

SUBJECT: Reg. Z – Higher-Priced Mortgage Loans

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INTRODUCTION

This release applies to all credit unions, both state and federal. It describes Truth in Lending restrictions on certain “higher-priced mortgage loans” under section 1026.35 of Reg. Z. (This are sometimes referred to as “section 35” loans.)

EXECUTIVE SUMMARY

The Consumer Financial Protection Bureau's (CFPB's) Regulation Z (which implements the Truth in Lending Act) imposes special limits on those who make “higher-priced mortgage loans” (or “HPMLs”). These limits are in addition to all of Reg. Z's other applicable mortgage lending rules, including the ability-to-repay/qualified mortgage rule, summarized in The League's *ii Release No. B074*. (HPMLs had their own repayment ability standards before that rule took effect in 2014.)

Under Reg. Z, an HPML means a closed-end consumer loan secured by the consumer's principal dwelling (including home purchase loans, refinancings, and home equity loans) if the APR is greater than the “Average Prime Offer Rate” for a comparable transaction (as of the date the interest rate is set) by at least:

- 1.5 percentage points for first-lien loans;
- 2.5 percentage points for loans secured by a first lien “jumbo” loans – meaning that the principal amount at closing is greater than the maximum principal amount eligible for purchase by Freddie Mac; or
- 3.5 percentage points for subordinate lien loans.

The dwelling does not necessarily need to be real property. The CFPB's Official Staff Commentary to Reg. Z says that mobile homes, boats and trailers are dwellings if they are in fact used as residences – whether or not the residence is real property under state law.

Certain types of residential mortgage loans, including home equity lines of credit, are exempt from the definition of an HPML. However, lenders may not structure a closed-end loan as open-end credit to evade the restrictions described in this release.

If a loan is “higher-priced,” then Reg. Z imposes several restrictions on it, including the following:

- With some exceptions, lenders cannot make HPMLs secured by a first lien without an escrow account for taxes, homeowners insurance and other insurance the credit union requires.

- The credit union must:
 - Disclose to consumers *within three business days* after receiving the consumers’ applications that they are entitled to a free copy of any appraisal;
 - Obtain a written appraisal meeting certain standards;
 - Have the appraiser visit the interior of the property and provide a written report; and
 - Deliver copies of appraisals to applicants no later than three business days before closing (or within 30 business days after determining that the loan will not close).

A second appraisal is required from a different certified or licensed appraiser – at the credit union’s expense – if a covered HPML is being “flipped,” meaning that it is being resold within 180 days after it was purchased by the seller, and the price that the credit union’s applicant is paying is above certain thresholds. The HPML rules include several exemptions from this requirement.

Some of the restrictions imposed on HPMLs are similar to those for “high-cost mortgages” under the Home Ownership and Equity Protection Act (HOEPA) rules in Reg. Z §1026.32. The two are *not* the same:

- HOEPA creates a special class of high-cost loans based on a loan’s APR or fees. These are considered predatory loans.
- The restrictions on “higher priced mortgage loans” are designed to affect most closed-end, subprime loans secured by a consumer’s principal dwelling that cost *less* than high-cost HOEPA loans, but *more* than “prime” loans.

For more about high-cost mortgages, see The League’s *ii Release No. B062*.

“HIGHER-PRICED MORTGAGE LOANS” DEFINED

If a loan is subject to Reg. Z¹, and it is a closed-end mortgage loan to a consumer that is secured by a borrower’s principal dwelling, then it will be considered an HPML *if* the APR on the loan exceeds certain thresholds (described below).

The dwelling does not necessarily need to be real property. The CFPB’s Official Staff Commentary to Reg. Z says that mobile homes, boats and trailers are dwellings if they are in fact used as residences – whether or not the residence is real property under state law.

The HPML definition includes first-lien as well as subordinate-lien mortgages, including:

- Home purchase loans;
- Refinancings of loans;
- Home equity loans;
- Government-guaranteed loans;
- Jumbo loans; and
- Loans held in the credit union’s own portfolio.

However, the term does *not* include the following loans:

¹ Truth in Lending and Reg. Z generally apply to credit extended primarily for personal, family, or household (not business or agricultural) purposes unless:

- The loan is to an organization (corporation, partnership, association, union, etc.); or
- The loan is over **\$73,400, effective Jan. 1, 2026 (up from \$71,900 in 2025)**. Although consumer credit transactions above the threshold are generally exempt, loans secured by real property or by personal property used or expected to be used as the principal dwelling of a consumer and private education loans are covered by TILA regardless of the loan amount.

For details, see The League’s *ii Release No. B001*.

- Reverse mortgages;
- Construction-only loans (but not the permanent financing that replaces the construction loan);
- Bridge loans of 12 months or less (unless they include substantial balloon payments);
- Loans to buy homes for investment purposes (unless the borrower’s principal home secures the loan);
- Loans to purchase second homes (unless the borrower’s principal home secures the loan); and
- Home equity lines of credit (HELOCs).

Thresholds

To determine whether a mortgage loan is higher-priced, credit unions need to compare the APR against an average of comparable prime mortgage rates.

Under Reg. Z, an HPML means a closed-end consumer loan secured by the consumer's principal dwelling (including home purchase loans, refinancings, and home equity loans) if the APR is greater than the “Average Prime Offer Rate” for a comparable transaction (as of the date the interest rate is set) by at least:

- 1.5 percentage points for first-lien loans;
- 2.5 percentage points for loans secured by a first lien “jumbo” loans – meaning that the principal amount at closing is greater than the maximum principal amount eligible for purchase by Freddie Mac; or
- 3.5 percentage points for subordinate lien loans.

Federal authorities determine the Average Prime Offer Rates and publish tables showing these rates at:

<https://ffiec.cfpb.gov/documentation/tools/rate-spread>. Credit unions are to compare their rates against the “most recently available” Average Prime Offer Rates, meaning those most recently effective as of the “rate lock date” – the date they lock in the interest rate for the final time before the loan is consummated. However, it is generally simpler to use the calculator link in the following subsection of this ii Release than to consult the tables.

FFIEC Calculator

Federal financial regulators offer an online Rate Spread Calculator, which calculates the spread between the APR and the Average Prime Offer Rate. For loans with a “final action date” after Jan. 1, 2018, use the calculator at:

<https://ffiec.cfpb.gov/tools/rate-spread>. (If needed for older loans, the page includes links to previous versions of the calculator.)

As the site explains, “The rate spread calculator generates the spread between the Annual Percentage Rate (APR) and a survey-based estimate of APRs currently offered on prime mortgage loans of a comparable type utilizing the ‘Average Prime Offer Rates’ *fixed table* or *adjustable table*, action taken, amortization type, lock-in date, APR, fixed term (loan maturity) or variable term (initial fixed-rate period), and reverse mortgage.”

Evading the Rules

Although HELOCs are excluded from the higher-priced mortgage loan rules, lenders cannot evade these rules by structuring a closed-end loan as open-end.

Regulators say that this “anti-evasion” rule is intended to reach cases where creditors have structured loans as open-end “revolving” credit, even if the features and terms or other circumstances demonstrate that the creditor had no reasonable expectation of repeat transactions under a reusable line of credit. Such a practice would violate Truth in Lending, but if this is done on an HPML, the lender would be subject to even stricter remedies provided under HOEPA.

The CFPB's Official Staff Commentary to Reg. Z helps explain how to determine the “amount financed” and the “principal loan amount” on a loan structured as open-end credit. This is needed to determine the APR and see whether the loan meets the APR thresholds to be considered an HPML.

LIMITS ON HIGHER-PRICED MORTGAGE LOANS

Certain restrictions apply to an HPML:

- With some exceptions, lenders cannot make HPMLs secured by a first lien without an escrow account for taxes, homeowners insurance and other insurance the credit union requires.
- The credit union must:
 - Disclose to consumers within three business days after receiving the consumers' applications that they are entitled to a free copy of any appraisal;
 - Obtain a written appraisal meeting certain standards;
 - Have the appraiser visit the interior of the property and provide a written report; and
 - Deliver copies of appraisals to applicants no later than three business days before closing (or within 30 business days after determining that the loan will not close).
- A second appraisal is required from a different certified or licensed appraiser – at the credit union's expense – if a covered HPML is being "flipped," meaning that it is being resold within 180 days after it was purchased by the seller, and the price that the credit union's applicant is paying is above certain thresholds. The HPML rules include several exemptions from this requirement.

Reg. Z has ability-to-repay requirements for most closed-end mortgage loans, including HPMLs. These requirements are found in the ability-to-repay / qualified mortgage rules, which are summarized in The League's *ii Release No. B074*. The HPML rules no longer include separate repayment ability requirements.

The following sections of the release explain these limits in detail, including exceptions that may apply.

ESCROW FOR TAXES AND INSURANCE

If an HPML is secured by a first lien on a principal dwelling, the credit union generally must establish an escrow account for taxes, homeowners insurance and other insurance the credit union requires. There are several exceptions to the escrow requirements, such as for small credit unions in certain "rural" or "underserved" areas. This escrow requirement does not apply to subordinate lien loans.

Escrow is not required for optional insurance items chosen by the consumer and not otherwise required by the credit union, such as earthquake insurance or debt-protection insurance. Premiums for mortgage-related insurance the credit union requires do not need to be included in escrow if the loan is secured by dwellings in condominiums, planned unit developments, or other common interest communities and owners are required to participate in a governing association that has an obligation to the owners to maintain a master policy insuring all dwellings.

Federal rules govern the administration of escrow accounts (including how creditors handle disclosures, initial escrow deposits, cushions, and advances to cover shortages). These rules are under the Real Estate Settlement Procedures Act (RESPA). For more on RESPA, see The League's *ii Release No. B014*.

Escrow requirements under Wisconsin law (Wis. Stats. § 138.052) may apply, as well. These include the requirement to pay an indexed interest (dividend) rate on required escrow accounts for certain first-lien or equivalent mortgage loans that are a borrower's principal residence, if originated before April 18, 2018. In most cases, it must also provide a notice giving the borrower several options for the timing of real estate tax payments from the escrow account, as required by Wis. Stats. § 138.052(5m). The League's *ii Release No. B047* includes details about the Wisconsin escrow account rules.

Under Reg. Z, an advertisement for closed-end credit secured by a first lien on a principal dwelling that states a monthly payment of principal and interest must prominently disclose that taxes and insurance premiums are not included. For more information on Reg. Z mortgage advertising, see The League's *ii Release No. 0124*.

Exceptions from HPML Escrow Requirements

Reg. Z's HPML rules include certain exceptions from the escrow requirements. Even if a loan is a first-lien HPML, no escrow account is required for:

- A loan secured by shares in a cooperative;
- A loan to finance the initial construction of a dwelling;
- A temporary or "bridge" loan with a term of 12 months or less, such as a loan to buy a new dwelling where the consumer plans to sell a current dwelling within 12 months;
- A reverse mortgage; or

Exceptions for insured credit unions

The HPML escrow requirement does not apply to any loan made by an insured depository institution or insured credit union and secured by a first lien on the principal dwelling of a consumer if, at the time of consummation:

1. The insured institution has assets of \$12.495 billion or less (adjusted annually for inflation) as of the preceding December 31st, or, if the application for the transaction was received before April 1 of the current calendar year, as of either of the two preceding December 31sts);
2. The insured institution and its affiliates originated 1,000 or fewer loans secured by a first lien on a principal dwelling during the preceding calendar year, or, if the application for the transaction was received before April 1 of the current calendar year, during either of the two preceding calendar years;
3. The insured institution meets the requirement in § 1026.35(b)(2)(iii)(A), which requires that at least one covered transaction that the institution extended in the preceding calendar year (or in the year preceding that calendar year for applications received prior to April 1 of the current calendar year) was secured by a first lien on a property located in a rural or underserved area;
4. An escrow account is not required under § 1026.35(b)(2)(v), which requires that an escrow account be established for an HPML that was originated under a forward commitment for sale (i.e., your organization will not hold the loan in portfolio) unless the loan is otherwise exempt (for example, it is a reverse mortgage) or the acquirer is also eligible for either the small creditor or the insured institution exemption; and
5. The insured institution and its affiliates do not maintain an escrow for HPMLs, pursuant to § 1026.35(b)(2)(iii)(D)(1), unless:
 - a. The escrow was established after consummation as an accommodation to distressed consumers to assist such consumers in avoiding default or foreclosure, or
 - b. The escrow was established at a time when the insured institution may have been required by the regulation to do so, which would have occurred for an HPML escrow account on or after April 1, 2010, to 120 days from the effective date of the January 2021 Final Rule (expected in February 2021).

The TILA HPML Escrow Rule, as amended, defines “insured depository institution” to have the same meaning given to the term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) and “insured credit union” to have the same meaning given to the term in section 101 of the Federal Credit Union Act (12 U.S.C. 1752). “Affiliate” is defined in § 1026.32(b)(5) as “any company that controls, is controlled by, or is under common control with another company, as set forth in the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.).”

For more information on some of these requirements, see the following sections in *the CFPB’s Small Entity Compliance Guide to the HPLM Escrow Rule*: “What are the loan volume and asset size requirements to qualify for the insured institution exemption?” on page 17, “How do I determine if my institution operates in a rural or underserved area?” on page 18, “What are the other requirements and conditions to qualify for either the small creditors exemption or the insured institution exemption?” on page 19.

Escrow Cancellation

A credit union may cancel an escrow account required by the HPML rules only upon the earlier of:

- Termination of the mortgage loan; or
- When the credit union receives a request by the borrower to cancel the escrow account, no earlier than five years after closing – as long as the unpaid principal balance is less than 80% of the original value of the property and the borrower is not currently delinquent or in default.

The federal rules neither permit nor prohibit escrow cancellation fees.

Manufactured Housing

The escrow rule applies whether or not state law would treat the housing as real estate or personal property – so long as the higher-priced loan is secured by a first lien on a consumer’s principal dwelling. Under Truth in Lending rules, this could include mobile homes, boats or trailers, if they are used as residences. Thus, escrow is needed for a higher-cost,

first-lien loan on a mobile home even if it is not connected to utilities, set on a foundation, and on land owned by the mobile home owner. For more on mobile home lending, see The League's *ii Release No. B019*.

This means that credit unions may need to establish escrow accounts for personal property taxes on mobile homes. In Wisconsin, manufactured housing that is not connected to utilities or set on a foundation on the owner's land is subject to taxation as personal property except:

- Camping trailers or certain recreational mobile homes, and
- Mobile homes in municipalities that assess a monthly parking municipal permit fee.

The need to escrow for personal property taxes on some mobile homes presents a special problem: Mobile home parks may collect those taxes themselves. Even if the park collects the taxes, the credit union would still have to require the homeowner to escrow for them, because the HPML rules do not provide an exception. In these situations, it would be up to the homeowner to request a refund from the lender. The following appears in *a 2013 Wisconsin Department of Revenue publication*:

In these situations, the home owner is paying the fee (tax) twice, once to the lending institution and once to the local taxing authority or community operator. At the end of the year, the home owner can show the lending institution that the taxes have already been paid, and receive a credit/refund from the lending institution.

Flood insurance escrow

NCUA flood insurance regulations say that lenders/servicers must escrow premiums and fees for flood insurance for any loan secured by residential improved real estate or a mobile home that is made, increased, extended, or renewed on or after January 1, 2016 – unless either 1) the credit union qualifies for a “small lender” exemption or 2) a particular loan is exempt. In some cases, a credit union must notify borrowers on existing loans that they have the option to escrow for flood insurance premiums and fees. See *ii Release No. B003* for more information. This flood insurance escrow rule is not limited to HPMLs.

INTERIOR APPRAISALS & COPIES FOR APPLICANTS

When the credit union originates an HPML covered by these appraisal rules, it must:

- Within three business days after a credit union receives the application, disclose to the applicants that they are entitled to a free copy of any appraisal the credit union orders and can hire their own appraiser at their own expense for their own use;
- Obtain a written appraisal performed by certified or licensed appraiser in conformity with the Uniform Standards of Professional Appraisal Practice (USPAP) and the Title XI of the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) 12 U.S.C. 3331, and its implementing regulations. This applies even if the NCUA appraisal rules would otherwise permit a valuation instead of a USPAP appraisal. Effective May 24, 2018, the federal Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) amended FIRREA to carve out an exemption from appraisal requirements for certain mortgage loans secured by properties in rural areas where appraisers may not be readily available. In a *set of 2018 FAQs* on EGRRCPA, the NCUA said that “credit unions may begin applying this exemption immediately. The NCUA is in the process of updating Part 722 of its Rules and Regulations and corresponding examiner guidance to reflect this change.”
- Have the appraiser visit the interior of the property and provide a written report.
- Deliver copies of appraisals to applicants no later than three business days before closing (or within 30 business days after determining that the loan will not close).

In addition to the general requirement for an interior appraisal on certain HPMLs, a second appraisal is required from a different certified or licensed appraiser – at the credit union's expense – if a covered HPML is being “flipped,” meaning that it is being resold within 180 days after it was purchased by the seller, and the price that the credit union's applicant is paying is above certain thresholds. The HPML rules include several exemptions from this requirement. (See the section titled, “Appraisals for ‘flipped’ HPMLs,” later in this release, for a detailed explanation of this second appraisal requirement.)

Certain loans exempt

The HPML appraisal rules (and the requirements for second appraisals on “flipped” homes) do not apply to the following types of loans, even if they are HPMLs:

- Qualified mortgages under the CFPB’s ability-to-repay / qualified mortgage rules. See The League’s *ii Release No. B074* for details. HPMLs are also exempt if they are considered qualified mortgages under applicable rules for loans that are insured, guaranteed or administered by the U.S. Department of Housing and Urban Development (HUD), Department of Veterans Affairs (VA), Department of Agriculture (USDA), or the Rural Housing Service (RHS).
- Loans below an annually-adjusted threshold, which is [\\$34,200, effective Jan. 1, 2026 \(up from \\$33,500 in 2025\)](#).
- Reverse mortgages.
- Bridge loans (for 12 months or less and intended to be used to acquire a new principal dwelling).
- Loans for initial construction of a dwelling (not limited to loans of 12 months or less).
- Loans secured by boats, trailers, and mobile homes.
- “Streamlined” refinancings where:
 - The loan is secured by a first lien;
 - The same organization that holds of the “credit risk” of the original loan will also hold the credit risk of the refinanced loan;
 - The regular periodic payments on the refinanced loan will not cover interest only, cause negative amortization, or create a balloon payment; and
 - The proceeds of the refinancing will only be used to pay off the existing loan and cover settlement or closing costs – in other words, not a cash-out refinance.
- Loans secured in whole or in part by a manufactured home, until July 18, 2015. For HPML applications received on or after July 18, 2015, the following apply:
 - Loans secured by a *new manufactured home and land* will be exempt from the requirement that the appraisal include a physical inspection of the interior of the property, but will be subject to all other HPML appraisal requirements.
 - Loans secured by an *existing (used) manufactured home and land* will not be exempt from the HPML appraisal rules.
 - Loans secured solely by a *manufactured home and not land* will be exempt from the rules if the creditor gives the consumer one of three types of information about the home’s value: 1) The manufacturer’s invoice of the unit cost (for a transaction secured by a new manufactured home); 2) An independent cost service unit cost; or 3) A valuation conducted by an individual who has no financial interest in the property or credit transaction, and has training in valuing manufactured homes. (For example, an appraisal conducted according to procedures approved by HUD for existing (used) home-only transactions.)

Note that “manufactured home” is defined in *24 C.F.R. § 3280.2*. Mobile homes, on the other hand, are exempt from HPML appraisal requirements.

Any other HPML is covered by the rules requiring an interior appraisal.

Disclosures to applicants within three business days

Within three business days after a credit union receives an application for a non-exempt HPML, it must disclose to the applicants that they are entitled to a free copy of any appraisal the credit union orders and can hire their own appraiser at their own expense for their own use. (Reg. Z §1026.35(c)(5).)

Separate notice vs. Loan Estimate notice

The credit union will not need to provide a separate appraisal disclosure if it provides a Loan Estimate. The TILA-RESPA Integrated Disclosure Rule applies to virtually all closed-end consumer credit transactions secured by real property. The

rule requires (among other things) a Loan Estimate, which already includes appraisal-related disclosures that satisfy the requirements of Reg. Z (as well as similar requirement under Reg. B.) For details, see The League's *ii Release No. B079*.

In cases where the TILA-RESPA rule does not apply, a separate appraisal notice must be given. This would be needed, for example, on an HPML secured by a principal dwelling that is personal property – such as a manufactured home that is not considered real estate. For information on manufactured home lending, see The League's *ii Release No. B019*.

Format

Regulators provide this text for the required disclosure:

We may order an appraisal to determine the property's value and charge you for this appraisal. We will 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.

Whether the HPML will be secured by a first-lien or a subordinate-lien, the credit union can comply with these HPML interior appraisal rules by giving the appraisal disclosure required under Reg. B for first-lien loans secured by a dwelling. For information on the Reg. B appraisal disclosure rules, see The League's *ii Release No. B077*. The HPML appraisal disclosure and the Reg. B appraisal disclosure are nearly identical, and the HPML rules allow for one variation in wording:

- For a first-lien HPML, the credit union can add the word “promptly” to the disclosure, telling the consumers that it will “promptly” give them the copy. By doing so, the credit union will have the exact same disclosure used to comply with the Reg. B appraisal rules.
- A subordinate-lien HPML lender can provide the disclosure without the word “promptly.”

Delivery

The disclosure must be “delivered or placed in the mail” no later than the third business day after the credit union receives the consumer's application for a non-exempt HPML. (Reg. Z §1026.35(c)(5)(ii).) This corresponds to the timing requirement for the Loan Estimate under the TILA-RESPA Integrated Disclosure Rule, as explained in *ii Release No. B079*. As explained earlier, the Loan Estimate includes an appraisal disclosure that satisfies the HPML requirement, so no separate disclosure is needed when a Loan Estimate is given.

Reg. Z generally says that required disclosures must be made clearly and conspicuously, in writing, in a form the consumer can keep. Delivery can be done electronically, if the credit union provides certain disclosures and obtains the applicant's consent under the Electronic Signatures in Global and National Commerce Act (E-Sign Act). (See Reg. Z §1026.31(b).) For details on E-SIGN, see The League's *ii Release No. 0175*.

Timing

For purposes of the HPML appraisal rules, Reg. Z defines a “business day” as when “the creditor's offices are open to the public for carrying on substantially all of its business functions.” (The term is defined differently for other parts of Reg. Z.)

If an loan is not an HPML at the time of application, but the credit union later determines that it will be an HPML, then the credit union has three business days after determining that the loan is an HPML to mail or deliver the disclosure.

Multiple consumers

When two or more consumers apply for the loan, the credit union is only required to give the disclosure to one of them.

Obtain a proper written appraisal

The credit union must obtain a written appraisal performed by a certified or licensed appraiser in conformity with the USPAP and Title XI of FIRREA and its implementing regulations. It must have the appraiser visit the interior of the property and provide a written report. (Reg. Z §§1026.35(c)(1)(i) & .35(c)(3).) This applies even if the NCUA appraisal rules would otherwise permit a valuation instead of a USPAP appraisal. Effective May 24, 2018, the federal Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) amended FIRREA to carve out an exemption from appraisal requirements for certain mortgage loans secured by properties in rural areas where appraisers may not be readily available. In a *set of 2018 FAQs* on EGRRCPA, the NCUA said that “credit unions may begin applying this

exemption immediately. The NCUA is in the process of updating Part 722 of its Rules and Regulations and corresponding examiner guidance to reflect this change.”

The HPML appraisal rules provide a list of steps the credit union can take to be sure that any required appraisal complies with the rules. (See Appendix N to Reg. Z.) If the credit union takes each of the following steps, it is eligible for a “safe harbor” protection for that appraisal. That is, by taking these steps, the credit union complies with the rules.

1. Order an appraisal from a certified or licensed appraiser in the state where the property is located and require the appraiser to follow USPAP and Title XI of FIRREA and any implementing regulations in effect at the time the appraiser signs the appraiser’s certification.
2. Confirm that the appraisal:
 - Identifies the creditor who ordered the appraisal, the property, and the interest being appraised;
 - Indicates whether the appraiser analyzed the contract price;
 - Addresses conditions in the property’s neighborhood;
 - Addresses the condition of the property and any improvements to the property;
 - Indicates which valuation approaches the appraiser used and includes a reconciliation if the appraiser used more than one valuation approach;
 - Provides an opinion of the property’s market value and an effective date for the opinion;
 - Indicates that the appraiser performed a physical property visit of the interior of the property; and
 - Includes a certification signed by the appraiser that the appraisal was prepared in accordance with the requirements of USPAP and Title XI of FIRREA and any implementing regulations.
3. Check the status of the appraiser. The Appraisal Subcommittee of the Federal Financial Institutions Examination Council (FFIEC) maintains an *on-line National Registry of appraisers*, identifying all federally recognized State certifications or licenses held by U.S. appraisers. Use the National Registry to verify that the appraiser is certified or licensed in the state where the property is located on the date he/she signed the appraiser’s certification.
4. Keep in mind that the safe harbor applies only if the credit union does not have actual knowledge contrary to the facts or certifications contained in the written appraisal. (Reg. Z §1026.35(c)(3)(ii).)

The credit union may outsource its appraisal review to a third party, but it will remain responsible for complying with these rules. If the credit union relies on the third party that does not follow the rules, then the credit union will be responsible for the violation. Using an automated review process can also be appropriate, but the credit union will remain responsible for the effectiveness of those processes.

Nothing in these rules changes the credit union’s other legal obligations for appraisals, such as rules on minimum standards for appraisals, appraiser independence, appraiser qualifications, or restrictions on the use of borrower-ordered appraisals. For information on appraisal requirements, see The League’s *ii Release No. B008*.

Deliver copies of appraisals

Credit unions must deliver copies of appraisals to applicants no later than three business days before closing a covered HPML (or within 30 business days after determining that the loan will not close). (Reg. Z §1026.35(c)(6)(ii).)

Send the copies to the applicant’s last-known physical or electronic address. Delivery occurs three business days after the credit union mails or transmits the copies, or whenever it has evidence that the applicant received them. (Reg. Z Comment 35(c)(6)(ii)-1.)

Delivery can be done electronically if the credit union provides certain disclosures and obtains the applicant’s consent under the Electronic Signatures in Global and National Commerce Act (E-Sign Act). For details on E-SIGN, see The League’s *ii Release No. 0175*.

For purposes of the HPML appraisal rules, Reg. Z defines a “business day” as when “the creditor’s offices are open to the public for carrying on substantially all of its business functions.” (The term is defined differently for other parts of Reg. Z.)

If there is more than one applicant, the credit union is only required to give appraisal copies to one of them. (Reg. Z Comments 35(c)(5)(i)-1 & 35(c)(6)(i)-1.) However, if the HPML is secured by a first lien, then the Reg. B appraisal rules require the credit union to send copies to the primary applicant when one is readily apparent. See The League's *ii Release No. B077*.

The credit union cannot charge fees for photocopying or to cover the cost of postage to provide copies of appraisals, nor can it raise the consumer's interest rate or mark-up other fees to cover this cost.

If the credit union determines that it is not going to close a loan, it still has to give the applicant appraisal copies within 30 days after it makes that determination. (Reg. Z §1026.35(c)(6)(ii)(B).) However, if the application is for a first-lien loan that is subject to the Reg. B appraisal rules, an earlier deadline applies: The copies must be provided "promptly upon completion" (unless the applicant has waived that deadline). For details, see The League's *ii Release No. B077*.

Overlap of the HPML appraisal rules with the Reg. B appraisal rules

Reg. B has its own appraisal rules, which require credit unions to provide consumer disclosures and free copies of appraisals and other written valuations on first-lien loans secured by a dwelling. These rules are covered in The League's *ii Release No. B077*.

For first-lien HPMLs, the HPML appraisal rules overlap in certain way with the Reg. B appraisal rules.

The credit union can use the disclosure under the Reg. B appraisal rules to satisfy the disclosure requirements of the HPML appraisal rules.

The Reg. B appraisal rules impose a different deadline structure for providing copies of appraisals to consumers. Under the Reg. B appraisal rules, the copies of appraisals must be provided "promptly upon completion" or three business days before closing, whichever is earlier.

As a result, 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 three-business-days-before-closing deadline under this rule.

In addition, the applicant can waive the deadline under the Reg. B appraisal rules and elect to receive the copies at closing, whereas the applicant cannot waive the three-business-days-before-closing deadline under the HPML appraisal rules.

If the transaction is subject to both rules, then comply with the earlier deadline. The HPML appraisal rules deadline will be earlier if the applicant provides a waiver under the Reg. B appraisal rules.

For example, if an applicant waives the deadline under the Reg. B appraisal rules, the credit union will still need to comply with the three-business-day-before-closing requirement in the HPML appraisal rule.

If the applicant does not waive the three-business-days-before-closing deadline, generally the Reg. B appraisal rules' "promptly upon completion" deadline will be earlier.

SECOND APPRAISAL NEEDED FOR "FLIPPED" HPMLS

In addition to the general requirement for an interior appraisal on certain HPMLs (discussed in the previous section of this release), a second interior appraisal is required from a different certified or licensed appraiser – at the credit union's expense – if a covered HPML is being "flipped," meaning that it is being resold within 180 days of it was purchased by the seller, and the price the credit union's applicant is paying is above certain price thresholds. Reg. Z §1026.35(c)(4)(i).

The credit union cannot charge the consumer for the second appraisal, which must consider certain factors, meet certain standards and include an interior visit to the property. The credit union must deliver a copy of this second appraisal to the applicant no later than three business days before closing (or within 30 business days after determining that the loan will not close).

Certain loans are exempt from this requirement, including "qualified mortgages" and loans on properties in "rural" counties. Credit unions should first determine whether an exemption applies before investing the time and effort of analyzing an HPML to see whether the timing and the price trigger the need for a second appraisal.

Certain loans exempt

As with the general requirements for interior appraisals on HPMLs (discussed previously in this release), the requirements for second appraisals on “flipped” HPMLs do not apply to the following types of loans, even if they are HPMLs:

- Qualified mortgages under the CFPB’s ability-to-repay / qualified mortgage rules. See The League’s *ii Release No. B074* for details. HPMLs are also exempt if they are considered qualified mortgages under applicable rules for loans that are insured, guaranteed or administered by the U.S. Department of Housing and Urban Development (HUD), Department of Veterans Affairs (VA), Department of Agriculture (USDA), or the Rural Housing Service (RHS).
- Loans below an annually-adjusted threshold, which is [\\$34,200, effective Jan. 1, 2026 \(up from \\$33,500 in 2025\)](#).
- Reverse mortgages.
- Bridge loans (for 12 months or less and intended to be used to acquire a new principal dwelling).
- Loans for initial construction of a dwelling (not limited to loans of 12 months or less).
- Loans secured by boats, trailers, and mobile homes.
- “Streamlined” refinancings where:
 - The loan is secured by a first lien;
 - The same organization that holds of the “credit risk” of the original loan will also hold the credit risk of the refinanced loan;
 - The regular periodic payments on the refinanced loan will not cover interest only, cause negative amortization, or create a balloon payment; and
 - The proceeds of the refinancing will only be used to pay off the existing loan and cover settlement or closing costs – in other words, not a cash-out refinance.
- Loans secured in whole or in part by a manufactured home, until July 18, 2015. For HPML applications received on or after July 18, 2015, the following apply:
 - Loans secured by a *new manufactured home and land* will be exempt from the requirement that the appraisal include a physical inspection of the interior of the property, but will be subject to all other HPML appraisal requirements.
 - Loans secured by an *existing (used) manufactured home and land* will not be exempt from the HPML appraisal rules.
 - Loans secured solely by a *manufactured home and not land* will be exempt from the rules if the creditor gives the consumer one of three types of information about the home’s value: 1) The manufacturer’s invoice of the unit cost (for a transaction secured by a new manufactured home); 2) An independent cost service unit cost; or 3) A valuation conducted by an individual who has no financial interest in the property or credit transaction, and has training in valuing manufactured homes. (For example, an appraisal conducted according to procedures approved by HUD for existing (used) home-only transactions.)

Note that “manufactured home” is defined in [24 C.F.R. § 3280.2](#). Mobile homes, on the other hand, are exempt from HPML appraisal requirements.

Other exemptions

In addition to the general exemptions listed in the previous subsection, other types of HPMLs are also exempt from the second appraisal rules. The credit union does not have to order an additional appraisal for an HPML that is being used to acquire the property from:

- A local, state, or federal government agency;
- A person who acquired title from the holder of a defaulted mortgage on the property via foreclosure, deed-in-lieu of foreclosure, or other similar judicial or non-judicial procedure through exercise of the holder’s rights in the defaulted loan;

- A non-profit entity as part of a local, state, or federal government program that lets non-profits acquire title to single-family properties for resale from a seller who itself acquired title to the property through foreclosure, deed-in-lieu of foreclosure, or other similar judicial or non-judicial procedure;
- A person who inherited the property or acquired it through a court-ordered dissolution of marriage, civil union, or domestic partnership, or through the partition of the seller’s joint or marital assets;
- An employer or relocation agency in connection with an employee relocation; or
- A service member who received a deployment or permanent change of station order after buying the property.

The credit union also does not have to order an additional appraisal for a covered HPML used to acquire a property:

- Located in a presidentially-declared disaster area during any time period during which the federal financial institutions regulators waive the requirements in Title XI of FIRREA and any implementing regulations in that area; or
- Located in a “rural” county.

The CFPB’s list of rural (not underserved) counties (for both the current year and for previous years) is *available on the CFPB’s website*. For 2019, that list includes these Wisconsin counties:

55001 Adams County	55037 Florence County	55081 Monroe County	55119 Taylor County
55003 Ashland County	55041 Forest County	55085 Oneida County	55121 Trempealeau County
55005 Barron County	55047 Green Lake County	55091 Pepin County	55123 Vernon County
55007 Bayfield County	55051 Iron County	55095 Polk County	55125 Vilas County
55011 Buffalo County	55053 Jackson County	55099 Price County	55129 Washburn County
55013 Burnett County	55057 Juneau County	55103 Richland County	55135 Waupaca County
55019 Clark County	55065 Lafayette County	55107 Rusk County	55137 Waushara County
55023 Crawford County	55067 Langlade County	55113 Sawyer County	
55029 Door County	55077 Marquette County		

* Note: Menominee County is on the CFPB’s list of “rural or underserved” counties for 2018, but not on its list of “rural” counties.

The CFPB publishes an annual list of rural (and underserved) counties. This is not the same definition of “rural” used for Home Mortgage Disclosure Act (HMDA) reporting or used by other agencies. For example, your credit union may not be considered rural under this definition even though it is considered rural under HMDA and is not a HMDA reporter. For more on HMDA reporting, see The League’s *ii Release No. B017*.

This exception from the additional appraisal requirement for “flipped” HPML only looks at whether a property is in a rural “county.” It does not apply to HPMLs in other counties, even if those properties may be in rural or underserved “areas.” In other words, for purposes of this appraisal rule, it doesn’t matter whether the CFPB’s online “Rural and Underserved Areas Tool” or the U.S. Census Bureau’s automated address search tool show that the property is in a “rural or underserved area” if the property is not in one of the listed counties.

Determine if an HPML is for a “flip”

If none of the exemptions apply, the credit union will have to determine whether the HPML is being used to acquire a “flipped” home. Two criteria determine whether an HPML is for a “flip”:

- The price the credit union’s applicant is paying is higher than the seller originally paid by a certain threshold; and
- The home is being resold within 180 days after the seller bought it.

Price threshold

The additional appraisal is required if the price reflected in the purchase agreement by the credit union’s applicant is higher than the seller’s acquisition price by a certain amount:

- More than a 10% price increase if the seller acquired the property in the past 90 days; or
- More than a 20% price increase if the seller acquired the property in the past 91 to 180 days.

To determine the seller's acquisition price, use written "source documents" (described later in this release).

Use the amount the seller paid. Do not include the cost of financing the property. If the seller paid nothing for the property, and received it as a gift, then treat the acquisition price as zero.

The price the consumer is obligated to pay to acquire the property is the price that appears in the consumer's agreement with the seller. Do not include the cost of financing the property. (Reg. Z Comments 35(c)(4)-5 & 6.)

If a written source document describes the seller's acquisition price as an estimated or assumed amount and not the actual price, the credit union should look at an alternative document to determine the price the seller paid to buy the property. (Reg. Z Comment (c)(4)(vi)(A)-1.)

Timing of the resale

An HPML can only be a "flip" if the seller acquired the property 180 days or less before the date of the credit union's loan applicant's agreement to acquire the property.

To calculate this period, the credit union should:

- Determine the "acquisition date," meaning the day the seller became the legal owner of the property (based on state law).
- Start counting the day after the acquisition date. (In other words, the acquisition date is day 0 and the next day is day 1.)
- Count up to and including the purchase date, meaning the day the consumer and the seller signed a home purchase agreement. (Reg. Z Comment 35(c)(4)(i)-2, 3 & 4.)

Suppose, for example that a seller acquires the property on April 17, 2012. The credit union's member agrees to buy the property on October 15, 2012. The first day the credit union would count in the 180-day calculation would be April 18, 2012, and the last day would be October 15, 2012. In this case, the number of days from April 17 would be 181, so the credit union would not have to order an additional appraisal.

To determine the acquisition date and purchase date, use written "source documents" (described later in this release).

The credit union does not have to determine whether and to what extent the purchase agreement is legally binding on both parties. (Reg. Z Comment 35(c)(4)(i)-4.)

If the seller and the consumer signed the purchase agreement on two different days, use the latter of the two dates. (Reg. Z Comment 35(c)(4)(i)-4)

Use "source documents"

The credit union can use written documents to establish that it acted with reasonable diligence in determining if the seller acquired the property in the previous 180 days and whether the purchase price exceeds the thresholds described earlier. Appendix O to Reg. Z lists 10 documents that the credit union can rely on (which does not include all the documents the credit union might use):

1. A copy of the recorded deed from the seller;
2. A copy of a property tax bill;
3. A copy of an owner's title insurance policy purchase by the seller;
4. A copy of the Closing Disclosure from the seller's closing;
5. A property sales history report or title report from a third-party reporting service;
6. Sales price data recorded in multiple listing services;
7. Tax assessment records or transfer tax records obtained from local governments;
8. A written appraisal performed in compliance with the USPAP and FIRREA requirements for the same transaction;

9. A copy of a title commitment report detailing the seller's ownership of the property, the date it was acquired, or the price at which the seller acquired the property; or
10. A property abstract.

Second appraisal if uncertain whether property is being "flipped"

If, after exercising reasonable diligence, the credit union cannot tell if the property was acquired in the last 180 days, and it cannot tell whether the price difference falls below the threshold described above, and no exemption applies, then it must obtain an additional appraisal. For example:

- Suppose a title search shows a prior sale occurred between 91 and 180 days ago, but not the price paid in that sale.
- Suppose a title search shows the last recorded purchase was more than 180 days before the credit union's HPML applicant agreed to acquire the property, but an appraisal shows that the seller acquired the property between 91 and 180 days before the credit union's loan applicant agreed to acquire the property. Unless one of these sources is clearly wrong on its face, the credit union cannot determine whether a second appraisal is required.

In either case, the credit union must either 1) perform additional diligence to ascertain the seller's acquisition price and then determine whether a second written appraisal is required, or 2) obtain the second written appraisal. (See Reg. Z Comment 35(c)(4)(vi)(A)-3.)

No charge for second appraisal

The credit union cannot charge the consumer for the additional appraisal, including by imposing a fee specifically for that appraisal or by marking up the interest rate or any other fees payable by the consumer in connection with the HPML.

Appraisal requirements

The credit union cannot use the appraisal from the seller's acquisition or finance of the property to satisfy the requirement for an additional appraisal.

The second appraisal must be conducted by an appraiser who is independent from the appraiser who performed the general HPML interior appraisal (under the rules described in the previous section of this release). If the two certified or licensed appraisers are affiliated – for example, they work for the same appraisal firm – then whether they have conducted the appraisal independently of each other must be determined based on the facts and circumstances of the particular case known to the credit union. For more information, see the appraisal independence material in The League's *ii Release No. B008*.

The additional appraisal must meet the same requirements as the first (written report by a certified or licensed appraiser in compliance with USPAP and FIRREA based upon an interior property visit). (This applies even if the NCUA appraisal rules would otherwise permit a valuation instead of a USPAP appraisal.) Also, it must analyze:

- The difference in the original sales price and the subsequent sales price;
- Changes in market conditions; and
- Property improvements the seller made.

Providing a copy of the second appraisal

As explained previously, HPML applicants are entitled to a free copy of *any* appraisal the credit union orders in connection with a covered loan. Copies must be delivered to applicants no later than three business days before closing (or within 30 business days after determining that the loan will not close). The same requirements apply to a second appraisal if required for an HPML on a "flipped" property. The previous section of this release has details on delivery requirements.

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League publications are designed to provide accurate information with regard to the subject matter covered, with the understanding that the League does not render legal services. If you have general questions regarding this release, please call The League at (608) 640-4050 if local or (800) 242-0833. For specific legal advice, please consult your credit union's attorney.

Legal Affairs Department

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