



**National Association  
of Federal Credit Unions**  
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October 15, 2012

Monica Jackson  
Office of the Executive Secretary  
Consumer Financial Protection Bureau  
1500 Pennsylvania Ave. NW  
(Attn: 1801 L Street)  
Washington, D.C. 20220

RE: Docket No. CFPB-2012-0032; Amendments to Regulation B

Dear Ms. Jackson:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association that exclusively represents federal credit unions, I write to you regarding the Consumer Financial Protection Bureau's (CFPB) proposed rule to amend Regulation B. *See* 77 Fed. Reg. 50390 (August 21, 2012).

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amends the Equal Credit Opportunity Act (ECOA) by, among other things, requiring creditors to provide mortgage applicants with a free copy of appraisals and valuations. The proposed rule implements this statutory requirement, but also adds that creditors must notify applicants of their right to receive a copy of written appraisals and valuations within three business days of receiving an application. Currently, creditors are permitted to provide copies upon request. Copies of the appraisals and valuations must be provided the earlier of (1) thirty days after the creditor receives the appraisal or (2) three days prior to consummation of the loan. Creditors would not be able to charge for the copies.

Critically, for credit unions, the proposed rule eliminates the current exemption for credit unions from Regulation B's appraisal delivery requirements.

First, NAFCU strongly urges the CFPB to withdraw the proposed rule or, at the very least, delay its implementation. As the CFPB is aware, Congress specifically directed the agency to promulgate regulations implementing many of the statute's provisions, and for some, it specified a regulatory implementation date. However, Congress was conspicuously silent on the timing of the CFPB's implementation of Section 1474, which is the section the CFPB is seeking to implement in this rulemaking. Congress also did not require the CFPB to prescribe rules under this section, and the agency did not provide adequate justification to use its discretionary authority.

At the same time, the CFPB is in the middle of a litany of other rulemakings that will undoubtedly lead to wholesale changes to fundamental parts of the mortgage lending business. NAFCU's member credit unions are anticipating that, taken together, the various proposed rules will result in unprecedented regulatory burden and will cost credit unions significant amount of money and resources. It is our contention, thus, that the CFPB should withdraw the proposed rule or withhold finalizing it until the Dodd-Frank Act-required rules are fully implemented and credit unions are provided adequate time to take the necessary actions for compliance.

If, however, the agency decides to move forward with the proposal, we urge that the rule retains the current exemption for credit unions from Regulation B's requirements on providing appraisal reports. As the CFPB explains in the preamble of the proposal, the credit union exemption exists, in part, because credit unions are subject to NCUA's regulations that require provision of appraisals to applicants upon request. *See* 12 CFR 701.31(c)(5). However, the agency reasons that the change to ECOA by the Dodd-Frank Act in requiring creditors to provide a copy of appraisals and evaluations warrants the elimination of the exemption.

NAFCU disagrees with the CFPB's basis for eliminating the exemption. The CFPB's basis for this action is, fundamentally, that Congress did not expressly exempt credit unions from the ECOA/Regulation B requirements, and that the legislative history does not refer to the exception. While this may be accurate, Congress also gave the CFPB broad discretion in implementing the amendments made to ECOA by the Dodd-Frank Act. We believe the CFPB should use this discretionary authority to retain the credit union exemption.

Credit unions who do not currently provide a copy of an appraisal automatically, but do so upon request, will incur added costs. The CFPB's cost-benefit analysis specifically states that the increased costs would be mitigated by the elimination of costs associated with responding to requests. NAFCU believes that this may be the case for some creditors but it is also not the case for many credit unions, especially those credit unions that originate a small number of mortgage loans. Thus, the CFPB should retain the credit union exemption and allow credit unions to determine whether it is in the best interest of their members and the credit union to automatically provide copies of the appraisal or to provide copies upon request.

NAFCU also urges the CFPB to use its discretionary authority under the Dodd-Frank Act to limit the scope of proposed §1002.14 to appraisals. NAFCU believes that providing copies of valuations would create consumer confusion while not adding any consumer benefits because valuations contain abbreviated information and codes that a consumer simply would not understand. As a result of the consumer confusion, credit unions will be expending resources to answer questions. Further, for loans sold into the secondary market (especially to Fannie Mae and Freddie Mac), the valuations methodology and mechanism used are proprietary and should not be disclosed.

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Accordingly, if the CFPB moves forward with the rulemaking, it should limit the scope of the regulation to appraisal reports.

Next, we ask that the agency provides clarification as well as a sample disclosure for credit unions to use to comply with the proposal to require provision of a statement indicating the right to receive an appraisal. In addition to the statement on the right to receive a copy of the appraisal, the disclosure should specify that (1) an appraisal that a borrower has obtained will not be taken into consideration; and (2) the applicant may be charged for any additional copies of the appraisal report that is requested.

Lastly, if the CFPB moves forward with the proposal, we ask that the agency clarify that the rule would not require provision of a copy of an appraisal or valuation where an application has been denied and an appraisal was not conducted. Clarification is necessary because the proposal requires provision of a copy of the appraisal “whether credit is extended or denied or if the application is incomplete or withdrawn.”

NAFCU appreciates the opportunity to comment on this proposed rule. If you have any questions or concerns, please feel free to contact me at (703) 842-2268 or [ttefferi@nafcu.org](mailto:ttefferi@nafcu.org).

Sincerely,



Tessema Tefferi  
Regulatory Affairs Counsel