one-time costs are as follows: **19,586 hours.**

Total Burden: 19,946 hours (Rounded from 19,948 by ROCIS).

13. Estimate of annualized costs to respondents:

None.

14. Estimate of annualized costs to the government:

None.

15. Changes in burden:

Current Burden: 68,901 hours.

New Burden: 19,946 hours (Rounded from 19,948 by ROCIS).

Difference: - 48,955 hours.

The decrease in burden is due to the exemptions provided by the Supplemental Proposal Final Rule.

16. Information regarding collections whose results are planned to be published for statistical use:

The OCC has no plans to publish the information for statistical use.

17. Display of expiration date.

Not applicable.

18. Exceptions to certification statement.

None.

B. Collections of Information Employing Statistical Methods.

Not applicable.