

**Trade, Industry, or Profession (TIP) -** A single occupational common bond credit union based on employment in a trade, industry, or profession including employment at any number of corporations or other legal entities that while not under common ownership – have a common bond by virtue of producing similar products, providing similar services, or participating in the same type of business.

**Underserved community -** A local community, neighborhood, or rural district that is an “investment area” as defined in Section 103(16) of the Community Development Banking and Financial Institutions Act of 1994. The area must also be underserved based on other NCUA and federal banking agency data.

**Unsafe or unsound practice -** Any action, or lack of action, which would result in an abnormal risk or loss to the credit union, its members, or the National Credit Union Share Insurance Fund.

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## FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

### 12 CFR Part 1102

[Docket No. AS10–2]

#### Appraisal Subcommittee; Appraiser Regulation; Privacy Act Implementation

**AGENCY:** Appraisal Subcommittee of the Federal Financial Institutions Examination Council (Subcommittee).

**ACTION:** Final rule amendments.

**SUMMARY:** The Subcommittee is adopting nonsubstantive amendments to its regulations relating to the Privacy Act of 1974. The amendments correct the street address and zip code for the Subcommittee’s office, which was moved in October 2008, from 2000 K Street, NW., Suite 310, Washington, DC 20006, to 1401 H Street, NW., Suite 760, Washington, DC 20005.

**DATES:** *Effective Date:* June 25, 2010.

**FOR FURTHER INFORMATION CONTACT:** Alice M. Ritter, General Counsel, at (202) 595–7577 or [alice@asc.gov](mailto:alice@asc.gov); Appraisal Subcommittee, 1401 H Street, NW., Suite 760, Washington, DC 20005.

#### SUPPLEMENTARY INFORMATION:

##### I. Authority and Section-by-Section Analysis

The Privacy Act of 1974 is based, in part, on the finding by Congress that “in order to protect the privacy of individuals identified in information systems maintained by Federal agencies, it is necessary and proper for the Congress to regulate the collection, maintenance, use, and dissemination of information by such agencies.” To

achieve this objective, the Act generally provides that Federal agencies must advise an individual upon request whether records maintained by the agency in a system of records pertain to the individual and must grant the individual access to such records. The Act further provides that individuals may request amendments to records pertaining to them that are maintained by the agency, and that the agency shall either grant the requested amendments or set forth fully its reasons for refusing to do so.

In 1992, the Subcommittee, pursuant to subsection (f) of the Privacy Act, adopted 12 CFR subpart C containing rules and procedures to implement the Privacy Act. In October 2008, the Subcommittee moved its offices from 2000 K Street, NW., to its current location at 1401 H Street, NW. Subpart C, as adopted, contains numerous references to the Subcommittee’s K Street address. The Subcommittee is amending subpart C by removing all references to the former K Street location and replacing them with the Subcommittee’s current H Street address.

##### II. Administrative Requirements

###### A. Notice and Comment Requirements Under 5 U.S.C. 553

The Subcommittee, under 12 U.S.C. 553, is required, among other things, to publish in the *Federal Register* for public notice and comment a general notice of proposed rule making, unless, in accordance with paragraph (b)(3)(B), the agency finds “for good cause \* \* \* that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.” The Subcommittee finds that notice and procedure are unnecessary in connection with these rule amendments because they are nonsubstantive and

essentially are nomenclature changes, as that term is defined in the *Federal Register Document Drafting Handbook*, page 2–31 (October 1998).

##### List of Subjects in 12 CFR Part 1102

Administrative practice and procedure, Banks, banking, Freedom of information, Mortgages, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

##### Text of the Rule

■ For the reasons set forth in the preamble, title 12, chapter XI of the Code of Federal Regulations is amended as follows:

#### PART 1102—APPRAISER REGULATION

##### Subpart C—Rules Pertaining to the Privacy of Individuals and Systems of Records Maintained by the Appraisal Subcommittee

■ 1. The authority citation for part 1102, subpart C is revised to read as follows:

**Authority:** Privacy Act of 1974, Pub. L. 93–579, 88 Stat. 1896; 12 U.S.C. 552a, as amended.

##### §§ 1102.102, 1102.105, and 1102.107 [Amended]

■ 2. In 12 CFR part 1102, remove the words “2000 K Street, NW., Suite 310, Washington, DC 20006” and add, in their place, the words, “1401 H Street, NW., Suite 760, Washington, DC 20005” in the following places:

- a. Section 1102.102(a) introductory text, and (a)(2);
- b. Section 1102.105(a); and
- c. Section 1102.107(a)(2), and (b)(1).

By the Appraisal Subcommittee.

Dated: June 16, 2010.

**Deborah S. Merkle,**  
Chairman.

[FR Doc. 2010-15317 Filed 6-24-10; 8:45 am]

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 24 CFR Part 3500

[Docket No. FR-5425-IA-01]

#### Real Estate Settlement Procedures Act (RESPA): Home Warranty Companies' Payments to Real Estate Brokers and Agents

**AGENCY:** Office of General Counsel,  
HUD.

**ACTION:** Interpretive rule.

**SUMMARY:** Under section 8 of RESPA and HUD's implementing RESPA regulations, services performed by real estate brokers and agents as additional settlement services in a real estate transaction are compensable if the services are actual, necessary and distinct from the primary services provided by the real estate broker or agent, the services are not nominal, and the payment is not a duplicative charge. A referral is not a compensable service for which a broker or agent may receive compensation. This rule interprets section 8 of RESPA and HUD's regulations as they apply to the compensation provided by home warranty companies to real estate brokers and agents. Although interpretive rules are exempt from public comment under the Administrative Procedure Act, HUD nevertheless welcomes public comment on this interpretation.

**DATES:** *Effective date:* June 25, 2010.  
*Comment Due Date:* July 26, 2010.

**ADDRESSES:** Interested persons are invited to submit comments regarding this interpretive rule to the Regulations Division, Office of General Counsel, 451 7th Street, SW., Room 10276, Department of Housing and Urban Development, Washington, DC 20410-0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410-0500.

2. *Electronic Submission of Comments.* Interested persons may

submit comments electronically through the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the [www.regulations.gov](http://www.regulations.gov) Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

**Note:** To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule

*No Facsimile Comments.* Facsimile (FAX) comments are not acceptable.

**Public Inspection of Public Comments.** All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800-877-8339. Copies of all comments submitted are available for inspection and downloading at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** For legal questions, contact Paul S. Ceja, Assistant General Counsel for RESPA/SAFE, telephone number 202-708-3137; or Peter S. Race, Assistant General Counsel for Compliance, telephone number 202-708-2350; Department of Housing and Urban Development, 451 7th Street, SW., Room 9262, Washington, DC 20410. For other questions, contact Barton Shapiro, Director, or Mary Jo Sullivan, Deputy Director, Office of RESPA and Interstate Land Sales, Office of Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 9158, Washington, DC 20410; telephone number 202-708-0502. These telephone numbers are not toll-free. Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal

Information Relay Service at 1-800-877-8339.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

A homeowner's warranty is covered as a "settlement service" under HUD's RESPA regulations at 24 CFR 3500.2. Accordingly, the framework for compensation of real estate brokers and agents for services performed on behalf of home warranty companies (HWCs) is established in RESPA and HUD's regulations, as discussed in an unofficial staff interpretation letter dated February 21, 2008, issued by the Office of General Counsel. In brief, services performed by real estate brokers and agents on behalf of HWCs are compensable as additional settlement services if the services are actual, necessary and distinct from the primary services provided by the real estate broker or agent. (See 24 CFR 3500.14(g)(3).) The real estate broker or agent may accept a portion of the charge for the homeowner warranty only if the broker or agent provides services that are not nominal and for which there is not a duplicative charge. (See 24 CFR 3500.14(c).)

HUD has received inquiries regarding the application of this framework to the compensation provided by HWCs to real estate brokers and agents for the selling of home warranties in connection with the sale or purchase of a home. In particular, interested parties have inquired about the legality of the HWCs providing compensation to real estate brokers and agents on a per transaction basis and about the scope of services provided on behalf of the HWC for which real estate brokers and agents can be compensated by the HWC.

##### II. This Interpretive Rule

This interpretive rule clarifies the legality under section 8 of RESPA and HUD's implementing regulations of the compensation provided by HWCs to real estate brokers and agents, and it is provided in accordance with Secretary of HUD's delegation of authority to the General Counsel to interpret the authority of the Secretary. (See 74 FR 62801, at 62802.)

##### A. Unlawful Compensation for Referrals

RESPA does not prohibit a real estate broker or agent from referring business to an HWC. Rather, RESPA prohibits a real estate broker or agent from receiving a fee for such a referral, as a referral is not a compensable service. (See 24 CFR 3500.14(b).) HUD's regulations, at 24 CFR 3500.14(f), defines referral, in relevant part, as follows: