Comments to
The Federal Reserve Board,
The Consumer Financial Protection Bureau,
The Federal Deposit Insurance Corporation,
The Federal Housing Finance Agency,
The National Credit Union Administration, and
The Office of the Comptroller of the Currency,
Regarding
Appraisals for Higher-Priced Mortgage Loans—Supplemental Proposal
FRB Docket No. R-1443,
CFPB Docket No. CFPB-2013-0020,
FDIC Truth in Lending Act (Regulation Z),
FHFA (RIN) 2590-AA58,
NCUA RIN 3133-AE21,
OCC Docket ID OCC-2013-0009,
78 Fed. Reg. 48548 (August 8, 2013)
by the National Consumer Law Center
(on behalf of its low-income clients),
the Corporation for Enterprise Development (CFED), and
the Fair Mortgage Collaborative

Submitted September 9, 2013

Introduction

The National Consumer Law Center (on behalf of its low income clients), the Corporation for Enterprise Development (CFED), and the Fair Mortgage Collaborative, appreciate this opportunity to submit comments to the Federal Reserve Board, the Consumer Financial Protection Bureau, the Federal Deposit Insurance Corporation, the Federal Housing Finance Agency, the National Credit Union Administration, and the Office of the Comptroller of the Currency (the Agencies) regarding the Supplemental Proposal for Appraisals for Higher-Priced Mortgage Loans.

The Agencies have posed 52 questions for which they are soliciting responses. Our comments respond to the questions on which we have most information, and focus on the appraisal requirements that should apply to manufactured housing.

Our responses to the individual questions posed in the proposed rule and request for public comment are based upon several major themes. First, it is in the best interest of owners, buyers, manufacturers, lenders and retailers of manufactured homes to integrate manufactured housing, to the extent practicable, into the larger housing market in the United States. In many regards the majority of the current financing market for manufactured housing operates outside the larger residential housing financing marketplace. A small number of lenders engage in financing these homes as personal property or chattel loans rather than as mortgages. Without competition from more lenders the marketplace does not always act efficiently. There is little or no secondary market for most of the loans, and few originators are interested in participating. In order to move manufactured housing into the mainstream market it is important to make the rules regarding manufactured homes as consistent with those of the broader residential market as possible.

Second, the current system of appraisals and valuation of manufactured homes does not always address the needs of homeowners, buyers, lenders, and other stakeholders. One of the goals of this rulemaking should be to move toward a system of accurate, practical, efficient, and effective valuation procedures for all manufactured home finance transactions. To achieve the greatest efficiency, it may be appropriate in some circumstances to apply some modifications of the standard appraisal procedures to manufactured homes. However, the goal should be to have very similar requirements for site-built and manufactured homes and to minimize different treatment.

It is vital that any and all valuation procedures for manufactured homes, whether on leased land or land owned by the homeowner, take the home's location fully into account. Manufactured homes are very rarely moved and to do so involves considerable expense and risk of damage. A home's location and the security of land tenure, including the ability to resell the home on site and the likelihood of possible lot rent increases, if applicable, must be fully taken into account whenever the home's value is assessed. To the extent that resources and standards do not yet exist for such valuations, the agencies should undertake an initiative that brings stakeholders together to devise ways to overcome the existing barriers.

We also urge that any exemptions or exceptions from appraisal requirements now or in the future be narrowly crafted and avoid incentivizing lenders, dealers, or others to take steps that are not in the best interests of homeowners, buyers, or the larger manufactured home marketplace. In particular, it is important to avoid rules which would incentivize manufactured home dealers to steer consumers to title homes as personal property or to give dealers and lenders disincentives to treat manufactured homes as real estate.

We recommend that the only manufactured home transactions that should be exempted from HPML appraisal requirements effective January 18, 2014 are those involving financing a manufactured home without land**.** We further recommend that effective January 18, 2016, the exemptions for manufactured homes should be limited to those applicable to all home loans, with the same exclusions as all other homes such as extensions of credit of $25,000 or less indexed for inflation. In other words, beginning January 18, 2016, the exemptions for manufactured and site built homes would be the same. This would allow time for stakeholders to improve valuation methods for manufactured homes, yet provide pressure for them to come together and do so.

While the exemptions for transactions involving manufactured homes should be the same as for site-built homes as of January 18, 2016, the procedures for valuing the homes could be different. For a manufactured home in a leasehold community it may be necessary to examine in more depth the security of land tenure and other community attributes than would be necessary for a site-built home. In addition, in some circumstances it may be appropriate to appraise a home prior to the siting of the home on the land where it will be placed.

We commend the Agencies for not making distinctions based on whether a manufactured home is classified as personal or real property. State laws classifying homes as real or personal property vary widely and have little or no relation to the need for a valuation of the home. Avoiding distinctions based on classification of a home as real or personal property also helps to avoid creating incentives for lenders, dealers, or others to steer homeowners or lenders to classify homes in a particular way.

We urge the Agencies not to adopt a long-term exemption of loans from HPML appraisal requirements simply because they are only secured by a home and not land. This approach would harm homeowners and risk the safety and soundness of loan holders. An appraisal requirement offers the opportunity to include the home's location and its land tenure security in the valuation. These factors that have a profound effect on the value of the home to the homeowner and the security of the lender's investment, yet are typically ignored in current manufactured home transactions.

An appraisal that includes a visit to the home itself can help prevent fraud that harms lending markets and homebuyers. Sometimes dealers have misrepresented aspects of a home, such as appliances or utilities. The result is that the homebuyer pays more than the home is worth and the lender is under-secured. Individual lenders may address this by requiring higher down payments or by limiting their deals to affiliated dealers, but these measures are not sufficient to address these issues so that the secondary market can handle these loans.

Therefore, while it may be appropriate to make some concessions regarding the in-person appraisal requirements for new homes so that homes which are in the process of being sited or have yet to be sited can be appraised, appraisal requirements should not be abandoned altogether. Appraisers could inspect the home on the lot of the dealer and visit the location where it will be sited. For new homes that are not yet delivered from the manufacturer, and cannot be visited before financing, the appraisers may visit the empty lot to see the site, and use the signed dealer invoice for specifications of the home, showing floor plan, home specifications, installation details and other information. Then during installation a qualified property construction firm can inspect the home to be sure it is installed with the same specifications. In effect the interior inspection can occur after the home is delivered. This is largely comparable to a construction loan for a site built home.

Our answers to specific questions are set forth below.

Question 1: The Agencies request comment on the need for a later effective date for any condition on a proposed exemption discussed in the section-by-section analysis below, and the appropriate effective date for those conditions.

Response: We recommend that the exemptions for manufactured homes and site-built homes be the same as of January 18, 2016. In other words, the exemptions for manufactured homes would be limited to qualified mortgages, those falling under the proposed $25,000 threshold, etc.

To the extent that, as a result of this rulemaking proceeding, the Agencies eliminate any existing exemptions, the new rules should be effective in six months if possible, and in any event no later than January 18, 2016. To the extent that the Agencies conclude that additional work is necessary to fashion appraisal procedures appropriate for manufactured homes, they should announce now that any rules dependent on these procedures will be effective January 18, 2016, and should convene a working group to devise procedures before then.

Question 2: The Agencies request comment on the proposed revision which would realign high priced mortgage so as to expand the definition of qualified mortgages that are exempt from the HPML appraisal rules to cover qualified mortgages as defined by HUD, VA, USDA, and RHS.

Response: We concur with the Agencies' proposal to exempt from the HPML appraisal rules qualified mortgages as defined by HUD, VA, USDA, and RHS. We recommend, however, that it would be beneficial to all stakeholders to better align the requirements of HUD, VA, USDA, and RHS with respect to manufactured housing and that this should be one of the goals of the work with other stakeholders to help to create practical, efficient, and effective valuation procedures. Some of the current problems in the appraisal of manufactured homes arise from requirements imposed by only one or a few lending entities. For example, while the Uniform Standards of Professional Appraisal Practice (USPAP) allows the appraisers to use site-built homes (with adjustments) as comparables for manufactured home appraisals, because some loan programs require manufactured homes to be used in a certain number of comparables, appraisers often do this as a regular practice. Because manufactured home appraisal is often only a portion of a particular appraiser's business, a multitude of different requirements can create confusion and a reluctance to conduct manufactured home appraisals. Encouraging more appraisers to enter the manufactured housing arena could be achieved by a better alignment of appraisal requirements between site-built and manufactured homes.

Loans Secured by a New Manufactured Home

Question 3: The Agencies seek comment on whether consumers in transactions where loans are secured by a new manufactured home would benefit by receiving from the creditor a unit value estimate from an objective third-party source, such as an independent cost guide.

Response: As stated above, we believe that ultimately new manufactured homes should be bound by the same HPML appraisal requirements as site-built homes. To the extent new manufactured homes are exempted in the near term, access to the same valuation tools used by lenders would be helpful for consumers. Manufactured home lenders have stated that they typically rely upon the manufacturer's invoice for the new home for valuation purposes. Providing these same valuation tools to the consumer should not present difficulties or add to the cost. This approach presents a virtually cost-free way to provide an important check on inflated valuations. In the manufactured home context, inflation of value is often accomplished by the dealer misrepresenting the features of the home. Since many of the features of a home will be visible to the buyer, a buyer who is given the invoice will be able to evaluate the accuracy of the description of these home features. We do not, however, recommend provision of the invoice as a long-term solution. The invoice may not have true and accurate information about the actual cost paid by the dealer, which can easily be affected by incentives, rebates, provision of in-kind services, and other considerations.

Finally, as noted elsewhere in these comments, land, location and site improvements are a significant part of the valuation process for any home. Relying solely on the manufacturer's invoice or a third-party cost guide will not capture the full value of the home.

Question 4*:* In light of additional concerns expressed about valuations in new manufactured home chattel transactions, the Agencies request comment on whether it may be appropriate to condition the exemption from the HPML appraisal requirements on the creditor providing the consumer with a third-party estimate of the manufactured home unit cost.

And ***Question 5:*** If so, the Agencies request comment on which third-party estimate(s) should be used for this purpose.

Response: We caution against any distinction based upon a home's classification as chattel or real property. We believe that ultimately all HPML transactions involving manufactured homes should be subject to appraisal unless they meet the general exceptions such as being below the proposed $25,000 limit or as part of a streamline refinance. In particular, we urge the Agencies to avoid appraisal rules that would give dealers and lenders an incentive to steer consumers into chattel financing.

In the meantime, we have concerns about the use of a third party estimate. If the estimate is simply based upon the make and model, it fails to capture many attributes of the home. To be useful it should accurately account for the home's security of land tenure, community amenities, individual home features, etc. In addition as described above, in the absence of an in-person visit, there is a real danger of fraud regarding the features of the home itself. For these reasons, we do not recommend that the Agencies provide an exemption from the appraisal requirement for transactions in which the creditor provides a third-party estimate of the manufactured home's value. The fact that lenders have stated that they use the invoice, not a third-party estimate, is a strong indication that third-party estimates are not sufficiently useful to justify an exemption.

Question 6: The Agencies also request comment on when this information should be required to be provided.

Response: For those transactions covered by RESPA, the RESPA rules apply. For other transactions a copy of the dealers' invoice could be provided to consumers after the execution of the buyer's order but prior to the consummation of the extension of credit to finance the purchase of the home. Presumably the lender will be provided a copy in this time period and so it would entail little extra cost to provide it to the consumer at that time.

Question 7: The Agencies request comment on whether the consumer typically receives unit cost information in a new manufactured home chattel transaction and what, if any, cost information from an independent third party source might be reasonably available to creditors, reliable, and useful to a consumer.

*And **Question 8:*** The Agencies further request comment on the utility of third-party unit cost information to consumers in these transactions (even if the creditor is using a different method to value the home).

Response: Consumers do not typically receive cost information. Lenders have stated that they use the dealer's invoice. Since the invoice would be specific to the unit and is already used by the lenders, it would be a good source of cost information. We do not believe any existing third party estimates would be effective. The lenders have stated they use the invoice so that may be the best item for valuation.

Question 9: The Agencies understand that the location of the property can impact the value of the home, even if the property on which the unit is sited is not owned by the consumer, and seek more information about the impact on home value of a unit's location and whether cost services are available that account adequately for differences in location.

Response: As with site-built homes, a manufactured home's location plays a large role in its value. As noted earlier, manufactured homes are very rarely moved. Moving a manufactured home is expensive and likely to damage the unit. Manufactured homes tend to stay where they are originally sited. Accordingly, the location of the home has a tremendous impact on the home's value.

Some of the attributes of the home's location that affect the home's value are tangible and visible, such as street maintenance or access to a swimming pool. But there are other attributes of a home's location that have at least as great an effect on the home's value, but are typically underweighted or ignored completely by existing valuation tools. Three examples of such characteristics are lease terms or state laws that:

- Ensure that the home may remain where it is sited
- Ensure that the homeowner is able to sell the home to a new owner without having to move it; and
- Protect the lender's interest in the home if the homeowner defaults on the loan.

An accurate valuation must look at these attributes.

Research shows that factors such as the security of a homeowner's tenure on the land have a meaningful impact on home values. Researchers at the University of New Hampshire concluded in a 2010 report that owners in resident-owned cooperatives enjoy significant advantages over their counterparts in investor-owned communities, including lower lot fees, higher average home sales prices, faster home sales, and, in New Hampshire, access to mortgage financing.[1]

Further discussion of location-related attributes follows:

[1] *See* Sally K. Ward, Charlie French, and Kelly Giraud, Resident Ownership in New Hampshire's "Mobile Home Parks:" A Report on Economic Outcomes, the Carsey Institute, Sept. 2006 (Revised and reprinted March 2010)

- ***Ensuring That a Home and Homeowners May Remain in their Community***

Being forced to move a home from its original site can be devastating—and expensive. Moving a home, regardless of whether the reason is a community closure or a steep rent increase, often totals an amount equal to more than five years' worth of equity and it may permanently damage the home. It can also be very difficult, if not impossible, to find another location for the home.

Forcing a homeowner to move his or her home also greatly increases the probability of default. A homeowner forced to relocate may have little choice but to walk away from the home and stop making payments on the loan if a new location is not available or if the homeowner does not have the funds (generally $5,000 to $10,000 and up to $25,000) to move it. Protections ensuring that a home and homeowner may remain decrease the likelihood of default. It also protects the home's value as collateral. Characteristics that indicate the ability for the home to remain where sited might include:

> Good Cause Eviction- A landowner should have "good cause," such as failure to pay lot rent or breaking laws or community rules, for evicting a homeowner. Limits on unreasonable community rules make good cause eviction requirements effective.
>
> Grace Periods for Rent Payments- Homeowners should have a reasonable grace period to catch up on late rent payments prior to the start of eviction proceedings. Similar protections include requirements that rent payments received be first applied to rent, rather than toward late or other fees.
>
> Right to Cure- Homeowners should have a reasonable time period to correct, or "cure," violations, such as overdue rent or a community rule violation.
>
> Written Lease - A written, recorded lease informs prospective community purchasers about the status of individual homeowners. Written leases clearly outline the rights and responsibilities of both the landowner and the homeowner.
>
> Lease Term Protections – A lease that allows the home to stay on the lot for a substantial period, by providing either a multi-year lease term or the right to renew the lease automatically (or both), increases land tenure security and the value of the home.

- ***Allowing the Transfer of the Home to a New Owner***

Owners and lenders of manufactured homes on leased land are at a disadvantage when they wish to sell or transfer ownership of their home. Unlike other personal property, such as cars, which tend to have the same value regardless of where they are situated, the value of a manufactured home (regardless whether it is classified as real or personal property) is closely linked to the home's relation to its location. Because manufactured homes are difficult and expensive to move and because suitable sites are often hard to find, a manufactured home's value on a particular lot may be much higher than the appraised value of the home,[2] often based on a blue book value much like a car.

Selling a home on the land on which it sits is essential to the value of that home. However, there are many ways in which a community owner may restrict the sale of a home in its current community. Characteristics that an appraiser might look for to gauge the protection a homeowner or lender have to transfer a home to a new owner include state policy or lease language that:

Allows the sale of the home in the community. State statutes or leases should allow a homeowner to sell his or her home where it is sited.

Allows subleasing and assignment of the lease. A homeowner should have the option of selling his or her home and subleasing the lot (or assigning the lease) to the new homeowner, provided the buyer meets reasonable criteria.

Allows "For Sale" signs. Homeowners should be allowed to post "For Sale" signs in front of their homes, give access to their homes to possible buyers and realtors, and conduct other activities required for selling a home at a fair price.

Limits landowners' abilities to reject new purchasers. Homeowners should be allowed to sell their home to any buyer (with reasonable protections for the community owner), but community owners often attempt to influence homeowners to sell to them, at a price that favors the community owners. To secure the homeowners' assets and for the homeowners to get the benefit of their lease, community owners must be barred from exerting pressure on homeowners to sell the house to only them.

Provides a reasonable time period after an eviction to sell the home. In cases where an eviction is necessary, the homeowner should have a reasonable period of time to sell his or her home.

- ***Protecting Lender Interests***

Characteristics that evidence protection of a secured lender also affect the value of the home. Lease provisions or state policies that an appraiser might look for that protect secured lenders might include:

Requiring notice to the lender and right to cure upon default on the ground lease. Just as traditional mortgage lenders pay tax or insurance charges to protect their investment, lenders for homes on leased land also need protections, such as notice when a homeowner is dangerously close to eviction, so that the lender may intercede to protect its holding.

[2] For a discussion of the value of a home as sited as opposed to the value of the home in isolation see In re Valdez, 338 B.R. 97 (Bankr. N.D. Cal. 2006) (holding that a secured creditor was entitled to the full value of the home of $40,000 in its current location, rather than the "box value" of $16,500 for the purpose of determining the value of the creditor's secured claim under 11 U.S.C. § 506, because the creditor could sell the home on site under state law).

Allowing the lender to sell the home on site after foreclosure. Lenders benefit from the ability to sell the home on site, primarily to ensure fair market value. However, a disadvantage to homeowners of this is the unusual situation in which a homeowner seeks to retain the land lease, even after foreclosure, possibly to place a new home on that site. This is a highly unlikely situation and may be resolved by providing that the lender has the right to sell the home on site unless the homeowner wishes to place another home on that site.

Question 10: The Agencies further request comment on whether readily-accessible, publicly-available information exists that consumers could use to determine whether their loan amount exceeds the collateral value in a new manufactured home chattel transaction, and whether consumers are generally aware of this information.

Response: No. Unlike some other products such as cars, there are not publicly available sources that accurately value new homes. New home prices vary widely even with particular models based upon options. Moreover, as noted above, location information is important in determining the value of a manufactured home, just as it is for a site-built home. Location information should be factored into any manufactured home valuation.

Question 11: Finally, the Agencies request comment on potential burdens and costs of imposing this condition on the exemption, and any implications for consumer access to credit (again, noting that any of these loans that are qualified mortgages are exempt under the separate exemption for qualified mortgages, § 1026.35(c)(2)(i)).

Response: As discussed above, such information does not exist.

Question 12: Based on this information [the difficulty in finding comparables, etc.] the Agencies request comment and information concerning whether to require USPAP-compliant appraisals with interior property inspections conducted by a state-licensed or -certified appraiser for HPMLs secured by both a new manufactured home and land.

Response: These transactions should not be exempted from the HPML appraisal requirements. Just as the proposed rule is correct not to allow an exemption for transactions secured by an existing home and land, a new home and land should not be exempt from the appraisal rules. One of the goals of the Agencies should be to move manufactured home transactions into mainstream financing. There is no reason to subject a transaction to different rules when the sole difference is whether the home was manufactured vs. site-built.

As addressed in the response to Question 2, appraisers should also have more flexibility to use site-built homes as comparables. Certain lending programs restrict the use of site-built homes as comparables. However, such flexibility would recognize that in many cases newer manufactured homes fit in well with other housing types and that manufactured homes on private land or in small developments may be sited great distances from other manufactured homes. Additionally, such a policy would further integrate manufactured housing into mainstream housing finance.

The transaction should be subject to the appraisal rule whenever the home and the land are both subject to security interests, even if the security interests attach to different loans. Lenders already sometimes break down a land-home financing package into two loans. If the applicability of the appraisal rule depended on there being a single loan secured by both the land and the home, it would be simple for lenders to evade. Indeed, it would make sense for the Agencies to apply the rule equally whenever the homeowner owns the land on which the home is sited, even if the home is not subject to a security interest at all. The need for an appraisal and the methods of conducting an appraisal appear to be identical whether or not the land is subject to a security interest. And, as noted in our answers to the previous questions, we urge the Agencies to apply the rule (possibly with some adaptations of the valuation procedure) to all transactions involving financing of used homes. Taking this approach would eliminate the need to make distinctions about whether the land under the home was subject to a security interest.

Question 13: The Agencies also seek comment on whether some other valuation method should be required as a condition of the exemption from the HPML appraisal requirements.

Response: The general HPML rules should apply. We oppose an exception for such homes.

Question 14: Accordingly, the Agencies request data on the extent to which a USPAP-compliant real property appraisal with an interior property inspection would be of comparable cost to, or more or less expensive than, a USPAP-compliant appraisal of a lot combined with an invoice price for the home unit.

Response: We do not have precise enough information about cost to respond to this question. However, since the GSEs already require such appraisals,[3] it appears that this requirement is feasible and possible for other lenders to adopt. In addition, we recommend that the Agencies work with stakeholders to explore ways to streamline manufactured home appraisals. For example, it may be possible to coordinate the appraisal with the inspection of the home's installation required by HUD regulations.[4] The installation inspection could at least suffice to establish the structural integrity of the home on the site, which is often the cause when the value of a manufactured home declines precipitously after sale.

Question 15: The Agencies also request comment on the potential burdens on creditors and consumers and any potential reduction in access to credit that might result from imposing requirement for a USPAP-compliant appraisal with an interior property inspection on all manufactured home creditors of loans secured by both a new manufactured home and land. In this regard, the Agencies ask commenters to bear in mind that any of these transactions that are qualified mortgages are exempt from the HPML appraisal requirements under the separate exemption for qualified mortgages. *See*§ 1026.35(c)(2)(i).

Response: The costs should be no higher than for site built homes which would be bound by the rule.

[3] *See* 78 Fed. Reg. 48,554 (Aug. 8, 2013).
[4] 24 CFR § 3286.803.

Question 16: Finally, the Agencies request comment on whether and the extent to which consumers in these transactions typically receive information about the value of their land and home and, if so, what information is received.

Response: Currently consumers do not receive this information.

Loans secured by existing home but not land

The Agencies propose to exempt transactions secured solely by an existing manufactured home (and not land) from the appraisal rule. In general, we oppose this proposal, for several reasons.

First, the overall goal should be to move manufactured home transactions into mainstream financing. To achieve this goal, distinctions between manufactured home financing and other home financing should be reduced or eliminated.

Reducing the distinctions between manufactured home financing and other financing is also a step toward attracting more financing entities into manufactured home financing. If manufactured home financing were less arcane and specialized, but instead followed general home financing rules, more lenders might enter this market. There is a particular lack of financing alternatives for sale of used homes, creating a serious problem for owners of existing manufactured homes who need to relocate.

Second, the proposal places unwarranted emphasis on the lack of a security interest in land. While it is better to base a distinction on whether there is a security interest in land than on whether the home is titled as real property, it would be better to treat all manufactured home resale and refinance transactions the same, whether or not there is also a security interest in land. For example, a manufactured home may be sited on land that the homeowner owns free and clear. It is hard to imagine a reason that such a home should be treated differently from one on land on which the homeowner has a mortgage. Even when a manufactured home is sited on rented land, the location is an important part of the value of the home, so the requirement of an appraisal makes sense.

For these reasons, we urge the Agencies not to adopt a long term exemption for these transactions. HPML transactions involving an existing manufactured home but not land should be subject to the appraisal requirement unless they are exempt for some other reason, such as falling under the proposed $25,000 loan threshold.

Nonetheless, we recognize that there have been different approaches to manufactured home appraisals, and we urge the Agencies to convene a working group of stakeholders to develop standards for appraisal of existing manufactured homes. Harmonizing the various standards will help the industry develop financing products that serve homeowners' needs. If necessary, the applicability of the appraisal rule to these transactions could be scheduled for a date in the future, such as January 2016, so that the stakeholder process could reach its conclusion before the effective date.

Our answers to several of the Agencies' specific questions on this topic follow.

Question 17: The Agencies request comment on this view and approach [the proposal to exempt transactions secured solely by an existing (used) manufactured home and not land].

Response: We commend, for the reasons described above, the agencies for not using the home's classification as real or personal property as the basis for determining whether the appraisal requirements apply. However, in the long term as discussed previously, we believe these transactions should be subject to HPML appraisal requirements unless they are exempt for some other reason, such as falling under the proposed $25,000 loan threshold discussed below. Harmonizing the rule so that both manufactured homes and site-built homes would be subject to the requirements would not only help safeguard the safety and security of the lending market, but would also help move manufactured homes to a more equal footing with site built homes for the benefit of industry and homeowners.

Question 18: The Agencies request comment on whether the proposed exemption should be conditioned on the creditor obtaining an alternative valuation (*i.e.,* a valuation other than a USPAP- and FIRREA-compliant real property appraisal with an interior property inspection) that is tailored to estimating the value of an existing manufactured home without land and providing a copy of it to the consumer.

Response: Existing alternative valuations are not effective in valuing such homes and would not ensure that consumers have access to information about the value of the home that would secure the loan before entering into an HPML.

Questions 19 through 25 focus on alternative valuation methods. These include the use of depreciation schedules, diminution in value calculations and other valuation tools. Examples might include Marshall and Swift, NADA or other products.

Response: These valuation tools are inadequate. As a general rule these valuation methods either exclude the location of the manufactured home or fail to correctly value the characteristics of the location where the home is sited. They also assume depreciation of the home. While it may be true that structures themselves tend to depreciate over time, neither site-built nor manufactured homes are typically sold in isolation. Instead they are sold with some relationship to the land where they are, and this relationship greatly influences their value.

Depreciation can also vary widely. Valuations based only on make, model and year do not account for condition, routine maintenance, repairs or upgrades, which may have a bigger effect on actual home value than the year built. A 1977 home may have all new windows, roof, insulation, siding, interior kitchen and other upgrades. An appraisal of such a home would show it was in good condition, with another 35 years of economic life remaining. A blue book value based only on make, model and year would not accurately value this home.

Also, the widespread use of depreciation schedules may drive rather than reflect home value to some extent. For these reasons we urge the Agencies to convene a working group of stakeholders to harmonize different existing standards and methods of appraisal of manufactured homes so as to integrate them into the larger residential housing market.

To the extent that comparison approaches are used rather than depreciation schedules, selection of comparable sales is based upon many characteristics such as the type of sale, the size, style and location of the home, etc. Some lenders and programs have requirements that are so specific as to limit the availability of comparables and cause problems. For example, in the HUD Title I discussion in the proposal, it is noted that the requirements include comparable manufactured homes in similar condition and in the same geographic area. This focus on one characteristic of the home (that it is a manufactured home) may preclude the use of other more suitable comparables by the appraiser. This example highlights the need to build a more workable system that accurately reflects the value of the home, is integrated into the larger residential housing market, and can be used across the country.

Loans secured by an existing manufactured home and land

Question 26: The Agencies request further comment whether to exempt these transactions and, if so, why an exemption would be in the public interest and promote the safety and soundness of creditors.

Response:

We agree that loans secured by an existing manufactured home and land should not be exempt from the appraisal rules. One of the goals of the Agencies should be to move manufactured home transactions into mainstream financing. There is no reason to subject a transaction to different rules when the sole difference is whether the home was manufactured vs. site-built.

The reasons are similar to the reasons, discussed above, that loans secured by a new manufactured home should not be exempt. Indeed, as noted in our answers to the previous questions, we urge the Agencies to apply the rule (possibly with some adaptations of the valuation procedure) to all transactions involving financing of used homes. Taking this approach would eliminate the need to make distinctions about whether the land under the home was subject to a security interest.

We urge that both new and existing home finance transactions should be quickly brought under the HPML appraisal requirements. Methods of producing manufactured home appraisals efficiently will develop only if there is a sufficient volume of demand for appraisals. Likewise, appraisers will master the methods of manufactured home appraisal only if there is sufficient volume. Since there is currently only very limited refinancing available for existing manufactured homes, these transactions will not produce the necessary appraisal volume. If the Agencies require appraisals only for financing transactions involving existing homes, and not for the new home sales market, they will not only fail to make these transactions safer for buyers but will also incentivize lenders to divert their already-limited refinance lending to new home lending.

Extensions of Credit for $25,000 or Less

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. Such a rule would allow lower-priced homes, both manufactured and site-built, to be financed without the higher relative expense of an appraisal. We do not take a position on this proposed exemption in this rule, but we note that a large percentage of the transactions affected are likely to be manufactured home transactions. If an exemption based on the amount of the loan is adopted, it should be no more than $25,000, and we urge the Agencies to apply it equally to manufactured homes and site-built homes.

In addition, if an exemption for transactions below $25,000 is adopted, we urge the Agencies to require the buyer to be given at least the manufacturer's invoice for new manufactured home transactions that fall under the threshold. As noted above, the invoice can be provided at virtually no cost, and serves as an important check on overvaluation.

Conclusion

Thank you for the opportunity to comment on this issue which is so important to so many rural and low-income people. Please feel free to contact John W. Van Alst at NCLC, Doug Ryan at CFED, or Howard Banker at the Fair Mortgage Collaborative with any questions.

The National Consumer Law Center, Inc. (NCLC) is a non-profit specializing in low-income consumer issues, with an emphasis on consumer credit. Since 1969, NCLC has used its expertise in consumer law and policy to work for consumer justice and economic security for low-income and other disadvantaged people across the United States, including older adults, minorities, and those living in rural areas.

CFED is a national, nonpartisan nonprofit organization based in Washington, D.C. that works to expand economic opportunities for all Americans by promoting asset-building policies and programs. Our work empowers low-and moderate-income households to achieve the American dream: buying a home, pursuing higher education, starting a business and saving for the future. For more than three decades, CFED has promoted homeownership as one of the best ways for LMI families to build wealth. Since 2005, CFED has spearheaded I'M HOME, or Innovations in Manufactured Homes, an initiative designed to unlock the potential of high-quality manufactured housing as a key source of affordable and appreciating housing. The mission of I'M HOME is to ensure that families who purchase manufactured homes are able to build wealth through homeownership.

The Fair Mortgage Collaborative ("FMC") is a non-profit organization that has been working since 2008 to make mortgages safe for consumers. FMC was formed by virtually all the national nonprofit lending networks, lending advocacy groups, lending practitioners and foundations with the goal of providing consumers the tools they need to find a Fair and Safe mortgage.