

OCTOBER 3, 2013

# Equal Credit Opportunity Act (ECOA) Valuations Rule

SMALL ENTITY COMPLIANCE GUIDE

The Bureau recently finalized changes to this rule. The [October 2013 Final Rule](#) amends the final rule issued January 10, 2013, which is set to take effect on January 10, 2014. This guide is updated for these changes.



Consumer Financial  
Protection Bureau

# Summary of Changes

The Bureau updated this guide on October 3, 2013 to reflect finalized changes to the rule. The revisions amend the final rule issued January 10, 2013, which is set to take effect on January 10, 2014. Changes impacting guide content are:

- *Definition of Valuation.* The October 2013 Final Rule amends two comments that provide examples to explain the meaning of the term “valuation” as used in 12 C.F.R. § 1002.14(b)(3). (See “*What counts as an appraisal or other written valuation* (§1002.14(b)(3)) on page 12 and “*What is not considered a valuation?* (Comment 14(b)(3)-3) on page 13.

**Please reference the *Version Log* on page 30 for information about previous versions of this guide.**

# Table of Contents

<b>Summary of Changes</b> .....	<b>2</b>
<b>1. Introduction</b> .....	<b>6</b>
I. What is the purpose of this guide? .....	7
II. Who should read this guide?.....	7
III. Who can I contact about this guide or the Equal Credit Opportunity Act (ECOA) Valuations Rule?.....	8
<b>2. What is the ECOA Valuations Rule?</b> .....	<b>9</b>
I. What is the ECOA Valuations Rule about? .....	9
II. When do I have to start following this rule?.....	10
III. What loans are covered by the ECOA Valuations Rule? (§ 1002.14(a)(1)) .....	10
IV. What loans are not covered by the ECOA Valuations Rule?.....	11
<b>3. What is a valuation of a dwelling?</b> .....	<b>12</b>
I. What is a dwelling? (§ 1002.14(c)).....	12
II. What counts as an appraisal or other written valuation? (§ 1002.14(b)(3))	12
III. What is not considered a valuation? (Comment 14(b)(3)-3) .....	13
<b>4. How do I comply with the ECOA Valuations Rule?</b> .....	<b>14</b>
I. What do I have to do to comply with this rule? .....	14

II.	What text should I use in my standard disclosure notice? (Appendix C, Sample Notification Form C-9) .....	15
III.	What are my obligations if the loan does not close or the account does not open? (§ 1002.14(a)(1) and comment 14(a)(1)-4(v)) .....	16
<b>5.</b>	<b>How must I provide information to applicants? .....</b>	<b>17</b>
I.	How can I deliver the valuation copies to the applicants? (Comment 14(a)(1)-4(i)) .....	17
II.	Can I charge for the copies? (§ 1002.14(a)(3)) .....	17
III.	What if there is more than one applicant? Do I have to send the disclosure and valuation copies to each of them? (Comment 14(a)-1) .....	18
IV.	When must the copies of valuations be provided to applicants? Can I save up my valuations and send them all at once? (Comments 14(a)(1)-4(ii), 14(a)(1)-4(iii), and 14(a)(1)-6).....	18
V.	If I get multiple versions of a valuation, do I have to send them all to the applicant? (Comment 14(a)(1)) .....	19
VI.	When can the applicant waive the timing requirements of the ECOA Valuations Rule? (§ 1002.14(a)(1)) .....	20
VII.	How does a waiver work if there is more than one applicant? (Comment 14(a)-1).....	21
VIII.	How can an applicant give a waiver? (Comment 14(a)(1)-6).....	21
IX.	What happens if there is a clerical error in a valuation? (§ 1002.14(a)(1)) .....	21
X.	A third-party provider says the valuation contains proprietary information that I cannot disclose to others. How can I provide a copy to the applicant?.....	22
XI.	Can I provide more information to the applicant? .....	22
<b>6.</b>	<b>What else do I need to know about the ECOA Valuations Rule? .....</b>	<b>23</b>
I.	How do the ECOA Valuations Rule and the Appraisals for Higher-Priced Mortgage Loans Rule overlap? .....	23
II.	This rule implements an amendment to ECOA, which deals with lending discrimination. How might discrimination occur in a valuation?.....	25
<b>7.</b>	<b>Practical Implementation and Compliance Considerations.....</b>	<b>26</b>
<b>8.</b>	<b>Other Resources.....</b>	<b>29</b>

I. Where can I find a copy of the ECOA Valuations Rule and get more information about it?..... 29

**Version Log..... 30**

# 1. Introduction

The Equal Credit Opportunity Act (ECOA), enacted in 1974, and its implementing rules (known as Regulation B) prohibit creditors from discriminating on the basis of race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to contract), because all or part of an applicant's income derives from public assistance, or because the applicant has in good faith exercised rights under certain credit laws, including the Truth in Lending Act (TILA).

In 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) amended ECOA provisions to provide guarantees that applicants receive important information about their home value estimates. In January 2013, to implement these amendments, the Consumer Financial Protection Bureau finalized the Disclosure and Delivery Requirements for Copies of Appraisals and Other Written Valuations Under the Equal Credit Opportunity Act (Regulation B) rule. The rule is referred to in this guide as the ECOA Valuations Rule.

Before the new rule, Regulation B required only that creditors provide copies of appraisals to applicants upon request and notify them of their right to make a request. The ECOA Valuations Rule changes both of these requirements.

The ECOA Valuations Rule requires creditors to disclose to applicants that they have the right to receive copies of appraisals and written valuations.

The ECOA Valuations Rule also requires creditors to automatically send a free copy of home appraisals and other written valuations promptly after they are completed, regardless of whether credit is extended, denied, incomplete, or withdrawn.

The new rule applies to all written valuations (not just appraisals) that you develop in connection with an application for covered transaction. It covers all first liens on dwellings, including closed-end mortgage loans and open-end loans.

# I. What is the purpose of this guide?

This guide provides a summary of the ECOA Valuations Rule. This guide also highlights issues that small creditors, and those that work with them, might find helpful to consider when implementing the rule.

The focus of this guide is the ECOA Valuations Rule (with a limited discussion of a related rule under TILA). This guide does not discuss other federal or state laws governing consumer access to appraisals and other written valuations.

The Bureau believes that most creditors are already providing appraisal reports for many mortgage loans due to pre-existing industry standards imposed by the government-sponsored enterprises. However, creditors will likely need to update their processes, origination and underwriting guidelines, software, or other aspects of their business operations to comply with this rule.

Changes related to this rule may take careful planning, time, or resources to implement. This guide will help you identify and plan for necessary changes.

The guide summarizes the ECOA Valuations Rule, but it is not a substitute for the rule. Only the rule and its Official Interpretations can provide definitive information regarding its requirements. The discussions below provide citations to the sections of the rule on the subject being discussed. Keep in mind that the Official Interpretations, which provide detailed explanations of many of the rule's requirements, are found after the text of the rule and its appendices. The interpretations are arranged by rule section and paragraph for ease of use. The complete rule, including the Official Interpretations, is available at <http://www.consumerfinance.gov/regulations/disclosure-and-delivery-requirements-for-copies-of-appraisals-and-other-written-valuations-under-the-equal-credit-opportunity-act-regulation-b/>.

Provisions of the 2013 ECOA Valuation Rule were later clarified with the publication of the [October 2013 Final Rule](#).

At the end of this guide, there is more information about the rule and a list of additional resources.

# II. Who should read this guide?

If your organization originates open-end or closed-end loans secured by first liens on dwellings, you may find this guide helpful. Note that credit unions that previously followed National Credit Union Administration rules requiring them to provide appraisals only when members asked for copies must follow this rule.

This guide may also be helpful to software providers and other companies that serve as business partners to creditors.

This guide will help you determine whether this rule regulates the loans you originate and if so, what your compliance obligations are.

### III. Who can I contact about this guide or the Equal Credit Opportunity Act (ECOA) Valuations Rule?

For more information on the rule, please contact the Bureau's Office of Regulations at 202-435-7700, or email questions to [CFPB\\_reginquiries@cfpb.gov](mailto:CFPB_reginquiries@cfpb.gov).

Email comments about the guide to [CFPB\\_TitleXIVRules@cfpb.gov](mailto:CFPB_TitleXIVRules@cfpb.gov). Your feedback is crucial to making sure the guide is as helpful as possible. The Bureau welcomes your suggestions for improvements and your thoughts on its usefulness and readability.

The Bureau is particularly interested in feedback relating to:

- How useful you found this guide for understanding the rule
- How useful you found this guide for implementing the rule at your business
- Suggestions you have for improving the guide, such as additional implementation tips



## 2. What is the ECOA Valuations Rule?

### I. What is the ECOA Valuations Rule about?

The new ECOA Valuations Rule amends the appraisal provisions of ECOA’s Regulation B. It updates current ECOA rules to say that you must provide applicants for first-lien loans on a dwelling with copies of appraisals, as well as other written valuations, developed in connection with the application, whether or not the applicants request copies.

Under the ECOA Valuations Rule:

- When you receive an applicant’s application, you have three business days to notify the applicant of the right to receive a copy of appraisals.
- You must promptly share copies of appraisals and other written valuations with the applicant.
- Promptly means promptly upon completion, or at least three business days before consummation (for closed-end credit) or account opening (for open-end credit), whichever is earlier. As summarized below, the Official Interpretations of the regulation provide examples for guidance. (*See “When must copies of valuations be provided to applicants?” on page 11*)
- The applicant can waive the right to receive copies of the appraisal or other written valuations in advance of the closing, but in those cases, you must still deliver the copies at or prior to consummation or account opening.

**Implementation Tip:** Look at your underwriting process and see what written estimates of value your organization is collecting. Figure out how you will copy and share those estimates with consumers “promptly upon completion.” Consider what, if any, review process your organization typically undertakes for these valuations, so you know when they will be viewed as “completed” and can be sent to consumers. Additional guidance on the types of estimates that are considered “valuations” under the ECOA Valuations Rule appears below.

- If you do not consummate the loan or open the account and the applicant has provided a waiver, you have 30 days after you determine that the loan will not consummate or open to send the applicant a copy of the appraisal and other written valuations.

You cannot charge for copies of appraisals or other written valuations, but you can charge the applicant a reasonable fee to reimburse you for the cost of preparing appraisals and other written valuations, unless applicable law prohibits it or otherwise restricts it. You may not upcharge consumers by adding fees to the cost of preparing the appraisal or other written valuations.


## II. When do I have to start following this rule?

You must follow the ECOA Valuations Rule for applications received on or after January 18, 2014. For example, an application received on January 17, 2014, for a loan not scheduled to close until February 2014, would not be covered by the ECOA Valuations Rule.

## III. What loans are covered by the ECOA Valuations Rule? (§ 1002.14(a)(1))

The rule covers applications for closed-end or open-end credit secured by a first lien on a dwelling. These include:

- Loans for business purposes (for example, a loan to start a business), investment or leisure purposes (such as a vacation home or investment property), or consumer purposes (for example, a loan to purchase a home)
- Loss-mitigation transactions, such as loan modifications, short sales, and deed-in-lieu transactions, if they are credit transactions covered by Regulation B
- Loans secured by mobile or manufactured homes
- Reverse mortgages
- Time-share loans if they are credit transactions covered by Regulation B (and if, as in each of the above examples, they are secured by a first lien on a dwelling)

 **Implementation Tip:** Plan to update your Regulation B appraisal notice for first-lien transactions. Once the ECOA Valuations Rule takes effect, the Regulation B appraisal notice also will no longer be required for second-lien or other subordinate-lien transactions. The text of a sample notice is in Appendix C, Form C-9.

If you are unsure whether a transaction is covered, consider whether there is an “applicant” or “application” for an “extension of credit” as required by Regulation B.

## IV. What loans are not covered by the ECOA Valuations Rule?

The ECOA Valuations Rule does not cover second liens and other subordinate loans and loans that are not secured by a dwelling (such as loans secured solely by land).

# 3. What is a valuation of a dwelling?

## I. What is a dwelling? (§ 1002.14(c))


A dwelling is a residential structure that contains one to four units whether or not that structure is attached to real property. The term includes, but is not limited to, individual condominium units, mobile homes, and manufactured homes.

## II. What counts as an appraisal or other written valuation? (§ 1002.14(b)(3))

A “valuation” is any estimate of the value of a dwelling developed in connection with an application for credit.

Here is a **nonexclusive list of valuations** (Comment 14(b)(3)-1):

- An appraiser’s report (whether or not the appraiser is licensed or certified), including the appraiser’s estimate of the property’s value or opinion of value.
- A document your staff prepares that assigns value to the property

 **Implementation Tip:** Most first mortgage creditors already provide appraisals to applicants. If you are not also sharing other written valuations, you will need to update your systems to do so. You may also find it useful to review your loan application and underwriting process to identify other written valuations that are developed in connection with first mortgage applications.

- A report approved by a government-sponsored enterprise for describing to the applicant an estimate developed by the enterprise's proprietary methodology or mechanism
- Automated valuation model reports used to estimate the property's value
- A broker price opinion prepared by a real estate broker, agent, or sales person to estimate the property's value

You must also share with the applicant any attachments or exhibits that are an integrated part of the valuation.

Keep in mind that if a valuation is developed in connection with the application, then you must provide a copy to the applicant, even if you do not use the valuation or you use it only for a limited purpose.

### III. What is not considered a valuation? (Comment 14(b)(3)-3)

Not all documents that discuss or restate a property's value are valuations. Documents that discuss property value but are not valuations include:

- Internal documents that merely restate the estimated value of the dwelling contained in an appraisal or other written valuation you are providing to the applicant (for example, an internal email that only mentions the appraised value in the appraiser's report to be provided to the applicant)
- Government agency statements of appraised value that are publicly available
- Publicly-available lists of valuations (such as published sales prices or mortgage amounts, tax assessments, and retail price ranges)
- Manufacturers' invoices for manufactured homes
- Reports reflecting property inspections that do not provide an estimate of the value of the property and are not used to develop an estimate of the value of the property

Appraisal reviews that do not include the appraiser's estimate of the property's value or opinion of value

In addition, an appraisal review that does not itself state a different estimate from the appraisal would not be a valuation you must provide to the applicant.

## 4. How do I comply with the ECOA Valuations Rule?

### I. What do I have to do to comply with this rule?

To comply with the ECOA Valuations Rule:

- You must notify the applicant in writing within three business days of application of the right to receive a copy of any appraisal developed in connection with the application.
- If you have an application that was **not** originally going to be secured by a first lien on a dwelling and you later determine that **it will** be secured by a first lien on a dwelling, then you have three business days after you determine the change has occurred to notify the applicant about the right to receive appraisals.
- When processing an application for a closed-end loan, you must deliver copies of appraisals and other written valuations “promptly upon completion,” or three business days before consummation, whichever is earlier. For example, if a loan will close on Friday, April 4, you must deliver the valuation no later than Tuesday, April 1.
- When processing an application for an open-end loan, you must deliver copies of appraisals and other written valuations “promptly upon completion,” or three business days before account opening, whichever is earlier.
- You cannot charge the applicant for copies of any appraisal or written valuation you provide; however, you can charge a reasonable fee to reimburse the cost of the appraisal or other written valuation if not otherwise prohibited by law.
- For applicants who waive the right to receive the required copies at least three business days before consummation or account opening, you must provide the copies either at, or prior to, consummation or account opening.

If the loan is a closed-end, higher-priced transaction, you must also determine whether it is covered by the TILA appraisal requirements in the Appraisals for Higher-Priced Mortgage Loans Rule (HPML Appraisal Rule) under Regulation Z.

The HPML Appraisal Rule is further discussed below. (See “How do the ECOA Valuations Rule and the Appraisals for Higher-Priced Mortgage Loans Rule overlap?” on page 23.) For more information on that rule, see <http://www.consumerfinance.gov/regulations/appraisals-for-higher-priced-mortgage-loans> or consult the Bureau’s Small Entity Compliance Guide: TILA Higher-Priced Mortgage Loans Appraisal Rule.

The ECOA Valuations Rule does not provide a definition of “business days” for purposes of the timing of the consumer notice and for providing copies of appraisals and other written valuations.

For loans covered by the HPML Appraisal Rule, consult the Bureau’s Small Entity Compliance Guide: TILA Higher-Priced Mortgage Loans Appraisal Rule.

For other loans, you can apply your own reasonable definition, which may include counting Saturdays – as provided, for example, in the alternative definition in Regulation Z, § 1026.2(a)(6).

## II. What text should I use in my standard disclosure notice? (Appendix C, Sample Notification Form C-9)

The sample notice contained in an appendix to Regulation B states:

“We may order an appraisal to determine the property’s value and charge you for this appraisal. We will promptly give you a copy of any appraisal, even if your loan does not close. You can pay for an additional appraisal for your own use at your own cost.”

### III. What are my obligations if the loan does not close or the account does not open? (§ 1002.14(a)(1) and comment 14(a)(1)-4(v))

If you determine that you are not going to close a loan or open a credit line, you still have to give the applicant a copy of the appraisal and other written valuations “promptly upon completion.”

If the applicant has waived that deadline, you must provide copies of the appraisal and other written valuations to the applicant 30 days after you determine the transaction will not close.



## 5. How must I provide information to applicants?

### I. How can I deliver the valuation copies to the applicants? (Comment 14(a)(1)-4(i))

Send the copies to the applicant's last-known physical or electronic address. Delivery occurs three business days after you mail or transmit the copies, or whenever you have evidence indicating that the applicant received the copies.

For electronic delivery, you must obtain the applicant's consent under the Electronic Signatures in Global and National Commerce Act (E-Sign Act). You will find information about E-Sign at <http://www.fdic.gov/regulations/compliance/manual/pdf/X-3.1.pdf>.

### II. Can I charge for the copies? (§ 1002.14(a)(3))

You cannot charge fees for photocopying or to cover the cost of postage to mail copies of appraisals or other written valuations.

You may charge a reasonable fee to cover the cost of developing an appraisal or other written valuation, except as otherwise provided by law. You cannot condition providing copies on payment of this fee, however. If you receive a completed valuation, you must promptly provide it to the applicants, even if they do not pay for it. To ensure payment, you can collect payment before ordering the appraisal or other written valuation, subject to restrictions for some mortgages under Regulation Z (§ 1026.19(a)(ii)). Alternatively, if you collect payment at closing, you can also provide the copy at that time if you obtain a waiver.

### III. What if there is more than one applicant? Do I have to send the disclosure and valuation copies to each of them? (Comment 14(a)-1)

If there is more than one applicant, you may give the disclosure and copies to one applicant. However, if it is readily apparent that one of the applicants is the primary applicant, the disclosure and copies should be given to that applicant.

### IV. When must the copies of valuations be provided to applicants? Can I save up my valuations and send them all at once? (Comments 14(a)(1)-4(ii), 14(a)(1)-4(iii), and 14(a)(1)-6)

You must send valuations promptly upon completion. If one valuation is completed, it may be possible to wait a few days for another valuation to be completed, as long as copies are provided at least three business days before closing. However, waiting for longer than a few days reduces the likelihood that delivery of the first valuation will be prompt. If you obtain a waiver from the applicant, you can wait until closing to provide the valuations all at once.

The “promptly upon completion” standard does not refer to a particular time period. Its application and meaning depend on the facts and circumstances, including (but not limited to):

- When you receive the appraisal or other written valuation
- The extent of any review or revisions you do after receiving it

“**Completion**” of an appraisal or other written valuation occurs when you get the last version of that appraisal or other written valuation, or when it is apparent to you that there will be only one version of that appraisal or other written valuation.

Examples in which the “**promptly upon completion**” standard would be satisfied include (but are not limited to) the following. These examples assume the applicant receives the valuation copy no later than three business days before consummation or account opening:

- Sending a copy of an appraisal within a week of review by underwriting:** For example, 15 days after application, your underwriting department reviews and approves an appraisal. You send a copy to the applicant one week later.
- Not providing a copy of a draft appraisal a reviewer is revising, while providing a copy of the revised appraisal within a week of the reviewer finding it acceptable: For example, you receive a revised appraisal 45 days after application and your underwriting department approves it. You have not sent the initial appraisal to the applicant. You send the revised appraisal within a few days.
- Sending a copy of an automated valuation model (AVM) report within a week after receiving it:** For example, you receive an AVM report five days after application and treat it as complete. Twelve days after the application (a week after receiving the AVM report), you send a copy to the applicant.

Examples of cases in which the “**promptly upon completion**” standard would not be satisfied include (but are not limited to):

- Delaying too long after completing an appraisal or other written valuation before providing a copy:** For example, 12 days after application, you receive and approve an appraisal. You wait to provide a copy to the applicant until 42 days after application.
- Delaying providing a copy of one written valuation too long while waiting for completion of a second written valuation:** For example, you receive and approve an AVM report five days after application. You order an appraisal and the initial version of the appraisal is deficient. It takes until day 35 to get the revised appraisal. You hold the AVM report and send both the AVM and the appraisal to the applicant on day 35. While you provided the appraisal report promptly upon completion, you did not provide the AVM report promptly upon completion.

## V. If I get multiple versions of a valuation, do I have to send them all to the applicant? (Comment 14(a)(1))

The reference to providing copies of “all” appraisals and other written valuations does not refer to all versions of the same appraisal or other written valuation. If you get multiple versions of an appraisal or other written valuation, you have to give the applicant only the latest version.

If you give the applicant a copy of an appraisal or other written valuation and then you get a revised version of the same appraisal or written valuation, then you must send the updated version to the applicant as well. You cannot charge a fee for providing the copy of an updated valuation.

If you have only one version of an appraisal or other valuation, then the copy of that version is the one you give the applicant.

## VI. When can the applicant waive the timing requirements of the ECOA Valuations Rule? (§ 1002.14(a)(1))

An applicant may waive the timing requirement of the ECOA Valuations Rule and agree to receive copies of valuations at or before consummation or account opening, except where otherwise prohibited by law.

You must get the applicant's waiver at least three business days prior to consummation or account opening unless a clerical error is involved. (*See "What happens if there is a clerical error in a valuation?" on page 21.*)

The applicant can give you the waiver in writing or orally.

When an applicant has provided a waiver and you do not consummate or open the account, you must send the applicant the valuation no later than 30 days after you determine the closing will not occur.

Note that if the transaction is a higher-priced mortgage loan covered by the **2013 Appraisals for Higher-Priced Mortgage Loans Rule**, then under that rule, you must provide copies of written appraisals no later than three business days before consummation. There is no waiver option for appraisals covered by that rule. *See* <http://www.consumerfinance.gov/regulations/appraisals-for-higher-priced-mortgage-loans/for-more-information-about-this-rule>.

## VII. How does a waiver work if there is more than one applicant? (Comment 14(a)-1)

Where there are multiple applicants, one applicant may provide a waiver, but it must be the primary applicant where one is readily apparent.

## VIII. How can an applicant give a waiver? (Comment 14(a)(1)-6)

You can accept an oral or written statement from an applicant. For example, you can obtain a waiver from an applicant through and e-mail, phone call, or some other means.

## IX. What happens if there is a clerical error in a valuation? (§ 1002.14(a)(1))


To avoid interrupting transactions at the last minute, when a clerical correction is made in an appraisal or other written valuation that you have already given the applicant, you can have the applicant waive the right to receive the revision three business days before consummation or account opening. As noted above, the waiver can be oral or written.

To use this exemption, you must meet five criteria:

1. The revisions must be solely to correct clerical errors in that appraisal or other written valuation.
2. The revisions must have no impact on the estimated value.
3. The revisions must have no impact on the calculation or methodology used to derive the estimate.
4. The applicant receives the revised appraisal or other written valuation at or prior to consummation or account opening.
5. The applicant must have already received the valuation that is being corrected (pre-correction) either promptly upon completion or three business days before consummation or account opening, whichever is earlier.

## X. A third-party provider says the valuation contains proprietary information that I cannot disclose to others. How can I provide a copy to the applicant?

Some providers of valuations, such as government-sponsored enterprises (GSEs), have developed special forms you can use to provide valuations to customers. Providing a copy on a GSE-approved form is an acceptable way to comply with the rule. Creditors should consult applicable GSE program guides to determine the procedures for providing consumers with copies of valuation estimates provided by GSEs.

 **Implementation Tip:** You may find it useful to review your contracts with valuation providers to be sure that they allow you to comply with the ECOA Valuations Rule by providing copies to applicants.

## XI. Can I provide more information to the applicant?

Yes. The new rule does not restrict your ability to communicate additional information about valuations to the applicant. For example, if you would like to explain to applicants why you did not use a valuation or provide more information about the type of valuations you did use, you can do so.

## 6. What else do I need to know about the ECOA Valuations Rule?

### I. How do the ECOA Valuations Rule and the Appraisals for Higher-Priced Mortgage Loans Rule overlap?

For some transactions that are higher-priced mortgage loans, the disclosure requirements of this rule overlap with the **TILA Higher-Priced Mortgage Loans Appraisal Rule** (HPML Appraisal Rule), which the Bureau developed with several other agencies. For more information on this rule, see <http://www.consumerfinance.gov/regulations/appraisals-for-higher-priced-mortgage-loans> or consult the Bureau's *Small Entity Compliance Guide: TILA Higher-Priced Mortgage Loans Appraisal Rule*.


There are several differences between the types of loans that may be covered by the HPML Appraisal Rule and the types of loans covered by the ECOA Valuations Rule. These differences include several variances in the scope of the rules:

- First, while the ECOA Valuations Rule does not apply to subordinate liens, the HPML Appraisal Rule does apply to subordinate liens.
- Second, while the ECOA Valuations Rule covers any transactions secured by a dwelling for any purpose, the HPML Appraisal Rule applies only when the covered loan is for a consumer purpose and is secured by a principal dwelling.
- Third, while the ECOA Valuations Rule does not exempt any types of transactions secured by a first lien on a dwelling, the HPML Appraisal Rule exempts several types of transactions.

In addition, some of the requirements of the HPML Appraisal Rule are different. The HPML Appraisal Rule implements Dodd-Frank Act amendments to TILA, which requires you to:

- Perform interior-inspection appraisals that comply with the Uniform Standards of Professional Appraisal Practice (USPAP) and the Financial Institutions Reform Recovery and Enforcement Act (FIRREA)
- Provide free copies of the appraisals
- Make disclosures at application when you originate certain higher-priced mortgage loans

The first requirement above – performing appraisals in compliance with USPAP and FIRREA – is the main difference. For the disclosure, if a loan is also covered by both rules, you can use the disclosure required by the ECOA Valuations Rule to satisfy the requirements of the HPML Appraisal Rule.

 **Implementation Tip:** When you update your disclosures for Regulation B, also update your disclosures for subordinate-lien transactions covered by the TILA Higher-Priced Mortgage Loans Appraisal Rule.

In addition, as noted above, the timing requirements for delivering appraisal copies and the rules on waiver are different. When both rules apply, follow the rule that provides the earlier deadline for delivering appraisal copies and remember that waiver is not an option under the HPML Appraisal Rule. Also, when both rules apply and there are multiple applicants, follow the ECOA Valuations Rule requirements for delivering the disclosure and valuations copies to the primary applicant when one is apparent.

In 2012, the Bureau proposed a rule to integrate certain disclosures under TILA and under the Real Estate Settlement Procedures Act (RESPA) (the 2012 TILA-RESPA Proposal). A “Loan Estimate” was one of the proposed integrated disclosures, combining the good-faith estimate currently provided under RESPA with initial TILA disclosures. In conjunction with the 2012 TILA-RESPA Proposal, available at <http://www.consumerfinance.gov/knowbeforeyouowe/>, the Bureau proposed including appraisal-related disclosures in the loan estimate to satisfy the requirements of both Regulations Z and B (TILA § 129H and ECOA § 701(e)). For closed-end credit, once the agencies publish the final TILA-RESPA rule, check that rule to confirm that you can use the loan estimate to provide the disclosure required by the ECOA Valuations Rule. Until then, you have to use a separate disclosure to comply with the ECOA Valuations Rule.



## II. This rule implements an amendment to ECOA, which deals with lending discrimination. How might discrimination occur in a valuation?

Discrimination involving home valuations may occur in a variety of ways. For example, if an appraiser bases an estimate of a home's value on prohibited factors, such as the race or national origin of people in the neighborhood where the home is located.

# 7. Practical Implementation and Compliance Considerations

You may want to consult with legal counsel or your compliance officer to understand your obligations under the rule and to devise the policies and procedures that may help you comply with the rule's requirements.

How you comply with the rule may depend on your business model. When mapping out your compliance plan, you should consider practical implementation issues in addition to understanding your obligations under the rule.

Your implementation and compliance plan may include:

## **1. Identifying affected products, departments, and staff**

To begin planning for implementation of the rule, you may need to identify all affected first-lien mortgage products, departments, and staff. This will include not only consumer closed-end mortgages, but also home equity lines of credit; reverse mortgages; and dwelling-secured mortgages for business, commercial, or investment purposes. This also may include loan modifications and other forms of loss mitigation for existing mortgages, such as short sales, foreclosures, and the like.

## **2. Identifying the business-process, operational, and technology changes that will be necessary for compliance**

The new requirements may affect a number of parts of your business systems and processes. For example, you will need to update your forms and processes to give applicants the new disclosure. You will need to establish a method for confirming that applicants promptly receive appraisals and other written valuations even when loans do not close.

Fully understanding the required changes may involve a review of your existing business processes and recordkeeping regimes, as well as the hardware and software that you, your agents, or other business partners use. Gap analyses may be a helpful output of such a review and help to inform a robust implementation plan.

### **3. Identifying key service providers or business partners for appraisals and other written valuations if you use outside assistance for disclosures, compliance, quality control, or records storage**

Appraisal and other written valuation providers, vendors, and business partners may offer compliance solutions that can assist you with any necessary changes. You may find it helpful to talk to your appraisal management firm, automated valuation provider, and technology vendors. In some cases, you may want to negotiate revised or new contracts with these parties, or seek a different set of services.

If you seek the assistance of vendors or business partners, make sure you understand the extent of the assistance that they provide.

### **4. Identifying training needs**

Consider what training will be necessary for your origination, processing, compliance, and quality-control staff, as well as anyone else involved in opening credit lines and originating mortgage loans. Training may also be required for other individuals you employ.

### **5. Considering other Title XIV rules**

The ECOA Valuations rule is just one component of the Bureau's Dodd-Frank Title XIV rulemakings.

Other Title XIV rules include:

- Ability-to-Repay and Qualified Mortgage Rule
- 2013 HOEPA Rule
- TILA Higher-Priced Mortgage Loans Appraisal Rule
- Loan Originator Rule
- RESPA & TILA Mortgage Servicing Rules
- TILA Higher-Priced Mortgage Loans Escrow Rule

Each of these rules affects aspects of the mortgage industry and its regulation. Many of these rules intersect with one or more of the others. Therefore, the compliance considerations for these rules may overlap in your organization. You will find copies of these rules online at <http://www.consumerfinance.gov/regulations/>.

# 8. Other Resources

## I. Where can I find a copy of the ECOA Valuations Rule and get more information about it?

You will find the rule on the Bureau's website at

<http://www.consumerfinance.gov/regulations/disclosure-and-delivery-requirements-for-copies-of-appraisals-and-other-written-valuations-under-the-equal-credit-opportunity-act-regulation-b/>.

In addition to a complete copy of the rule, that web page also contains:

- The preamble, which explains why the Bureau issued the rule; the legal authority and reasoning behind the rule; responses to comments; and analysis of the benefits, costs, and impacts of the rule
- Official Interpretations of the rule
- Links to final rule amendments including the [October 2013 Final Rule](#)
- Other implementation support materials including videos, reference charts , and proposed rule amendments.

For email updates about Bureau regulations and when additional Dodd-Frank Act Title XIV implementation resources become available, please submit your email address within the “Email updates” box at <http://www.consumerfinance.gov/regulations/>.

# Version Log

The Bureau updates this guide on a periodic basis to reflect finalized clarifications to the rule which impacts guide content. Below is a version log noting the history of this document and notable rule changes:

<b>Date</b>	<b>Version</b>	<b>Rule Changes</b>
October 3, 2013	<b>1.1</b>	<i>Definition Refinement of definition of “other written valuation” (See “What counts as an appraisal or other written valuation (§1002.14(b)(3)) on page 12 and “What is not considered a valuation? (Comment 14(b)(3)-3) on page 13.</i>
	<b>1.0</b>	<i>Original Document</i>