



November 16, 2011

Rajeev V. "Raj" Date
Special Advisory to the Secretary of the Treasury
Consumer Financial Protection Bureau
Federal Reserve System
1500 Pennsylvania Avenue, NW
Suite 1801 L
Washington, DC 20220

Dear Mr. Date:

On behalf of the more than 25,000 members of our professional appraisal organizations, this letter expresses our opposition to the proposed Settlement Disclosure Form (SDF) released for public comment by the Consumer Financial Protection Bureau (CFPB) on November 11, 2011. The CFPB has proposed two versions of the new SDF, both of which continue to bundle appraisal fees with fees paid to appraisal management companies. As you know, the Dodd-Frank Act authorized separation of appraisal and appraisal management fees, and doing so would fully inform borrowers of actual costs paid. We see no consumer benefit with continuing to bundle two separate services and not fully disclosing such information to borrowers. We urge the CFPB to revise these forms with a separate line for Appraisal Management (or management fees in total) as Congress authorized last year when it enacted the Dodd-Frank Act.

As background, recent consumer research indicates that consumers are paying higher costs for appraisal fees as reported on the Appraisal line of the HUD-1 statement¹. At the same time, our members report significant reductions in appraisal fees, by as much as 40 percent. How can this be explained?

The explanation for this is simple – consumers are now paying for appraisal management company fees through the Appraisal line of the HUD-1. Traditionally, appraisal management fees were allocated as part of loan processing or administration fees or through the interest rate. However this has changed over the years as more lenders have outsourced appraisal functions to third party management companies. This is enabled by interpretations of the Real Estate Settlements Procedures Act, the foundation of which date back to the origins of the HUD-1 in 1974, long before the current appraisal management business model was established. This allows the bundling of appraisal and appraisal management expenses when appraisal management companies are used.

However, the CFPB, through the establishment of a new SDF and as authorized by the Dodd-Frank Act, has a unique opportunity to improve transparency for borrowers by requiring full disclosure of costs incurred for appraisal services and costs for appraisal management services.

We note that the proposed CDFs segregate in great detail the services provided in relation to title services (1000 Title Changes). We support this approach and we believe a similar type of breakdown should be implemented with regard to appraisal and appraisal management considering that they are two completely separate functions. Appraisal services certify values in accordance with the Uniform Standards of Professional Appraisal Practice, while appraisal management services involve administration and processing functions for lenders.

¹ See "NAR Survey Shows HVCC Impacting Housing Markets," available at http://www.realtor.org/wps/wcm/connect/b83165804ef0b3338f18af2db4a1e62f/government_affairs_hvcc_research_results.pdf?MOD=AJPERES&CACHEID=b83165804ef0b3338f18af2db4a1e62f

We also note that in previous conversations with CFPB staff some question remained over the perceived consumer protection benefit to separating the appraisal and appraisal management fees on the CDF. On this point, we believe that consumers deserve to know **who** is providing services relative to their loan and **how much** was paid. This is the spirit of transparency and the core presumption with development of a consumer disclosure form. Otherwise, why segregate any of the settlement service costs? Additionally, without itemization, the consumer does not know the level of service provided by the appraiser and may be misled to believe that a more thorough appraisal analysis was performed. The appraisal profession already faces this problem in the market today as a result of current HUD-1 interpretations, as consumers believe that higher expenses on the Appraisal line of the HUD-1 is the result of more thorough analysis or simply a fee increase by the provider who visits their property. They have no idea that an inferior appraisal may be performed with the real increase is attributable to the management fee added on top of the actual fee for the service provided. Separate disclosure of the appraisal and appraisal management fee solves this problem and provides clarity to the consumer. Simply put, separation prevents manipulation of price vs. service, which is consistent with the goal of disclosure and is clearly a consumer service.

One complicating factor in separating appraisal and appraisal management company fees on the SDF is the “3 percent points and fees cap” also established by the Dodd-Frank Act. Known as the “Merkley Amendment,” this provision caps fees paid to banks to 3 percent of the loan amount. How this affects appraisal is that several large, national banks own appraisal management companies. When the appraisal management fees are bundled with appraisal fees on the SDF, the fees fall outside of the Merkeley Amendment requirements. However, if they are separated on the SDF, the appraisal management company fees (for those owned by banks) would fall within the 3 percent cap, constricting the amount available to other areas of the loan transaction. Obviously, banks that own appraisal management companies and receive AMC fees are concerned about adverse effects this may have on their operations.

On this point, the Dodd-Frank Act authorizes the CFPB to exempt fees from the 3 percent points and fees cap. We urge the CFPB to exempt appraisal management company fees from the Merkeley Amendment, in support of fully disclosing fees and payees to consumers.

In sum, the CFPB has expressed the desire “to help make the costs and risks clear at all stages of the mortgage process – from shopping for a mortgage to signing on the dotted line.” This is not occurring today with regard to appraisal fees; however, it is within reach should the CFPB followed through on the Congressional authorization to separate appraisal and appraisal management fees to consumers.

We recently met with CFPB staff to discuss these issues shortly after the agency commenced operations. We would be pleased to continue to discuss these concerns with you in greater detail and help develop a form that professional real estate appraisers can support. We also will concurrently express our concerns with the two proposed forms through the CFPB “Know Before You Owe” website. Please contact Bill Garber, Director of Government and External Relations at 202-298-5586 or bgarber@appraisalinstitute.org or Brian Rodgers, Manager of Federal Affairs at 202-298-5597 or brodgers@appraisalinstitute.org if you would like more information or arrange a meeting.

Thank you in advance for your consideration.

Sincerely,

Appraisal Institute
American Society of Farm Managers and Rural Appraisers

Cc: Ms. Patricia “Pat” McCoy, Assistant Director for Mortgage and Home Equity Markets
Mr. Ethan Bernstein, Deputy Assistant Director