

Summary of final ECOA rule on providing appraisals and valuations

January 18, 2013

The Consumer Financial Protection Bureau (Bureau) is issuing a final rule implementing an amendment to the Equal Credit Opportunity Act (ECOA) regarding furnishing copies of appraisals and other written valuations to applicants for first lien loans secured by a dwelling. The rule will become effective on January 18, 2014.

BACKGROUND

The rule implements an amendment to ECOA contained in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).¹ ECOA prohibits lenders from discriminating on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to contract), because all or part of an applicant's income derives from public assistance, or because the applicant has in good faith exercised right under certain credit laws including the Truth in Lending Act (TILA). Before enactment of the Dodd-Frank Act, ECOA required creditors to furnish promptly upon request a copy of an appraisal report used in connection with an application for a loan secured by residential real property. This provision was designed to inform mortgage applicants of how a property's value was determined by the creditor, and to make it easier for loan applicants to determine if a loan application was denied due to discrimination.

In response to the recent mortgage crisis, Congress amended ECOA in the Dodd-Frank Act to require creditors to automatically provide applicants with a copy of appraisal reports and other written valuations prepared in connection with first lien loans secured by a dwelling. The amendment to ECOA also requires creditors to provide applicants with a disclosure at the beginning of the application process. The Bureau is issuing a rule to implement those changes.

SUMMARY OF THE RULE

In general, the rule amends the appraisals provision of Regulation B, which implements ECOA. The amended provision covers only applications for credit to be secured by a first lien on a dwelling. The new rule:

¹ Pub. L. 111-203, 124 Stat. 1376, section 1474 (2010).

- Requires creditors to notify applicants within three business days of receiving an application of their right to receive a copy of appraisals developed.
- Requires creditors to provide applicants a copy of each appraisal and other written valuation promptly upon their completion or three business days before consummation (for closed-end credit) or account opening (for open-end credit), whichever is earlier.
- Permits 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.
- Prohibits creditors from charging for the copy of appraisals and other written valuations, but permits creditors to charge applicants reasonable fees for the cost of the appraisals or other written valuation unless applicable law provides otherwise.

The disclosure requirements of this rule overlap with a rule on appraisals for higher-priced mortgage loans the Bureau is issuing jointly with several other agencies today. That rule implements an amendment that the Dodd-Frank Act made to TILA, which also requires creditors to provide free copies of appraisals in transactions covered by the rule and to provide a disclosure at application. The same appraisal notice can be used to satisfy both this rule and the TILA rule, in transactions where both rules apply.