



PRIME Interest



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Professional Mortgage Women
Houston

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www.NAPMWHouston.org**

Hello Houston and The Woodlands;

How do I start off my first letter as incoming President, when I have such big shoes to fill? Well... let's talk about me. (Kidding). I want to give a huge thank you to last year's board under the leadership of Kathryn Hardeman. I hope that we can continue the success! In addition, thank you to Mike Brubaker for his help in the installation last month. Attending the National NAPMW Education conference were Kathryn Hardeman, Richard Alvarado, Syrisse Parker, Peggy Michel, Beth Salazar, and myself. This was the second chance that I was able to attend, and this year was incredible. You cannot understand the feeling unless you experience it, but while I was there, I have never been more proud of the people I was in attendance with, our 2007-2008 Local Houston Board, and the entire NAPMW Houston membership. We came into the conference being the largest local in the nation (due largely to the leadership of Richard Alvarado), and received National recognition for it. I cannot express how impressed everyone was with all the efforts of NAPMW Houston.

We had an incredible experience in New Orleans and I came home so incredibly 'jazzed' for next year! Thank you again to NEW ORLEANS for everything you did to make our experience in your hometown something to remember. The attendees will be providing updates on the educational events at the next general meeting.

I would like to recognize the awards that Central Region received in whole and individually. This list really speaks to the enormous growth and potential we have in our Region. Don't forget to celebrate these with your members at home as they are really exciting!

Best Feature Writing: NAPMW Amarillo; Best News Coverage: NAPMW Amarillo; Best Marketing Piece: NAPMW Houston; Most Improved Newsletter: NAPMW Houston; Best Overall Newsletter: NAPMW Oklahoma City; Central Region Membership Banner with 207% increase in membership: NAPMW San Antonio; Best Website: NAPMW Tulsa Green Country; Education Innovator of the Year: Scott Hilton CMI, CME - NAPMW Houston; Leader of the Year: Jean Wiles - NAPMW Tulsa Green Country; Rising Star: Melissa Binsbacher - NAPMW St Louis; 100% Membership Retention: NAPMW-Amarillo; Region Membership Banner-with 207% increase in membership: NAPMW-San Antonio; Silver Membership Level Recipient: Richard Alvarado - NAPMW Houston; Basic Membership Level Recipient: Kathryn Hardeman - NAPMW Houston; Karat Club Member: Vini Shah, CMI NAPMW San Antonio Amethyst Level.

Congratulations to Aaron Hansz for Most Improved Newsletter, Kathryn Hardeman for Basic Level Membership recognition, Richard Alvarado for Silver Membership Level recognition, and Syrisse Parker for the Leader of the Year nomination. Quite impressive and congratulations to all the winners and honorees.

I look forward to seeing everyone at our new location Bice Ristorante, and thank you so very much for choosing me to serve as your President.

Scott Hilton
NAPMW Houston-President
2008 - 2009



Appraisal Deal Draws Protest from OCC Letter to OFHEO seen as potential fodder for courtroom fight

American Banker | Wednesday, May 28, 2008

By [Cheyenne Hopkins](#)

Comptroller of the Currency John Dugan told the Office of the Federal Housing Enterprise Oversight it ought to scrap appraisal standards the government-sponsored enterprises set with New York Attorney General Andrew Cuomo in March. "Provisions of the National Bank Act would prevent this de facto regulation from being applied to, or enforced against, national banks," Mr. Dugan warned in a letter Tuesday. If oversight of the appraisal process is to be revamped, he wrote, Congress should make that call, not OFHEO or a state attorney general.

"We see no legal basis for OFHEO to share or delegate rulemaking authority to the NYAG, or to subject its ability to regulate the GSEs' safety and soundness to the veto or consent of the NYAG, as has happened here," Mr. Dugan wrote. "Nor do we see a basis for OFHEO, using its safety and soundness authority with respect to the GSEs, to assume the role of dictating the corporate and internal organizational structures of lenders that sell mortgages to the GSEs."

Under the deal struck by Mr. Cuomo and the GSEs, and sanctioned by OFHEO, as of Jan. 1 lenders will not be able to sell mortgages to Fannie Mae or Freddie Mac unless they adhered to the new appraisal standards, which, among other things, bar a lender from using in-house staff or a company it controls to conduct appraisals. In exchange for the GSEs' compliance, Mr. Cuomo agreed to end an appraisal fraud investigation that threatened to put enormous document demands on the GSEs.

Mr. Dugan and industry representatives have criticized the way the agreement was reached — behind closed doors and without input from outsiders. The letter had been expected, since the

Office of the Comptroller of the Currency has steadfastly — and successfully — protected its right to preempt state attempts to affect national bank operations. In fact, this is just the most recent sparring between the comptroller's office and the New York Attorney General's Office over jurisdiction and preemption authority. This time Mr. Dugan also is taking on OFHEO.

"While OFHEO may well have a safety and soundness basis to require the GSEs to apply various checks on appraisals obtained in connection with loans sold to them, OFHEO crosses the line into regulation of entities outside of its domain when it dictates requirements — as here — on the corporate structures and internal organizations and operations of banks and other lenders that sell loans to the GSEs," he wrote in his 12-page letter.

In an e-mail, Mr. Cuomo's office said that "the appraisal process for home loans is broken," and that the "groundbreaking" agreements with Fannie and Freddie "will help consumers." The office also said it is "thoughtfully considering comments" the industry has filed with the GSEs regarding the changes. Stefanie Mullin, a spokeswoman for OFHEO, would not discuss the jurisdictional or legal issues the OCC raised in its letter. "We appreciate their thoughtful comments. OFHEO is reviewing the letter from Comptroller Dugan and notes the concerns the OCC raised with the enterprise appraisal code that remains under consideration and, especially, the unintended consequences pointed out in the letter," she said.

Among those consequences, Mr. Dugan said the settlement would undermine, rather than enhance, the quality of appraisals, raise costs for both

lenders and borrowers, and disrupt the mortgage appraisal process.

"A disruption of this type is not only unnecessary, but it comes when the housing and mortgage markets are under significant stress," he wrote.

"By impeding availability of sound mortgage credit, the code directly conflicts with various ongoing federal efforts to restore credit availability and confidence in the housing and mortgage markets."

Mr. Dugan's letter provides a road map for any lender weighing a lawsuit against OFHEO. "Clearly, to the extent that a party out there is contemplating litigation, this would bolster their prospects of a successful outcome," said Steve O'Connor, senior vice president of government affairs for the Mortgage Bankers Association. "I think this letter will have a significant impact, because it's a federal banking regulator weighing in on the substance and process of the agreement, saying it's ill conceived and should be voided, and I think that's a powerful statement."

Julie Williams, senior deputy comptroller and chief counsel at the OCC, said in an interview Tuesday that lenders "may want to evaluate the prospect of litigation, and there could be some congressional involvement."

She criticized OFHEO for "promulgating standards with such significant and widespread application pursuant to this private settlement process."

A proper rulemaking process provides "a formal opportunity not just for comment, but a requirement that those comments be taken into account and addressed by the agency," Ms. Williams said. "You'd have the forum of a court to decide if the agency exceeded its rulemaking authority." Mr. Dugan made the point in his letter. "Whatever OFHEO might think about the comments received, it is paralyzed from acting on them, because the agreements subject its ability to react to the consent of the NYAG," he wrote.

"This outcome — the imposition of binding requirements without the opportunity for meaningful participation by the lenders who are directly affected by them and without the ability to react to comments received — violates fundamental requirements" of the Administrative Procedures Act. Because the GSEs dominate the mortgage market, the industry and the OCC argue that most lenders would have to change their appraisal practices. Mr. Dugan said Mr. Cuomo does not have the authority to dictate national bank practices. "State authorities may not interfere with national banks' real estate lending authority under federal law by coercing third parties not to do business with them," the comptroller wrote. "Because the provisions of the code obstruct, impair, or condition the exercise of national real estate lending powers, they are nullified by operation of the Supremacy Clause" of the National Bank Act.

Observers said they do not expect Mr. Cuomo or Mr. Dugan to compromise. "They are two very determined public officials," said Howard Glaser, a Washington lobbyist and former aide to Mr. Cuomo. "I don't see either one backing down."

The issue has gained some traction on Capitol Hill. Sen. Elizabeth Dole, R-N.C., plans to offer an amendment to the housing-reform legislation moving through the Senate that would require new appraisal standards be set by federal — not state — regulation. Industry lobbyists said Mr. Dugan's letter could give the amendment some momentum, but the idea has a potent adversary in Sen. Charles Schumer, D-N.Y., who backed Mr. Cuomo on Tuesday.

"Attorney General Cuomo is doing the right thing here," Sen. Schumer said in a press release. "This agreement cracks down on abuses that federal regulators, to this day, have not seen fit to address."

Don't forget to update the National Website if your contact information has changed and also send me notice so that I can update your information on our database. Email me at Richard@Richardnalvarado.com

NAPMWHOUSTON.ORG

Stands out during the Awards at the National Conference!

Hats off to all the winners and to US as the finest Chapter around!

Awards:

Best Marketing Piece: NAPMW Houston

Scott Hilton, CMI, CME

Most Improved Newsletter: NAPMW Houston

Aaron Hansz

Education Innovator of the Year

Scott Hilton, CMI, CME

Notable Nominations:

Leader of the Year Nominee: Scott Hilton, CMI, CME

Leader of the Year Nominee: Syrisse Parker, MML, CMI

Leader of the Year Nominee: Richard Alvarado

PNPAC Spirit Award Nominee: Scott Hilton, CMI, CME

Other Achievements:

Silver Membership Level Recipient: Richard Alvarado

Basic Membership Level Recipient: Kathryn Hardeman

Karat Club Member: Scott Hilton, CMI, CME

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Please contact **Aaron T. Hansz** at **832.439.3280** or at aaron@akgco.com with any questions!



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FCRA Regulations Requiring Implementation of Identity Theft Prevention Program

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Two significant regulations intended to protect consumers and businesses from identity theft will soon come into effect.

Regulatory agencies under the Fair Credit Reporting Act (FCRA) issued final rules and guidelines implementing the FACT Act that require the execution of a written Identity Theft Program.

Two significant regulations intended to protect consumers and businesses from identity theft will soon come into effect. First, financial institutions and creditors will be required to create an Identity Theft Prevention Program to detect, prevent, and mitigate identity theft with respect to the opening of certain accounts or certain existing accounts. The regulation creates additional requirements for credit and debit card issuers. Second, users of consumer reports will be required to create policies and procedures to verify consumer information when receiving a notice of discrepancy in address from a consumer reporting agency. The regulations are effective Jan. 1, 2008, and mandatory compliance is required by Nov. 1, 2008. This article provides an overview of the regulations as well as how businesses impacted by the rules can comply.

Identity Theft Prevention Program

Financial institutions or creditors (Entities), as defined under the FCRA, must develop and implement a written Identity Theft Prevention Program (Program), if offering or maintaining one or more covered accounts. ¹ The FCRA adopts the definition for creditor from the Equal Credit Opportunity Act (ECOA), which defines the term as "any person who regularly extends, renews, or continues credit;

any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit." ² The comment to the regulations state a creditor could include third-party debt collectors if such parties assist in arranging for the extension, renewal, or continuation of credit. Similarly, an asset buyer participating in such activity could also be considered a creditor under the FCRA and regulations. Further, the regulations state that a creditor includes "banks, finance companies, automobile dealers, mortgage brokers, utility companies, and telecommunication companies." ³

The FCRA defines a financial institution as "a State or National bank, a State or Federal savings and loan association, a mutual savings bank, a State or Federal credit union, or any other person that, directly or indirectly, holds a transaction account (as defined in section 461(b) of Title 12) belonging to a consumer." ⁴ Section 461(b), which falls under the Federal Reserve System regulations, defines a transaction account as "a deposit or account on which the depositor or account holder is permitted to make withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone transfers, or other similar items for the purpose of making payments or transfers to third persons or others. Such term includes demand deposits, negotiable order of withdrawal accounts, savings deposits subject to automatic transfers, and share draft accounts." ⁵ As a result, third-party debt collectors generally will not qualify as a financial institution under § 1681a(t) because they do not maintain transaction accounts whereas asset buyers may if they do hold such active accounts.

A covered account is an account that is offered primarily for personal, family, or household purposes that permits multiple payments or transactions as well as any other account the entity offers or maintains "for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the financial institution or creditor from identity theft." Because the definition of a covered account is extremely broad, any financial institution or creditor that reasonably foresees problems arising from identity theft should be prepared to create a written Program.

The purpose of creating a Program is to "detect, prevent, and mitigate identity theft in connection with the opening of a covered account or any existing covered account." When creating a Program, the entity should consider that its Program must be suitable to the size and complexity of the entity as well as to the scope of the entity's conduct. Thus, smaller entities have more flexibility to design a Program that corresponds with their activities. The guidelines to the regulations also permit an entity to incorporate into a Program, if appropriate, any existing policies and procedures that manage reasonably foreseeable risk to consumers and itself from identity theft.

There are four elements, discussed below, that must be satisfied when creating reasonable policies and procedures of a Program. Guidelines have been provided to assist in drafting and implementing reasonable policies and procedures to address the four elements of a Program. In fact, entities must consider the guidelines and include any in the Program that may be appropriate given the entity's activities, size, and complexity.

1. Identify Red Flags for Covered Accounts the Entity Maintains

Red Flags are any specific activity, pattern, or practice indicating a possible existence of identity theft. Although the regulations do not identify specific Red Flags that must be part of a Program, the guidelines provide factors to consider when identifying Red Flags, including:

(a) the types of covered accounts the entity maintains and provides; (b) the ways in which the entity offers or maintains the covered accounts; (c) the ways in which an entity provides access to the covered accounts; and (d) any experiences an entity previously had with identity theft. Entities should also consider past occurrences of identity theft, methods of identity theft, and other supervisory guidance when identifying Red Flags to include in its Program.

Furthermore, the guidelines also provide five categories from which Red Flags should be included in a Program: (1) alerts or warnings received from consumer reporting agencies or service providers; (2) presentation of suspicious documents; (3) presentation of any suspicious personal identifying information; (4) suspicious activity relating to a covered account; and (5) any notices received from identify theft victims, law enforcement authorities, or other parties containing information related to identity theft as to covered accounts. The guidelines also provide a substantial list of examples of Red Flags that would fall under the above categories.

2. Detect Red Flags Incorporated in the Program

Reasonable policies and procedures should then be created to detect Red Flags included in the Program. The guidelines provide two examples of such policies and procedures. First, acquiring identifying information about a person opening a covered account and verifying his or her identity. **Second, identifying, monitoring, and verifying the validity of change of address requests for existing covered accounts.**

3. Respond Appropriately to Any Red Flags Detected

After detecting a Red Flag, an entity must respond appropriately. In doing so, the entity should determine whether the Red Flag detected a risk of identity theft and must have a reasonable basis to conclude there is no evidence of risk of identity theft.

The guidelines suggest an appropriate response should relate to the degree of risk detected by a Red Flag. The entity should also consider aggravating factors that may increase the degree of risk of identity theft, including loss of data security or notice that a party acting falsely as the entity acquired information from a customer of a covered account. The guidelines also provide nine examples of appropriate responses to Red Flags detected through a Program such as contacting the customer, reopening a covered account with a new account or identification number, or heightened monitoring of a covered account.

4. Update the Program Periodically

Lastly, the Program must be reviewed and updated periodically. Although there is no specific time frame as to how often a Program must be updated, any updates should reflect changes in risks to customers and the entity from identify theft.

The guidelines suggest five factors that should be the basis for updating a Program: (1) an entity's experiences with identity theft; (2) changing methods of identity theft; (3) changing methods in detecting and preventing identity theft; (4) changes in the accounts an entity offers or maintains; and (5) changes in business arrangements of the entity.

As a separate requirement, the entity must also periodically review whether it offers or maintains covered accounts. In doing so, the entity should perform a risk assessment of identity theft with respect to: (1) methods the entity provides to open accounts; (2) methods the entity provides to access its accounts; and (3) the entity's previous experiences with identity theft.

Administration of the Program

The entity must provide for the Program's continued administration and oversight. Before using the Program, the initial written Program must first be approved by either the entity's board of directors or an appropriate committee thereof.

A responsible party must then be involved in the administration and oversight of the Program; the board of directors, an appropriate committee thereof, or a designated employee at the senior management level is appropriate. The responsible party should then assign specific responsibilities to staff for the Program's execution. Training should be provided that is necessary and appropriate to conduct the Program. Re-training of staff already part of an anti-fraud or identity theft prevention unit is not required unless necessary. According to the guidelines, the staff should report to the responsible party on an annual basis to discuss the Program's effectiveness, development, and offer recommendations for the future.

The responsible party must also take necessary steps to ensure service providers are also complying with the Program. Because the entity remains responsible for following the regulations, regardless of whether a service provider conducts certain operations for the entity, it is crucial the service provider understand the Program and incorporate the Program as necessary into its business practice.

Special Requirements for Credit and Debit Card Issuers

Card issuers qualifying as entities (and as such required to create a Program) must also create reasonable policies and procedures to **review the validity of a change in address** when they receive a notification of change of address for consumer credit and debit card accounts as defined under the FCRA. ⁶ An issuer is required to **verify and validate a change in address notification only** if the issuer receives the notice and within thirty days receives a request for an additional or replacement card for the same account. ⁷ **It is important to note this regulation applies to the issuance of a debit or credit card used for a personal, household, family, or business purpose.**

Part of the reasonable policies and procedures should prohibit the card issuer from giving out an additional or replacement card until the card issuer:

(1) notifies the cardholder of the request at either the cardholder's former address or through any other method of communication the card issuer and consumer had previously agreed to use, and provide the cardholder a reasonable method to promptly report an incorrect change in address; or (2) validate the address change request in accordance with its Program. A card issuer also satisfies the validation and notice requirement by validating a notification of address change before receiving the request for an additional or replacement card.

Lastly, any written or electronic notice the card issuer provides to the cardholder to validate the cardholder's address must be clear and conspicuous, and must be provided separate from the card issuer's standard correspondence with the cardholder. Clear and conspicuous requires the notice be reasonably understandable and call attention to the information within it.

Recommendations for Creating an Identity Theft Prevention Program

- Use policies and procedures you already have in place. If you currently have an identity theft prevention program, or are subject to the customer identification program (CIP) rules of the USA PATRIOT Act, the Information Security Standards, the Bank Secrecy Act (BSA), or other similar legal security requirements, you should likely draft your Program around your current practices.
- Although the Program requirements are designed to give you flexibility, your current identity theft prevention program, although similar, may not meet specific requirements for the Program, such as periodic administration, review, and identification of relevant Red Flags.
- Although the guidelines must be reviewed by all entities when creating a Program, entities that do not currently have an identity theft prevention program should pay close attention to the guidelines when creating a Program. The guidelines provide extensive examples for Red

Flags as well as factors to consider in drafting a written Program.

- Be mindful of changes in your industry regarding identity theft. **The purpose of the Program is to prevent and mitigate identity theft for consumers as well as for your business.** Take care in considering the sources of identity theft in your industry as well as how you communicate with your customers.
- The regulations are designed to permit entities to be flexible in creating a Program. A larger entity is not required to have the same Program as a smaller business. Entities should strongly consider the size and complexity of their business as well as the scope of their conduct prior to creating a Program.
- Be sure to comply with any other applicable legal requirements when creating and using your Program, including provisions of the FCRA regarding identity theft alerts, the filing of suspicious activity reports if appropriate, and other provisions of the FCRA.

Receiving Notice of Address Discrepancy from FCRA Users of consumer reports subject to the FCRA must create reasonable policies and procedures to determine that a consumer report relates to the consumer about whom the user has requested the report when receiving a notice of address discrepancy from a consumer reporting agency (CRA).⁸

When a CRA finds a substantial difference between the address of the consumer about whom the user requested a consumer report and the address in the CRA's file, the CRA will send the user a notice of address discrepancy as required under the FCRA. Users of consumer reports should be mindful that different CRAs may send different forms of a notice of address discrepancy. Upon receipt of the notice of address discrepancy, the user must apply reasonable policies and procedures to form a reasonable belief that a consumer report relates to the consumer about whom the user requested the report. This requirement applies to new or existing accounts.

The regulations provide two examples of reasonable procedures that can be used to create a reasonable belief that the consumer address in a consumer report matches the consumer about whom the report was requested. First, the user can compare the information provided in the consumer report with information: (1) the user has in verifying consumer information pursuant to the CIP Rules; (2) the user maintains in its own records such as customer records and previous applications and notifications of change of address; or (3) the user obtained from third-party sources. Second, the user can verify the information in the consumer report directly with the consumer.

The user must also create reasonable policies and procedures to furnish an address to the CRA from whom it received a notice of address discrepancy. The user must furnish the address to the CRA when three circumstances are met. First, the user forms a reasonable belief the consumer report matches the consumer about whom the report was requested. Second, if the new account is opened, the user establishes a continuing relationship with the consumer. Third, the user provides information regularly and in the ordinary course of business to the CRA that sent the notice of address discrepancy. Additionally, users must provide reasonable confirmation of a consumer's address to the CRA during the reporting period in which the user establishes a relationship with the consumer.

If the user does not have a reasonable belief that the consumer report matches the consumer about whom the report was requested, the report should likely not to be used. Moreover, if the user of a consumer report is required to create a Program, the failure to form a reasonable belief about the accuracy of a consumer report may be a Red Flag that should be identified.

The regulations and accompanying guidelines may be viewed [here](#). For additional information about identity theft requirements under the FCRA, please visit E-Compliance on [ACA's Web site](#).



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Just a reminder to some of our members that your membership has or is about to expire. You can renew it today online at www.napmw.org This is the National website and while you are renewing make sure that your information is current on your member profile so you will receive the news from our National Headquarters.

Note from the editor...

What do you want to see in this newsletter? Market trends? New selling ideas? New Products? New Laws coming into effect? A great drink recipe?

It is the goal of the 2007 Board to make this newsletter GREAT and also for it to be a tool for you. I would love to hear from you on different ideas of what you wish to see, even if it is a one time thing or an ongoing article or subject of interest.

Please email your thoughts to me at aaron@akgco.com and as always have a great day!

Are you a designated mortgage professional? If not, WHY?

As competition increases, customers will demand knowledgeable and well-versed individuals to access and serve their needs. If you do not understand the mortgage industry, federal regulations, and all facets of the loan cycle, you may be left behind. As customers themselves become more educated about the mortgage process, shouldn't you?

The Institute of Mortgage Lending offers three designations...

- **Graduate of Mortgage Lending (GML)**

Experience Level: 1 or more years in the mortgage industry

Prerequisites: None

Participation Requirement: Correspondence or Online

Written Exam: Yes

Oral Exam: No

Continuing Education: Yes



- **Master of Mortgage Lending (MML)**

Experience Level: 1 or more years in the mortgage industry

Prerequisites: Graduate of Mortgage Lending

Participation Requirement: Correspondence

Written Exam: Yes

Oral Exam: No

Continuing Education: Yes



- **Certified Mortgage Instructor (CMI)**

Experience Level: 3 years professional experience in the mortgage industry

Prerequisites: Instructor Development Workshop

Participation Requirement: Workshop Participation

Written Exam: No

Oral Exam: No

Continuing Education: Yes



The Institute of Mortgage Lending offers individual GML/MML/CMI course registrations, as well as a corporate licensing program that provides corporations with the opportunity to participate in the GML/MML/CMI designation programs for their company employees. To register contact the NAPMW Offices at (800) 827-3034 or write to the Association at - info@napmw.org or cindy@napmw.org.

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