

Comments on the Interim Final Regulations: *Docket No. R- 1394 and RIN No. AD-7100-56*

I am an appraiser in Northern California and I am responding today to the request for comments on the Interim Final Regulations.

Appraiser independence should apply to all residential consumer credit transactions, whether that involves a primary residence or second home. Broker price opinions (BPOs) and other non-appraiser valuations should be covered by the interim final rules in order to protect consumers in transactions for which appraisals are not required. Specifically, BPOs should not be the sole basis of making a lending decision on a primary or second residence.

I have been extremely concerned since the inception of the HVCC that, in the case of AMCs which are affiliated with or in contract with creditors, the appraisal function is not truly independent and never can be. The temptation for collusion is always present in these circumstances and thus defeats the purpose of the Dodd-Frank Act. Wasn't it eAppraiseIT and WAMU collusion that initiated the New York AG's investigation that resulted in the HVCC?

There was a mistaken belief among creditors that HVCC required the use of AMCs to order and manage appraisals so the use of AMC'S has increased substantially since the HVCC took effect. This has happened in part due to a concern whether creditors could successfully implement the internal firewalls separating loan staff and the appraiser.

I believe that the increased use of AMCs has had a negative effect on the quality of appraisals. AMC's often seem to select appraisers based solely on price and turnaround time, without regard to the appraisers' knowledge of the local market in which the property is located or the level of competence and expertise needed for the assignment. This should be addressed in the final interpretation of the regulations.

AMCs in general are exempt from accountability in the interim final regulations. AMCs need to be examined for their roles in alleged appraiser misconduct and their own misconduct including pressure for turn times, pressure for values and harassment of appraisers by onerous assignment conditions and excessive reviews.

I have great concern regarding the requirement to report appraisers to the state appraiser licensing agency for "unethical or unprofessional" conduct. The rule is too vague and broad. The interim final rule should require reporting only of material misconduct to prevent every consumer, lender or realtor that is unhappy with an opinion of value from overwhelming state appraiser agencies with unsubstantiated complaints. To further prevent frivolous reporting, the final regulations should require a person reporting misconduct to articulate reasonable, fact-based grounds for alleging that misconduct has occurred. It is unfortunate that along with a mechanism for reporting appraiser misconduct there will not also be created a mechanism for appraisers to report misconduct (including pressure and coercion, which still exist) by the other participants in a loan transaction.

Customary and Reasonable Fees is an issue that has to be carefully examined and can't be separated from the definition of a normal, non-complex assignment. Specifically, it is up to the appraiser to determine what the assignment entails and what steps are necessary to produce a credible result. Factors that go into producing a reasonable scope of work for each assignment include, among other things, location of the property, type of market, availability of data (comparable sales, income data, building materials and labor costs), the complexity of the

improvements and size of the property. An appraiser must also have enough time to complete the assignment depending upon it's complexity as well as time for proper verification of data.

In other words, assignments can be relatively easy- involving standard research, relatively short driving distances and a shorter time to develop the results. An assignment can be complex or more difficult- requiring longer driving distances, more involved research. The time needed to fully develop the report may take days instead of hours. Because appraisal assignments differ so greatly, the fees that should be charged for each kind of assignment can not be reduced to a simplistic fee schedule approach. Each assignment should command a fee that is reasonable for that type of assignment and for the level of risk associated with the product.

It would be best to wait for independent fee study results before the issue of customary and reasonable fees is decided. The input of experienced appraisers should be part of the equation. AMC fees should be excluded from consideration since they were developed after the HVCC and are a part of why reasonable and customary fees are being discussed at all. AMCs, through their monopolistic practices, are the reason that appraiser fees and appraisal reliability have been compromised.

Because of the HVCC, AMCs have monopolized lender appraisal business. AMCs have become the main source for inexpensive and quick appraisals. The consumer has not been the beneficiary of these fast and cheap appraisals. In fact, they are charged the same or more than before the HVCC. The appraiser is paid 20-50% less than what they used to receive when their business was direct to lenders. The quality and reliability of appraisals has been compromised resulting in delays, deals gone sour and multiple appraisals, which the consumer pays for either up front or through increased fees.

Since the appraiser's role in the real property transaction is to protect the public interest and since the final regulations should also promulgate the protection of the public's interest, I have proposed some considerations the Board should be aware of when writing the final regulations. The consumer's interests need to be protected by the Board and by the appraisal profession, so I hope that these comments will be considered and acted upon accordingly.

Sincerely,

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