

**ECOA (REG B) VALUATION RULES & TILA (REG Z) HPML APPRAISAL RULES (Effective for Applications Taken on or after January 18, 2014)**

|   | Consumer Purpose<br>Closed-End<br>1 <sup>st</sup> Lien<br>Principal Dwelling<br>Secured | Consumer Purpose<br>Closed-End<br>Subordinate Lien<br>Principal Dwelling<br>Secured | Consumer Purpose<br>Closed-End<br>1 <sup>st</sup> Lien<br>Non-Principal<br>1-4 Family Dwelling<br>Secured | Consumer Purpose<br>Closed-End<br>Subordinate Lien<br>Non-Principal<br>1-4 Family Dwelling<br>Secured | Consumer Purpose<br>Open-End<br>1 <sup>st</sup> Lien Only<br>Any 1-4 Family<br>Dwelling Secured | Commercial Purpose<br>Open- or Closed-End<br>1 <sup>st</sup> Lien Only<br>Any 1-4 Family<br>Dwelling Secured |
|---|---|---|---|---|---|--|
| <b>A. ECOA Valuations Rules §1002.14 (Note 1)</b>   |   |   |   |   |   |  |
| 1. Within 3 business days of application, disclose in writing the right to promptly receive copy of appraisal or evaluations developed in connection with 1 <sup>st</sup> lien application for credit secured by a 1 – 4 family dwelling.   | X   |   | X   |   | X   | X  |
| 2. Perform appraisals or evaluations (valuations) per bank policies in compliance with USPAP and FIRREA. Creditor is allowed to charge applicant for cost of the valuation developed in connection with the credit application.   |   |   |   |   |   |  |
| 3. Provide a free copy of the appraisal or evaluation promptly upon completion, by the earlier of a few days following review and approval of the appraisal, or 3 business days before closing (closed-end credit) or account opening (open-end credit). MUST be delivered at or before closing.  |   |   |   |   |   |  |
| 4. Non-HPML Applicant may waive receipt of advance copy, but must waive right 3 business days before closing. Copy to be provided at or prior to closing.   |   |   |   |   |   |  |
| 5. If application is denied, withdrawn, or otherwise not closed, and waiver was executed before closing, provide copy within 30 days following determination.   |   |   |   |   |   |  |
| <b>B. TILA HPML Appraisal Rules §1026.35(c)(1) – (6) (Note 2)</b>   |   |   |   |   |   |  |
| 1. Within 3 business days of application, disclose right to receive appraisal copy and consumer's option to obtain additional appraisals at their own expense.  | X   | X   |   |   |   |  |
| 2. Certified or licensed appraisers must perform interior-inspection appraisals that comply with USPAP and FIRREA guidelines. Evaluations not allowed.  | Non-QM<br>Only!   | Non-QM<br>Only!   |   |   |   |  |
| 3. Provide consumers free copy of the appraisal developed in connection with the credit application no later than 3 business days prior to closing. No waivers allowed for advance HPML closing appraisal copies!   |   |   |   |   |   |  |
| <b>C. TILA HPML Flipped Property Appraisal Rules §1026.35(c)(4)– (6) (Note 3)</b>   |   |   |   |   |   |  |
| 1. Obtain an additional appraisal at Creditor's sole expense if property's seller acquired the dwelling within 90 days and is reselling it for a price $\geq$ 110% of seller's acquisition cost (excluding cost of financing). If seller acquired it within 91 to 180 days and is reselling it for a price $\geq$ 120% of seller's acquisition price (excluding cost of financing), obtain additional appraisal reconciling increase in sales price, changes in market condition and property improvements. | X<br>Non-QM<br>Only!  | X<br>Non-QM<br>Only!  |   |   |   |  |
| 2. Provide consumers free copy of each of the appraisals developed in connection with the HPML credit application.  |   |   |   |   |   |  |

## ECOA (REG B) VALUATION RULES & TILA (REG Z) HPML APPRAISAL RULES (Effective for Applications Taken on or after January 18, 2014)

**Note 1:** The **ECOA Valuations Rules** apply to all closed-end or open-end 1-4 family dwelling 1<sup>st</sup> lien secured loans, regardless of whether consumer or commercial purpose. A **dwelling** is defined as a residential structure that contains 1 - 4 units whether or not that structure is attached to real property. The rule applies to:

- Consumer purpose or commercial purpose loans secured by a principal dwelling, vacation home, second home, rental house, individual condo units, mobile homes, or manufactured homes;
- Loss-mitigation transactions, such as loan modifications, short sales, and deed-in-lieu transactions, if they are credit transactions covered by Regulation B
- Reverse mortgages and time-share loans if they are 1<sup>st</sup> lien credit transactions.

Before the new **ECOA Valuations Rules**, Reg B required only that creditors notify applicants of their right to request a copy of appraisal, and if requested to provide copy. Optionally, Creditors were allowed to forego notice of the right to receive a copy of appraisal and always provide an appraisal copy. The new **ECOA Valuations Rules** require Creditors to **always** disclose to applicants within 3 business days of application of the right to receive free copies of appraisals and/or written evaluations (all valuations, not just appraisals) developed in connection with the application. The new rules also require timely delivery of copies of valuations promptly after they are completed, regardless of whether credit is extended, denied, incomplete, or withdrawn and regardless of whether the applicant paid for the valuation. "Promptly" means providing a copy of each valuation no later than 3 business days **prior to** consummation of the transaction (for closed-end credit) or account opening (for open-end credit), whichever is earlier. If the appraisal is completed early in the application process, then the "promptly upon completion" deadline will come first, since it will be earlier than the 3 business-days-before-closing deadline. For example, if a loan will close on Friday, April 4, you must deliver the valuation no later than Tuesday, April 1, assuming no banking holidays. Currently, Reg B does not define "business days." Refer to Commentary § 1002.14(a)(5) for examples of "promptly upon completion" timing.

The **primary** applicant may waive the pre-closing requirement and agree to receive any copy at or before consummation or account opening, unless the loan is an HPML. The waiver must be obtained at least 3 business days prior to closing or account opening, unless the waiver pertains solely to receipt of a valuation copy containing only **clerical** changes from a previous version provided 3 or more business days prior to closing or account opening. If primary applicant provides a waiver and transaction is not closed or account not opened, provide copies no later than 30 days after determining closing or account opening will not occur. If an application was **not** originally to be secured by a 1st lien on a dwelling and it is later determined that **it will**, you have 3 business days after change has occurred to disclose the right to receive valuation copies.

**Note 2:** The **TILA HPML Appraisal Rules** are more narrowly applicable only to **consumer purpose higher-priced mortgage loans (HPML) secured by the applicant's primary residence**. HPMLs that meet the Qualified Mortgage standards in section 1026.43(e) of Regulation Z are **exempted** from the TILA HPML Appraisal Rules. Therefore, you need to comply with the new Rules only if you originate HPMLs that are not Qualified Mortgages or otherwise exempt. For delivering the initial disclosure on appraisals and also for delivering an appraisal, a "business day" is defined as when "the creditor's offices are open to the public for carrying on substantially all of its business functions." Follow same delivery of copy timing rules as for ECOA for denied, withdrawn, incomplete or loans otherwise not closed. The following are exempt from HPML Appraisal Rules per § 1026.35(c)(2):

- Qualified Mortgages, as defined in Regulation Z §1026.43 and as defined by other agencies specified in the QM regulations (i.e., USDA, FHA, VA, etc.);
- Loans secured by **new** manufactured homes, with or without land (until 7/18/15)
- Loans secured by boat, mobile homes or trailer;
- Loans for **initial construction** of a dwelling (not limited to loans of 12 months or less);
- Loan with maturity of 12 months or less, if the loan purpose is a "bridge" loan and intended to be used to acquire the consumer's principal dwelling;
- Streamlined refinancings if the same creditor or government Agency held the existing credit or guarantee and refinance proceeds are used **ONLY** to payoff old loan plus any settlement or closing costs;
- Reverse mortgages subject to 12 CFR 1026.33(a).

**Note 3:** The **TILA HPML Flipped Property Appraisal Rules** exempt these property transfers from coverage: Acquisitions from a local, state or federal government agency or from a person that acquired property through foreclosure, deed in lieu (DIL) or similar procedure; acquired from a 501(c)(3) non-profit entity authorized to acquire property through foreclosure, DIL or other similar procedure; or from person who acquired property by inheritance or court order of dissolution of marriage, civil union or domestic partnership or a partition of joint or marital assets; acquired from an employer or relocation agency when relocating employee or from a Servicemember receiving deployment or permanent change of station (PCS) order after property purchase; or a property located in declared federal disaster areas waived by Agencies or located in a rural county contained in published CFPB listing.

**Transactions Covered by Both the ECOA Valuations Rule and the TILA HPML Appraisal Rule:** Use the **ECOA Valuations Rules** disclosure (includes "promptly") to satisfy **both TILA and ECOA**. Timing rules for delivering appraisal copies and the waiver rules differ between the rules. When both apply, follow the rule providing the **earlier** deadline for appraisal copy delivery. Remember, you may not allow waiver of pre-closing appraisal copy for a HPML, even if otherwise allowed under ECOA! When both rules apply and there are multiple applicants, Creditor may use **ECOA rules** for delivering disclosure and valuation copies only to **primary** applicant when one is apparent.