NATIONAL ASSOCIATION OF APPRAISERS
www.naappraisers.org ♦ (800) 766-1936
The Association for All Appraisers

September 24, 2012

Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: Definition of Finance Charge
Docket No. CFPB-2012-0028
Regulatory Information Number 3170-AA19

The purpose of this letter is respectfully to request that the Consumer Financial Protection Bureau consider an issue that is of considerable interest to both consumers of mortgage loan products and the real property appraisal community. The issue in question is the matter of fair disclosure for mortgage loan consumers. It appears to have been overlooked while the CFPB was involved in other issues, but favorable action by the CFPB would still serve to benefit these consumers. The issue involves the wide-spread use of appraisal management companies (AMCs) by many mortgage loan originators. Some of the CFPB's proposed mortgage loan fee forms for estimating both mortgage loan and settlement fees fail to separate the AMC fee from the appraisal fee, however, some do not. The fundamental question that should be addressed for both consumers and appraisers is: Whose responsibility is appraisal management and therefore who should bear its expense?

Is appraisal management the responsibility of the originator? If so, its expense should be borne by the originator out of its loan origination fee(s), and not hidden in a general classification of "appraisal fee." This is a common practice for major lenders today, but is not traditional for local lenders, such as credit unions, community banks, brokers and others. In fact, the majority of these originators charge the borrower only the fee that is passed to the appraiser. Although AMCs came on the scene more than two decades ago, they have only become a major factor with the substantial growth in the number and influence of national and regional lenders in originating their own loans. Today, three national lenders control well over half of residential mortgage originations and they almost exclusively use AMCs and pass the cost of both the appraisal and appraisal management to the consumer without clarification or disclosure. The vast majority of local lenders continue the traditional practice of charging the borrower only the actual appraisal fee, thus bearing the management expense themselves.

In some cases, such as with VA-insured loans, appraisal management is actually carried out by the VA which maintains its own fee appraiser panel and pays the appraiser the appraisal fee. At one time this was the case with FHA-insured loans, but FHA panels were disbanded in the 1980s and responsibility was assigned to the lender. After a decade of concern, FHA developed its own concept of appraisal management, wherein it actually maintains its own appraiser roster. Lenders must select an appraiser from this roster, and FHA monitors the appraiser's performance to the point of sanctions for sub-standard performance. In essence, FHA has discounted the effectiveness of AMCs even though it still permits lenders to use AMCs in originating FHA-insured loans, and permits them to charge the borrower a management fee.

The other two primary participants in mortgage lending, Fannie Mae and Freddie Mac rely virtually entirely on the lender, and as stated above, in the majority of originations, the consumer is being charged for both the appraisal fee and the management fee under the title of "appraisal fee." It was hoped that Dodd-Frank would correct this, but it appears that the CFPB must answer the question of who is responsible. Unless the fees are separated on the disclosure forms, consumers will be unable to distinguish that the VA, credit union loan or others are not charging the consumer for the management service.

NAA considers this to be an issue of special interest to financial consumers, appraisers and local mortgage lenders. A positive, clarifying action by the CFPB would be consistent with its mandate and traditions.

George R. Harrison, PhD, MAA
President
GH/2

Cf:

Honorable Spencer Bachus, Chair
US House Financial Services Committee
2246 Rayburn Building
Washington, DC 20515

Ellen Bloom,
Director of Federal Affairs
Consumers Union
1101 17th Street Suite 500
Washington, DC 20036

Credit Union National Association
601 Pennsylvania Ave NW
Ste 600, South Bldg
Washington DC 20004-2601

David Berenbaum,
Chief Program Officer
National Community Reinvestment Coalition
727 15th Street, NW, Suite 900
Washington, DC 20005