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The [Collateral Risk Network](#) is comprised of Appraisers, Lenders, Appraisal Management Companies, and other valuation and risk experts. We currently number 280. Each of these entities has a particular bias which would seemingly make it difficult to find solutions to the vast number of problems facing the appraisal profession today. I believe at the very core of CRN has been our ability to find the intersection of diverse ideas and interests and focus on one fundamental thing—doing what is best for the appraisal profession.

What is best for the appraisal profession is also ultimately what is best for the consumer. It should be readily apparent that poor quality appraisals contributed, in part, to the current housing crisis. We must be resolute in restoring confidence in collateral valuation. It is imperative that we create a balanced environment that promotes honest, unbiased, credible appraisals. Safety and soundness practices should be to the benefit of all parties who are engaged in the mortgage marketplace.

There are some principles around which smart, effective regulation are written. By the basic nature of unintended consequences it would be impossible to predict all behaviors that might occur to avoid compliance. Therefore it is important to clarify intent through the rule making process.

***Accountability and Proportionality-** Does the punishment fit the offense? What will enforcement look like?

***Consistency-** Is the intent clear and consistent? Are definitions concise?

***Transparency-** Are the regulations set forth clearly understood and easy to implement?

***Efficacy-** Have unintended consequences been weighed and considered? What are the market forces at play to resist implementation? Will objectives be met?

REASONABLE & CUSTOMARY

At the center of this debate is the question at what fee can we achieve credible appraisal reports? If it isn't the question it should be. "Reasonable and customary" isn't just about getting appraisers a fair wage. With the proliferation of AMCs post HVCC one of the unintended consequences has been fee compression while simultaneously we have expanded the scope of work. Asking for more and paying less has proven to be an abysmal failure. While examining our fee structures we also need to review reporting requirements. Have addendums, market conditions reporting, additional comparables, additional maps, new photo requirements done anything to elevate the credibility of the appraisal? I don't think so. The good appraiser gets punished by conforming to unnecessary guidelines. The current Fannie Mae/ Freddie Mac appraisal report has broken down under its own weight.

We need to move the “people” component to the front of the decision making process. Paying a “reasonable and customary” fee is a great start. Customary can be interpreted as those fees we have historically paid and reasonable are those fees appraisers expect to be paid. That creates a range of fees within which Lenders and AMCs can operate. I think it is dangerous and unnecessary for regulators to establish a national fee schedule. Scope of work is ever evolving. Restructuring of fees would need to be equally as nimble. As new products enter the market or scope of work is adjusted new fees will need to be defined. Lenders and AMCs will need to establish best practices in order to establish what is fair and reasonable.

Fee is not a component that stands alone. It is price, quality and service that drive a business decision. Procurers of appraisal services must be mindful of the competence, ethics, training, experience and education of the appraiser they are engaging. And appraisers accepting engagements should be aware of the service level agreements, terms of payments, and support they receive from the Lender or AMC. What fees will be associated in doing business with certain companies—transaction fees, software, ancillary products, panel fees? (Unintended consequence: AMCs and Lenders will impose fees upon appraisers to the extent their net fees remain where they are today at unsustainable levels. There is nothing in the law to prohibit transaction fees, fee panel management fees and so on.)

There are arguments to be made that market forces are at work and current fees are just supply and demand in motion. Many would concur that there is indeed an oversupply of appraisers. There is not an oversupply of competent appraisers. The balance of power is surely in the hands of lenders and AMCs who control the business channels. And unfortunately price has been the primary factor in appraiser selection. It would go a long way to have an explicit statement-- “lenders shall pay for the services of an AMC. Appraisers shall receive 100% of the appraisal fee collected from the borrower.” Those explicit instructions would close the loopholes in the reasonable and customary debate.

Arguably appraisal fees to the consumer may rise. I think that is an intended consequence with a direct benefit to the consumer. The expectation that we need to improve the quality of appraisals is indisputable. Fees do need to go up in order to support competent, ethical appraisers and to encourage the next generation to enter the market. We have a graying within the appraisal profession that will be the next crisis. We have a series of regulations and business requirements that are anti-trainee that are setting the appraisal profession up for extinction.

The prospects of an immediate implementation date for reasonable and customary are central to the health of a viable pool of appraisers. Legitimately there are however systems changes, business practices, and contracts which will need to be renegotiated within Lender and AMC operations. Downward fee changes have historically been implemented overnight, so systems changes are not a reason to consider major delays. Fee surveys are not problematic- the VA Fee Schedule exists, transaction platform data, established direct lender engagements, and surveys being conducted by the Appraisal Institute, Allterra Group and other private studies are underway. There is ample data. There just is tremendous resistance to this change.

DEFINITIONS of APPRAISERS, APPRAISAL COMPANIES, APPRAISAL MANAGEMENT COMPANIES

Definitions as written will be harmful to appraisers and appraisal companies. Assigning an arbitrary number of appraisers, 15, to define an AMC is not instructive. The AMC model and the Appraisal Company business model are quite different. Challenges occur when you have hybrids—a large national appraisal company might engage Independent Contractors in remote or less populated regions. Include language that instructs that one or the other is the predominate business model. The IRS has clearly defined rules on independent contractor vs. employee relationships. Appraisal Companies should also be required to become registered. (See comments on Fees).

Fee appraiser—licensed or certified appraiser who signs an appraisal report

Appraisal Company—an entity that employs fee appraisers. (W2 employees)

Appraisal Management Company- an entity that engages appraisers on an Independent Contractor basis (1099).

Strategically some AMCs may change their business models and deploy the National Appraisal Company model in order to preserve margins. That might be a positive consequence as employers would be able to exert more control with a staff model and offer education and training.

The other intended positive consequence would be that some lenders would consider returning to in-house appraisal departments. Reverse outsourcing would be a positive trend if quality is indeed the new mantra. Increased regulation is only beneficial if there is increased enforcement. Accountability is necessary regardless where and how the appraisal is processed.

The staff model, regardless at a Lender, Appraisal Company or Appraisal Management Company, is a desirable outcome. It is within these business models where we have seen the greatest innovation with technology, training and mentoring, and greater emphasis on professionalism.

ALTERNATIVE PRODUCTS

Will one of the unintended consequences be that more alternative products are ordered and that appraisers are bypassed? There is a dangerous trend of millions if not billions of BPOS being ordered. There are a number of reasons for that 1) they are cheaper 2) they are unregulated. Non purchase money transactions are outside the scope of this law. And as such an environment has been created where unregulated, highly biased, untrained, unsound business practices may flourish.

This is a complex issue and a paradox. A proliferation of unregulated valuation products were borne out of the very law that created appraiser licensing. FIRREA has not been a positive thing for the appraisal profession or the consumer. That is largely due to the lack of enforcement.

Because guidance is lacking, abuses and fraud are flourishing. Standardization is also an issue. In the spirit of innovation and solving valuation problems that current processes and products don't address, we have ironically disenfranchised valuation professionals.

APPRAISAL INDEPENDENCE

A disruption in the “relationships” between mortgage brokers and appraisers was intentional. They are, by their very nature, biased. There is no value to inserting anyone into the appraisal process who receives a commission and that should include correspondent lenders.

There has been an effective propaganda campaign to perpetuate the myths around HVCC. That does nothing more than reinforce that the broken relationships are indeed necessary. The facts are indisputable. A survey conducted by October Research and by Allterra Group pre HVCC indicated that over 90% of appraisers received pressure from mortgage brokers and loan officers to make numbers work. It was the single most problem plaguing the appraisal industry.

Yes, competency is a problem. And it has been all along but there was a huge disconnect on what constituted a “good” appraisal. Low fees, quick turn times, and making deals work were the old rules. Now with increased scrutiny on the collateral, the challenge is how to do we get to a credible appraisal report.

CONSUMER BENEFITS

Practically speaking few lenders are willing to accept appraisals ordered by another lender. The liability is too great. Since there is no clearinghouse or repository for appraisal products the chain of custody of the report cannot be established. Although it is clear portability is allowed it shouldn't be mandated. Consumers need to shop their rate and term before they begin their application process. Shopping appraisals is a sin of the past that should not be repeated.

Transparency is desirable but it must also be noted that appraisals are not designed to be read and understood by consumers. Appraisers are bound by confidentiality of USPAP. Consumers will have expectations that they will be able to discuss their appraisal with the appraiser. It is possible that the consumer “counseling” aspect of FIN REG puts the appraiser squarely in the midst of a conflict. Who is the client of the appraiser and to whom is their duty owed? Lenders, AMCs, Consumers, all parties?

AMC FEES, REGISTRATION and REGULATION

(Unintended consequences: the AMC panel fees are so onerous that three things will likely occur. 1) AMCs will dramatically reduce the number of appraisers on their panel 2) they will pass on those fees to the appraiser. 3) The fee structure will harm smaller AMCs and you could end up with a less competitive marketplace. Appraisers would find it acceptable to pay the fee panel fees for an AMC that sends that large volumes of business but not for the smaller AMC who sends an occasional order. All sorts of fees will be possibly be tacked on to appraisals. So after all is netted out will reasonable be so watered down as to be meaningless?). Guidance on gross fees and net fees will be essential. Our recommendation is that fees represented by reasonable and customary be pure. All “add on” fees must be negotiated and paid by the Lender and AMC.

As State AMC Registration Fees are expanded throughout the nation it would appear that fees are ranging from \$500 to \$5000 with an average fee likely to be \$1500 per State. When you add the salary

and costs for a compliance person the combined regulatory costs for State Compliance would total approximately \$ 150,000 to \$200,000 for a national AMC. At \$25 (and up to \$80) per appraiser on their fee panel (panel sizes range between 10,000 and 20,000 for national AMCs) costs will be an additional \$375,000 for FIN REG compliance.

With assumptions that a small AMC transacts 60,000 orders per year, a medium size AMC approximately 120,000 a year and a large AMC 900,000 a year the transaction costs per appraisal will range anywhere from \$1 per transaction to \$ 10.00 per transaction. The larger AMCs will likely be able to absorb these costs more readily and will enjoy the benefits of high volume to reduce the cost per. With every AMC paying a \$25 fee for appraisers on their panel this will exponentially be a windfall to the ASC. That isn't necessarily a bad thing but how will these surplus funds be judiciously applied? Would an educational trust fund be made available for education, mentoring and training?

What will the regulations be on the AMCs? How will they be enforced? With the overlay of State regulation with FIN REG we are exacerbating the already poorly functioning and unfunded mandate set forth in FIRREA. What are the minimum requirements to be established as an AMC? What is the Code of Conduct?

SUMMARY

In summary the valuation industry has been plagued by a myriad of rules and regulations without enforcement. HVCC never had the benefit of IVPI. Currently the compliant process eventually adopted by the GSEs is essentially buried within their sites with no public announcement of its existence. USPAP is not bi lateral. The effect of under enforcement is perhaps more harmful than over regulation. The resistance to many of the components within FIN REG may be in part due to the attitudes that enforcement is unlikely to occur. Ironically the single biggest change to the appraisal profession in decades was HVCC, not a regulation and imposed by the NYAG.

The appraisal profession is in crisis. Many of our problems are outside the reach of regulation but the creation of an environment that promotes accountability, transparency and fairness will ultimately benefit all stakeholders including consumers. We look forward to proper guidance and effective enforcement to bring integrity to the collateral valuation process.

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