

# CFPB Amends Requirements for Providing Appraisals to Home Loan Applicants

January 29, 2013

The Consumer Financial Protection Bureau (“CFPB”) has issued amendments to Regulation B requiring creditors to provide to applicants free copies of all appraisals and other written valuations developed in connection with an application for a loan to be secured by a first lien on a dwelling, and to require creditors to notify applicants in writing that copies of appraisals will be provided to them promptly. The amendments are effective on January 18, 2014.

Regulation B currently has requirements with respect to providing appraisals to applicants for loans secured by a dwelling. As part of the Dodd-Frank Act, Congress called for amendments to Regulation B with respect to these appraisal requirements. The amendments issued by the CFPB to Section 1002.14 of Regulation B implement those provisions of the Dodd-Frank Act.

The amendments to Regulation B provide for the following in connection with applications for credit to be secured by a first lien on a dwelling (defined as a residential structure containing 1 to 4 units, including condo and co-op units):

- Require creditors to notify applicants within three business days of receiving an application of their right to receive a copy of appraisals developed.
- Require creditors to provide applicants a copy of each appraisal and other written valuation promptly upon its completion or three business days before consummation (for closed-end credit) or account opening (for open-end credit), whichever is earlier.
- Permit applicants to waive the timing requirement for providing these copies. However, applicants who waive the timing requirement must be given a copy of all appraisals and other written valuations at or prior to consummation or account opening, or, if the transaction is not consummated or the account is not opened, no later than 30 days after the creditor determines the transaction will not be consummated or the account will not be opened.
- Prohibit creditors from charging for the copy of appraisals and other written valuations, but permit creditors to charge applicants reasonable fees for the cost of the appraisals or other written valuations unless applicable law provides otherwise.

One of the main changes made by the amendments is to eliminate the option that creditors currently have in Regulation B to either routinely provide applicants with a copy of the appraisal report, or to provide applicants with a notice of their right to obtain an appraisal report; under the amendments, a creditor must provide applicants with a notice of their right to an appraisal, and must provide a copy of the appraisal.

In addition, the amendments expand the requirement to provide copies of appraisal reports to also include any “other written valuations developed in connection with an application.” A valuation is defined as “an estimate of the value of a dwelling developed in connection with an application for credit.” This includes, for example, a document prepared by the creditor’s staff that assigns value to the property, a report generated by use of an automated valuation model, and a broker price opinion.

Also, the amendments narrow the types of applications subject to the appraisal report requirement. The requirement currently in Regulation B applies to an application for credit to be secured by any lien on a dwelling; the amendments change this to an application for credit to be secured by a first lien on a dwelling. Please note, however, that New York Real Property Law Section 254-c requires a creditor to provide a copy of an appraisal in connection with a loan to be secured by any interest in any real property (including first and subordinate liens, and residential and commercial properties), provided the applicant has paid for the appraisal and requested a copy in writing.

The amendments change the form of sample disclosure that creditors may use to comply with the revised notice requirement under Regulation B. The new sample notice reads as follows:

“We may order an appraisal to determine the property’s value and charge you for this appraisal. We will promptly give you a copy of any appraisal, even if your loan does not close. You can pay for an additional appraisal for your own use at your own cost.”

This required notice must be mailed or delivered to the applicant no later than the third business day after the creditor receives an application for credit that is to be secured by a first lien on a dwelling.

The actual copy of the appraisal or valuation must then be provided to the applicant promptly upon completion, or three business days prior to consummation of the transaction (for closed-end credit) or account opening (for open-end credit), whichever is earlier. An applicant may waive this timing requirement and agree to receive the appraisal or valuation at or before consummation or account opening, except as otherwise prohibited by law. Any such waiver generally must be obtained at least three business days prior to consummation or account opening. Applicants who waive the timing requirement must be given a copy of all appraisals and other written valuations at or prior to consummation or account opening, or, if the transaction is not consummated or the account is not opened, no later than 30 days after the creditor determines the transaction will not be consummated or the account will not be opened.

The amendments state that a creditor may not charge an applicant for providing a copy of an appraisal or valuation, but may require applicants to pay a reasonable fee to reimburse the creditor for the cost of the appraisal or valuation unless otherwise provided by law.

As noted above, the amendments are effective on January 18, 2014. If you have any questions regarding the amendments, please feel free to contact Joseph D. Simon at 516-357-3710 or via email at [jsimon@cullenanddykman.com](mailto:jsimon@cullenanddykman.com).

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