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Comments:

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December 27, 2010 Kathleen Ryan, Senior Counsel Division of Consumer and Community Affairs Federal Reserve Board Washington, DC 20551 Re: Docket No.R-1394; RIN No. AD-7100-56. Appraiser independence; implementation of the Dodd-Frank Wall Street Reform and consumer protection act (Dodd-Frank). Dear Kathleen Ryan: As you know the home valuation code of conduct (HVCC), an agreement regarding home appraisals made by the New York Atty. Gen. Andrew Cuomo, government-sponsored enterprises (GSEs), and Federal Housing Finance Agency (FHFA) went into effect on May 1, 2009. Pursuant to the HVCC, then GSEs are required to adopt a new policy regarding appraisals, specifically, the GSE's will no longer purchase loans from lenders "accepting appraisal reports completed by an appraiser selected, retained, or compensated in any manner by any third party." To be compliant with the new policy, lenders will only accept appraisal reports from a pre-approved list of appraisers or appraisal management companies (AMCs). Implementation of the HVCC has caused significant turmoil in the housing market and resulted in financial distress for consumers and professional independent fee appraisers alike. This change should have gone through a formal rulemaking process, subject to notice and open to the general public for comments, so that consumers and those parties most affected by the proposal will have had opportunity to participate in the process. This never occurred to those affected, or given the opportunity to change the process. Appraisal management companies are hired by the banks and lenders as their agents and do not contribute anything to an appraisal. As far as their review of the appraisals that is the function of the bank underwriters and not the AMCs. AMCs have never been regulated, or required to be licensed. AMCs need to be licensed the same is any appraisal professional and be liable as the appraiser if they want to collect a part of their fees. The appraisal fee should belong to the appraiser doing the appraisal. Previous to HVCC AMCs were

compensated by the banks or lenders as their agent. No amount of appraisal fees were deducted from the appraisal fees charged prior to HVCC by AMCs. After HVCC was implemented the AMCs were instructed (AMCs owned by the lenders) to charge their fees to the appraisers and not to the lenders for their services.

This is truly wrong that AMCs believe they are entitled to a fee from appraisers for distributing work for the banks as their clients. Under Regulations Z - TRUTH IN LENDING ACT the fee shown in the transaction are not truly transparent to the public for appraisal which they paid and to the AMC.

Across the country appraisers have never requested or demanded for AMCs to become part of the appraisal function. It was the New York Atty. Gen. Andrew Cuomo who favored AMCs of which he had previously been associated. The majority of the mortgages underwritten or sold in this country were completed by the three of

the largest lending institutions in the country according to the LA Times. The three lending institutions, also own their own appraisal management companies, which dictate which appraiser is to be used in the fee to be paid for all its loans. This has caused enormous shifts in the appraiser independence in fee reimbursement in the market. The appraisal process has been taken over by the lenders who own them major AMCs under HVCC. The appraisal process for residential mortgages is the last and only, independent source of objective analysis in the home purchasing process. Realtors, mortgage brokers, and lenders all have a vested interest in the value of the home. The appraiser is compensated for his or her independent opinion of the market value with a flat fee. The appraiser gets no commission or fee based upon the value of the property. As appraisers. We already had the Uniform Standards of Professional Appraisal Practice and a code of ethics that we are accountable to. HVCC didn't add anything. If I was dishonest before HVCC why would I all of a sudden become honest? HVC C and the AMCs run by the large banks have merely run some good appraisers out of the business and cost the remaining appraisers the ability to have a good standard of living. Also this has reduced the number of individuals wanting to become part of the appraisal profession. Has my business taking a hit from HVCC? Most definitely it has taken a hit. Is there more appraisal independence now? No, just more bureaucracy and less money. Our homeowners better off with HVC C? No, they just have to pay more for appraisal middlemen. How do we get more appraisal independence? By allowing us to do our jobs under USPAP guidelines, not making it more difficult. Were appraisers responsible for the housing debacle? The answer to this problem was caused by the housing crash of subprime loans and not policing more mortgage broker companies in number of states that did not even require licenses. The AA rating system of the mortgage securities that were not AAA rated securities. They combined risky mortgages with decent mortgages lowering the possibility that the ratings were valid for those securities. Reasonable and customary fee, since the AMC's have been allowed to take over the appraisal process is neither been reasonable nor customary. AMCs usually shop for the cheapest appraiser in a given area to assign the work, and expecting fast turnaround times of 24 to a maximum of 48 hours. As a practical matter, the AMC expansion has directly led to a dramatic reduction in appraisal quality. The emphasis on fast has resulted in poor quality work. At the end of the day, any appraiser has to make a living at the appraisal profession. Something had to give---- it was appraisal quality. If the individual contacted to be assigned an appraisal request is not willing to work for their low fees or faster turnaround times are eliminated from their panels. They also have requested additional comps and/or additional pending sales and listings due to the high foreclosure rates in various areas. The 1004 MC report instituted by the GSE's is also the requirement today that wasn't part of appraisals prior to HVC C. These added requirements are not compensated for by any of the AMCs. Paying a reasonable

and customary fee for noncomplex appraisals to appraisers would be a great start. Under the Dodd -Frank bill. The current rates by the Veterans Administration throughout the country represent a good floor for fee's to implement as customary and reasonable fees for typical non-complex appraisals (according to the appraisal Institute). For added requirements that may be complex and in need to have added values indicated for those appraisals. The following suggested factors deemed appropriate for consideration when determining added reasonable and customary fees. The type of property; The scope of work; The time in which the appraisal services are required to be performed; reasonable time limits Fee appraiser qualifications; type of license Fee appraiser experience in professional, record; and Fee appraiser quality; Stop the lenders from using Broker Price Opinions (BPO) as a substitute for appraisals, and also using automated valuation models (AVM's) instead of appraisals to value properties. These are not appraisals and cannot be used to as a substitute for appraisals. The CALIFORNIA COALITION OF APPRAISAL PROFESSIONALS conducted appraisal fee survey of noncomplex and typical fees by appraisal form category in September 2010. There were 246 licensed and certified appraisers that completed the survey (that covered appraisals done in all 58 counties) in the state of California. They defined customary as that commonly practiced and reasonable as rational/capable of reasoning for the market area and not excessive or extreme. The definition for noncomplex was normal/regular/unexceptional and typical. When asked the definition of complex it was defined as complicated, non-typical, and intricate. The outcome of the Fee Survey has been sent to you by the President of CCAP, George St. Johns showing all the detail statistics of the responses by the 246 professional appraisers (AMCs were not included in the survey). The fee survey was conducted by Zoomrang and all the statistics computed by them. Also another source of reliable fee survey statistics that was conducted by Alemode (Appraisal Software Company) that processed thousands of appraisals through their Mercury Network (prior to HVCC) to various Banks and Lending Institutions as a good source of fee's paid throughout the nation. Thank you for the opportunity for sharing my comments and thoughts with you. John Burgert Burgert Appraisals