FDIC

Federal Deposit Insurance Corporation
550 17th Street NW, Washington, D.C. 20429-9990

Financial Institution Letter
FIL-36-2012
August 16, 2012

Notice of Proposed Rulemaking on Appraisal Requirements for Higher-Risk Mortgages

Summary: On August 15, 2012, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Consumer Financial Protection Bureau, the Federal Housing Finance Agency, the National Credit Union Administration, and the Office of the Comptroller of the Currency issued the attached Notice of Proposed Rulemaking (NPR) and request for comment on a proposed rule to implement the appraisal requirements for higher-risk mortgages of Section 1471 of the *Dodd-Frank Wall Street Reform and Consumer Protection Act*. Section 1471 adds a new Section 129H to the Truth in Lending Act.

Statement of Applicability to Institutions Under $1 Billion in Total Assets: The NPR would apply to all institutions that originate higher-risk mortgages, as defined in the NPR.

Distribution:
FDIC-Supervised Banks (Commercial and Savings)

Suggested Routing:
Chief Executive Officer
Chief Compliance Officer
Chief Risk Officer

Related Topics:
12 CFR Part 1026
Section 129H of the Truth in Lending Act (15 U.S.C. § 1639h)

Attachment:
Joint Notice of Proposed Rulemaking: Appraisal Requirements for Higher-Risk Mortgages

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Highlights: The proposed rule:

- Defines a higher-risk mortgage loan as a residential mortgage loan secured by a principal dwelling with an annual percentage rate that exceeds an average prime offer rate by certain specified percentages.
- Requires a lender to take certain actions before originating a higher-risk mortgage loan, including:
  - obtaining a written appraisal by a certified or licensed appraiser who has physically visited the interior of the mortgaged property;
  - obtaining a second appraisal from a different appraiser that analyzes any difference in sales prices, changes in market conditions, and any improvements made to the property if the collateral was acquired by the seller within 180 days of the current transaction and the property is being sold at a higher price than the seller paid;
  - providing the borrower with a statement that any appraisal is for the creditor's sole use, and that the borrower may choose to have a separate appraisal conducted at the applicant's expense; and
  - providing the borrower with a copy of the appraisal without charge at least three days before closing.
- Requires a creditor to use reasonable diligence to determine if a second appraisal must be performed.
- Proposes a safe harbor of steps the lender should take to confirm appraisals are conducted according to regulatory and statutory requirements.
- Requests comment by October 15, 2012, on all aspects of the rule, including possible exemptions to the appraisal and second appraisal requirements, and whether the annual percentage rate should be replaced by a "transaction coverage rate" for purposes of determining if a loan is a higher-risk mortgage loan.