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To: Clients and Friends

From: David F. Dulock

Subject: Proposed Rule on Property Appraisals for Higher-Risk Mortgage Loans

In an August 15, 2012 press release, the six federal financial regulatory agencies - Board of Governors of the Federal Reserve System (FRB), Bureau of Consumer Financial Protection (CFPB), Federal Deposit Insurance Corporation (FDIC), Federal Housing Finance Agency (FHFA), National Credit Union Administration (NCUA), and Office of the Comptroller of the Currency (OCC) - issued a proposed rule to establish appraisal requirements for higher-risk mortgage loans.

The proposed rule defines a higher-risk mortgage as a closed-end consumer loan secured by a principal dwelling with an APR exceeding rate thresholds that are substantially similar to rate triggers currently in Regulation Z for "higher-priced mortgage loans" (*see* existing 12 CFR 1026.35). In general, loans are higher-risk mortgage loans under this proposed rule if the APR exceeds the APOR by 1.5 percent for first-lien loans, 2.5 percent for first-lien jumbo loans, and 3.5 percent for subordinate-lien loans. The proposed rule would exclude qualified mortgages (to be defined by separate rule making) and reverse mortgage loans from the definition of higher-risk mortgage loan.

The proposed rule would require creditors to use a licensed or certified appraiser who prepares a written appraisal report that includes a physical inspection of the interior of the property. The proposed rule also would require creditors to disclose to applicants at application the purpose of the appraisal, that the applicant will be provided a copy of the appraisal, and that the applicant may choose to have a separate appraisal conducted at applicant's expense.

Creditors would be required to provide consumers with a free copy of any appraisal reports at least three business days prior to closing.

Creditors would be required to obtain an additional appraisal, from a different licensed or certified appraiser, at no cost to the consumer for a principal residence-purchase higher-risk mortgage loan if the seller acquired the property for a lower price during the past six months. The additional written appraisal generally must include the following information: an analysis of the difference in sale prices (*i.e.*, the sale price paid by the seller and the acquisition price of the property as set forth in the consumer's purchase agreement), changes in market conditions, and any improvements made to the property between the date of the previous sale and the current sale.

Publication of the proposed rule in the Federal Register is expected shortly and the agencies are seeking comments on all aspects of the proposed rule. The public will have until October 15, 2012, to review and comment on the proposed rule. The methods by which comments are required to be made to the agencies are set out in the proposed rule.

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There are other provisions in the proposed rule that are not addressed in the above summary, and you may review and/or print the proposed rule by clicking [here](#).

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