



Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, Northwest
Washington, D C 20551

Re: Interim Final Rule - Customary and Reasonable Fee Stipulation

Dear Ms. Johnson:

The Title Appraisal Vendor Management Association("TAVMA") wishes to express its views about the misinformation being disseminated by appraisal organizations and publications about the Federal Reserve's Interim Final Rule and Appraisal Management Companies ("AMC's"). TAVMA is a national trade association of real estate settlement services providers including many leading appraisal management companies.

Some appraisers continue to attack AMC's by asserting that the DOD Frank Act, TILA and the Interim Final Rule prohibit consideration of fees negotiated in arms length transaction between AMC's and appraisers. [The Appraiser News Online, Volume 12, Number 16, April 20, 2011](#), reports that "Federal Reserve officials indicated that AMC fees were not to be included in any assessment of recent fees paid to appraisers" under Presumption 1 of the Interim Rule.

TAVMA understands that this statement and the article in which it is contained misrepresent the statements of the Federal Reserve officials who were present at the San Antonio conference. Given the timing of the article, coming as it does with the roll-out by many lenders and AMC's of pricing consistent with Dodd Frank and the Interim Final Rule, such misstatements are causing confusion in the marketplace and are adding unnecessarily to the regulatory burden of those working to comply with the new requirements. TAVMA requests that the Federal Reserve Board and staff take the steps necessary to correct this distortion of its Interim Final Rule.

Similarly, a recent on-line petition directed to the Federal Reserve asserts incorrectly that the fees paid by AMC's to appraisers are not to be considered in the determination of a customary and reasonable fee (<http://www.petitiononline.com/CnR2011/petition.html>). **TAVMA strongly disputes the substance of the on-line petition**, which takes exception to the Federal Reserve Board's interpretation of TILA Section 129E(i) as allowing consideration of fees paid by AMC's to appraisers in the determination of the "customary and reasonable rate" of compensation for fee appraisers. The petitioners show

contempt for others in their profession by declaring that the work of those appraisers who will work for less than the petitioners" is substandard.

The signers of the petition want the Federal Reserve Board to write an exclusion of consideration of fees paid to appraisers by AMC's into Presumption 1 of the Interim Rule; however, the requirement that determination of "customary and reasonable rates" take into account "recent rates paid for comparable appraisal services" would be unnaturally skewed if AMC's and lenders could not consider the fees that they have long been paying for appraisals.

In adopting the Interim Rule, the Federal Reserve Board observed that the customary and reasonable compensation provision that Congress adopted as part of TILA is identical to a requirement included in a 1997 HUD Mortgagee Letter obligating FHA lenders to ensure that appraisers are paid "at a rate that is customary and reasonable for appraisal services performed in the market area of the property being appraised." The emphasis is on the marketplace in which AMCs have long had an integral role.

The Dodd Frank Act and the Interim Rule identify a specific type of survey in which AMC fees are not to be considered but this does not hold in other circumstances. To exclude, as the petitioners seek, the fees charged by appraisers in the majority of transactions would deny marketplace realities to the detriment of consumers, lenders, and competition. Such an interpretation of TILA's "customary and reasonable" provision likely would be unconstitutional and violate anti-trust laws, and would not serve the best interests of consumers, lenders or competition.

TAVMA's members are working with lenders and appraisers to comply with the TILA and the Federal Reserve Board's Interim Rule. TAVMA strongly opposes the position taken in the recent petition. The customary and reasonable fee rule that was issued by the Fed has been effective for less than a month. The petitioners should allow a reasonable time for the new rule to be implemented.

On behalf of TAVMA, I appreciate your time and attention to our views.

Sincerely,

Edward J. Krug, President