

5. In Supplement I to Part 1002—Official Interpretations:

A. Under *Section 1002.14—Rules on Providing Appraisal Reports*, the heading is revised.

B. Revised *Section 1002.14—Rules on Providing Appraisals and Valuations* is revised to read as follows:

14(a) Providing appraisals and other valuations.

1. *Multiple applicants.* If there is more than one applicant, the written disclosure about written appraisals, and the copies of appraisals and other written valuations, need only be given to one applicant. However, these materials must be given to the primary applicant where one is readily apparent. Similarly, if there is more than one applicant for credit in the transaction, one applicant may provide a waiver under § 1002.14(a)(1), but it must be the primary applicant where one is readily apparent.

14(a)(1) In general.

1. *Coverage.* Section 1002.14 covers applications for credit to be secured by a first lien on a dwelling, as that term is defined in § 1002.14(b)(2), whether the credit is for a business purpose (for example, a loan to start a business) or a consumer purpose (for example, a loan to purchase a home).

2. *Renewals.* Section 1002.14(a)(1) applies when an applicant requests the renewal of an existing extension of credit and the creditor develops a new appraisal or other written valuation. Section 1002.14(a)(1) does not apply to the extent a creditor uses the appraisals and other written valuations that were previously developed in connection with the prior extension of credit to evaluate the renewal request.

3. *Written.* For purposes of § 1002.14, an “appraisal or other written valuation” includes, without limitation, an appraisal or other valuation received or developed by the creditor in paper form (hard copy); electronically, such as CD or e-mail; or by any other similar media. See § 1002.14(a)(5) regarding the provision of copies of appraisals and other written valuations to applicants via electronic means.

4. *Timing.* Section 1002.14(a)(1) requires that the creditor “provide” copies of appraisals and other written valuations to the applicant “promptly upon completion,” or no later than three business days before consummation (for closed-end credit) or account opening (for open-end credit), whichever is earlier.

i. For purposes of this timing requirement, “provide” means “deliver.” Delivery occurs three business days after mailing or delivering the copies to the last-known address of the applicant, or when evidence indicates actual receipt by the applicant, whichever is earlier. Delivery to or actual receipt by the applicant by electronic means must comply with the E-Sign Act, as provided for in § 1002.14(a)(5).

ii. The application and meaning of the “promptly upon completion” standard depends upon the facts and circumstances, including but not limited to when the creditor receives the appraisal or other written valuation, and the extent of any review or revision after the creditor receives it.

iii. “Completion” occurs when the last version is received by the creditor, or when the creditor has reviewed and accepted the appraisal or other written valuation to include any changes or corrections required, whichever is later. *See also* comment 14(a)(1)-7.

iv. In a transaction that is being consummated (for closed-end credit) or in which the account is being opened (for open-end credit), if an appraisal or other written valuation has been

developed but is not yet complete, the deadline for providing a copy of three business days before consummation or account opening still applies, unless the applicant waived that deadline as provided under § 1002.14(a)(1), in which case the copy must be provided at or before consummation or account opening.

v. Even if the transaction will not be consummated (for closed-end credit) or the account will not be opened (for open-end credit), the copy must be provided “promptly upon completion” as provided for in § 1002.14(a)(1), unless the applicant has waived that deadline as provided under § 1002.14(a)(1), in which case as provided for in § 1002.14(a)(1) the copy must be provided to the applicant no later than 30 days after the creditor determines the transaction will not be consummated or the account will not be opened.

5. *Promptly upon completion—examples.* Examples in which the “promptly upon completion” standard would be satisfied include, but are not limited to, those in subparagraphs i, ii, and iii below. Examples in which the “promptly upon completion” standard would not be satisfied include, but are not limited to, those in subparagraphs iv and v below.

i. *Sending a copy of an appraisal within a week of completion with sufficient time before consummation (or account opening for open-end credit).* On day 15 after receipt of the application, the creditor’s underwriting department reviews an appraisal and determines it is acceptable. One week later, the creditor sends a copy of the appraisal to the applicant. The applicant actually receives the copy more than three business days before the date of consummation (or account opening). The creditor has provided the copy of the appraisal promptly upon completion.

ii. *Sending a copy of a revised appraisal within a week after completion and with sufficient time before consummation (or account opening for open-end credit).* An appraisal is

being revised, and the creditor does not receive the revised appraisal until day 45 after the application, when the creditor immediately determines the revised appraisal is acceptable. A week later, the creditor sends a copy of the revised appraisal to the applicant, and does not send a copy of the initial appraisal to the applicant. The applicant actually receives the copy of the revised appraisal three business days before the date of consummation (or account opening). The creditor has provided the appraisal copy promptly upon completion.

iii. *Sending a copy of an AVM report within a week after its receipt and with sufficient time before consummation (or account opening for open-end credit).* The creditor receives an automated valuation model (AVM) report on day 5 after receipt of the application and treats the AVM report as complete when it is received. On day 12 after receipt of the application, the creditor sends the applicant a copy of the valuation. The applicant actually receives the valuation more than three business days before the date of consummation (or account opening). The creditor has provided the copy of the AVM report promptly upon completion.

iv. *Delay in sending an appraisal.* On day 12 after receipt of the application, the creditor's underwriting department reviews an appraisal and determines it is acceptable. Although the creditor has determined the appraisal is complete, the creditor waits to provide a copy to the applicant until day 42, when the creditor schedules the consummation (or account opening) to occur on day 50. The creditor has not provided the copy of the appraisal promptly upon completion.

v. *Delay in sending an AVM report while waiting for completion of a second valuation.* The creditor receives an AVM report on day 5 after application and completes its review of the AVM report the day it is received. The creditor also has ordered an appraisal, but the initial version of the appraisal received by the creditor is found to be deficient and is sent for review.

The creditor waits 30 days to provide a copy of the completed AVM report, until the appraisal is completed on day 35. The creditor then provides the applicant with copies of the AVM report and the revised appraisal. While the appraisal report was provided promptly upon completion, the AVM report was not.

6. *Waiver.* Section 1002.14(a)(1) permits the applicant to waive the timing requirement if the creditor provides the copies at or before consummation or account opening, except where otherwise prohibited by law. Except where otherwise prohibited by law, an applicant's waiver is effective under § 1002.14(a)(1) in either of the following two situations:

i. if, no later than three business days prior to consummation or account opening, the applicant provides the creditor an affirmative oral or written statement waiving the timing requirement under this rule; or

ii. if, within three business days of consummation or account opening, the applicant provides the creditor an affirmative oral or written statement waiving the timing requirement under this rule and the waiver pertains solely to the applicant's receipt of a copy of an appraisal or other written valuation that contains only clerical changes from a previous version of the appraisal or other written valuation provided to the applicant three or more business days prior to consummation or account opening. For purpose of this second type of waiver, revisions will only be considered to be clerical in nature if they have no impact on the estimated value, and have no impact on the calculation or methodology used to derive the estimate. In addition, under § 1002.14(a)(1) the applicant still must receive the copy of the revision at or prior to consummation or account opening.

7. *Multiple versions of appraisals or valuations.* For purposes of § 1002.14(a)(1), the reference to "all" appraisals and other written valuations does not refer to all versions of the

same appraisal or other valuation. If a creditor has received multiple versions of an appraisal or other written valuation, the creditor is required to provide only a copy of the latest version received. If, however, a creditor already has provided a copy of one version of an appraisal or other written valuation to an applicant, and the creditor later receives a revision of that appraisal or other written valuation, then the creditor also must provide the applicant with a copy of the revision to comply with § 1002.14(a)(1). If a creditor receives only one version of an appraisal or other valuation that is developed in connection with the applicant's application, then that version must be provided to the applicant to comply with § 1002.14(a)(1). *See also* comment 14(a)(1)-4 above.

14(a)(2) Disclosure.

1. *Appraisal independence requirements not affected.* Nothing in the text of the disclosure required by § 1002.14(a)(2) should be construed to affect, modify, limit, or supersede the operation of any legal, regulatory, or other requirements or standards relating to independence in the conduct of appraisers or the use of applicant-ordered appraisals by creditors.

14(a)(3) Reimbursement.

1. *Photocopy, postage, or other costs.* Creditors may not charge for photocopy, postage, or other costs incurred in providing a copy of an appraisal or other written valuation in accordance with section 14(a)(1).

2. *Reasonable fee for reimbursement.* Section 1002.14(a)(3) does not prohibit a creditor from imposing a reasonable fee to reimburse the creditor's costs of the appraisal or other written valuation, so long as the fee is not increased to cover the costs of providing copies of such appraisals or other written valuations under § 1002.14(a)(1). A creditor's cost may include an administration fee charged to the creditor by an appraisal management company as defined in 12

U.S.C. 3350(11). Section 1002.14(a)(3) does not, however, legally obligate the applicant to pay such fees. Further, creditors may not impose fees for reimbursement of the costs of an appraisal or other valuation where otherwise prohibited by law. For instance, a creditor may not charge a consumer a fee for the performance of a second appraisal if the second appraisal is required under 15 U.S.C. 1639h(b)(2) and 12 CFR 1026.35(c).

14(b) Definitions.

14(b)(1) Consummation.

1. *State law governs.* When a contractual obligation on the consumer's part is created is a matter to be determined under applicable law; § 1002.14 does not make this determination. A contractual commitment agreement, for example, that under applicable law binds the consumer to the credit terms would be consummation. Consummation, however, does not occur merely because the consumer has made some financial investment in the transaction (for example, by paying a nonrefundable fee) unless, of course, applicable law holds otherwise.

2. *Credit vs. sale.* Consummation does not occur when the consumer becomes contractually committed to a sale transaction, unless the consumer also becomes legally obligated to accept a particular credit arrangement.

14(b)(2) Dwelling.

1. *"Motor vehicles" not covered.* The requirements of § 1002.14 do not apply to "motor vehicles" as defined by 12 U.S.C. 5519(f)(1).

14(b)(3) Valuation.

1. *Valuations—examples.* Examples of valuations include but are not limited to:

- i. A report prepared by an appraiser (whether or not licensed or certified) including the appraiser's estimate or opinion of the property's value.

- ii. A document prepared by the creditor's staff that assigns value to the property.
- iii. A report approved by a government-sponsored enterprise for describing to the applicant the estimate of the property's value developed pursuant to the proprietary methodology or mechanism of the government-sponsored enterprise.
- iv. A report generated by use of an automated valuation model to estimate the property's value.
- v. A broker price opinion prepared by a real estate broker, agent, or sales person to estimate the property's value.

2. *Attachments and exhibits.* The term "valuation" includes any attachments and exhibits that are an integrated part of the valuation.

3. *Other documentation.* Not all documents that discuss or restate a valuation of an applicant's property constitute a "valuation" for purposes of § 1002.14(b)(3). Examples of documents that discuss the valuation of the applicant's property or may reflect its value but nonetheless are not "valuations" include but are not limited to:

- i. Internal documents that merely restate the estimated value of the dwelling contained in an appraisal or written valuation being provided to the applicant.
- ii. Governmental agency statements of appraised value that are publically available.
- iii. Publicly-available lists of valuations (such as published sales prices or mortgage amounts, tax assessments, and retail price ranges).
- iv. Manufacturers' invoices for manufactured homes.
- v. Reports reflecting property inspections that do not provide an estimate or opinion of the value of the property and are not used to develop an estimate or opinion of the value of the property.

C. Under *Appendix C—Sample Notification Forms*, paragraph 1 is revised to read as follows:

1. *Form C-9*. If not otherwise provided under other applicable disclosure requirements, creditors may design their own form, add to, or modify the model form to reflect their individual policies and procedures. For example, a creditor may want to add:

i. A telephone number that applicants may call to leave their name and the address to which a copy of the appraisal or other written valuation should be sent.

ii. A notice of the cost the applicant will be required to pay the creditor for the appraisal or other valuation.

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