Banking Agencies Publish Supplemental Final Rules on Dodd-Frank Requirements for Appraisals for Higher-Risk Mortgage Loans

By: Edmund D. "Ed" Harllee

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On Thursday, December 26, 2013, the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, National Credit Union Administration, Bureau of Consumer Financial Protection (the ?Bureau?), Federal Deposit Insurance Corporation and Federal Housing Finance Agency (collectively, the ?Agencies?) published supplemental final rules in the *Federal Register* amending the Bureau?s Regulation Z, which implements the Truth in Lending Act (the ?Act?). Prior changes to the Act and Regulation Z had been made to implement the requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act with respect to appraisals for ?higher-risk mortgages.? Final rules had been published in the *Federal Register* in February (see this publication on February 20, 2013), but the final rules indicated that the Agencies would be issuing proposed rules to exempt certain types of higher-risk mortgages. The proposed rules were issued on July 10, 2013.

The Act generally defines a ?higher-risk mortgage? as a closed-end consumer transaction secured by a principal dwelling, and having an annual percentage rate (or ?APR?) of 1.5% above the average prime offer rate (or ?APOR?) for first-lien loans, 2.5% above the APOR for first-lien jumbo loans and 3.5% above the APOR for junior-lien loans. The final rules refer to ?higher-risk mortgages? as ?higher-priced mortgage loans? (?HPMLs?), the current terminology in Regulation Z, and require the creditor to determine whether a loan is an HPML by comparing the APR to the APOR.

The supplemental final rules exempt the following types of HPMLs from the appraisal requirements of the Act:

1. Loans of $25,000.00 or less. This amount will be indexed every year for inflation.

2. ?Streamlined refinancings,? where the credit risk is retained by the person that held the original credit risk, or the loan is insured or guaranteed by the same Federal government

agency that insured or guaranteed the original loan. Periodic payments under such refinancings must not result in negative amortization, permit principal to be deferred, or result in a balloon payment. The proceeds of the refinance may only be used to pay off the existing obligation and cover closing costs.

3. All loans secured in whole or in part by a manufactured home are exempted until July 18, 2015. Thereafter, (a) the exemption for loans secured by a new manufactured home is limited to an exemption from the requirement for a physical inspection of the interior of the home; (b) loans secured by a used manufactured home and land will not be exempt; and (c) if the loan is secured by the manufactured home and no land, the loan will be exempt if the borrower is able to provide certain information (set forth in the regulation) to the creditor as to the value of the home.

Except as set forth above, these supplemental final rules will take effect on January 18, 2014.

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- Edmund D. "Ed" Harllee ? 703.760.5208 ? eharllee@williamsmullen.com

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