Valuation Management Group, LLC

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June 9, 2014

Office of the Comptroller of the Currency
Legislative and Regulatory Activities Division
400 7th Street SW.
Suite 3E-218
Mail Stop 9W-11
Washington, DC 20219

RE: Docket ID OCC-2014-002

Robert Dev. Frierson, Secretary
Board of Governors
Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

RE: Docket No. R-1486

Robert E. Feldman
Executive Secretary
Comments/Legal ESS
Federal Deposit Insurance Corporation
550 17th Street NW.
Washington, DC 20429

RE: RIN 3064-AE10

Gerard Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428

RE: RIN 3133-AE22

Monica Jackson
Office of the Executive Secretary
Bureau of Consumer Financial Protection
1700 G Street NW.
Washington, DC 20552

"Taking The Appraisal Process From Ordinary To Extraordinary!"

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Valuation Management Group, LLC

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RE: Docket No. CFPB-2014-0006

Alfred M. Pollard, General Counsel
Federal Housing Finance Agency
Eighth Floor
400 Seventh Street SW.
Washington, DC 20024

RE: RIN 2590-AA61

Re: Minimum Requirements for Appraisal Management Companies

Dear Agencies:

Valuation Management Group, LLC ("VMG") is a Nationwide Appraisal Management Company, employing 60 + people, working with over 150 financial institutions that are currently regulated by at least one of the Regulatory Agencies seeking comments. We also work with thousands of appraiser partners to provide quality appraisal management services. Not only are we excited to respond to questions 1 through 11, but in conjunction with 30 + other Appraisal Management Company's, we have also come up with our "10 Key Concerns With Dodd-Frank and State AMC Legislation" which is provided as an attachment at the end of this letter.

Question 1: The Agencies request comment on all aspects of the proposed definition of an AMC.

VMG believes the definition of an Appraisal Management Company ("AMC") was arbitrary and promoted by those parties whose source of federally-regulated residential appraisal business was severely cut by unintended consequences of the Home Valuation Code of Conduct ("HVCC") in 2009 and further promulgated by the Appraiser Independence Requirements ("AIR") and then made into law by Dodd-Frank.
Those regulations were imposed directly on those appraisal companies whose business model was to provide appraisal management services in local, regional or national foot prints with the decision to work with independent appraiser partners instead of the Appraisal Company/Firm employee model ("Firm"). The business structure for an AMC or a Firm is exactly the same. We as owners supply the actual work and company infrastructure while the independent appraiser/employee appraiser provides the actual appraisal services. The only difference is the independent appraisers who voluntarily choose to work with AMC's are 1099 independent contractors while the firm appraisers are employees. There are many appraisal firms whose reach is not only entire state but in some cases, multi-state.

Why should one company who provides appraisal management services to a similar and competitive client base be regulated while another class of the same type of provider not be regulated in a similar fashion? VMG does not see how consumer protection and appraiser independence as required by Dodd-Frank regulates only those businesses that have an independent appraiser relationship model with an arbitrary number of independent contractors on a panel. This type of reactive legislation is not seen in similar businesses such as insurance and real estate brokerage; where larger multi state insurance or real estate brokerage companies are regulated due only to their business/employment model. For those parties whose businesses were severely affected by the implementation of the GSE's HVCC/AIR, it is respectfully suggested to engage the GSE's in revising those policies rather than regulating the unintended beneficiaries of those policies.

Question 2. **The Agencies request comment on the proposed definition of "appraiser network or panel" and on the alternative of defining this term to include employees as well as independent contractors. The Agencies also request comment on whether the term "independent contractor" should be defined, and if so why and how, including whether it should be defined based upon Federal law (*e.g.,* using the standards issued by the Internal Revenue Service20 or standards adopted in other Federal regulations, such as those issued under the Secure and Fair Enforcement for Mortgage Licensing Act (S.A.F.E. Act)), or left to State law (so as to be consistent with existing AMC laws).**

VMG believes all companies providing appraisal management services in a federally-regulated transaction should be regulated in similar fashion regardless of business model or size; single state or multi-state or working with independent appraisers or employee appraisers. There is no basis for singling out a company model in terms of size or employee make-up in any other provider of services in a federally-regulated mortgage transaction.

Question 3: The Agencies request comment on the distinction between employees and independent contractors as a basis for exclusion of appraisal firms from the definition of an AMC.

VMG believes there should be no distinction between employees and independent contractors as a basis for exclusion of appraisal firms from the definition of an AMC.

Question 4: The Agencies request comment on whether references to the NCUA and insured credit unions should be removed from the definition of "Federally regulated AMC" and other parts of the final regulation to clarify that AMC CUSOs are subject to State registration and supervision.

VMG has no comment on this question, other than all financial institutions should be treated similarly.

Question 5: The Agencies request comment on the proposed definition of "secondary mortgage market participant." Are the types of entities cited in the proposed definition appropriately included in this context? Should any other types of entities be expressly included or excluded from this definition, for the sake of clarity? Should any other types of entities be considered "an underwriter or other principal in the secondary mortgage markets" for the purpose of the definition of AMC in the Dodd-Frank Act?

VMG has no comment on this issue.

Question 6: The Agencies request comment on the proposed minimum requirements for State registration and supervision of AMCs.

VMG understands and appreciates the proposed minimum requirements for State registration and supervision of AMC's. In fact, we promote all aspects of the GSE AIR and Dodd-Frank Appraiser Independence requirements. VMG also understands and appreciates states rights versus federal oversight. However, VMG is very concerned that many states are going beyond the scope and intent of Dodd-Frank specifically relating to consumer protection and appraiser independence, and it almost appears that each state is trying to up the other. Upwards of 30 states have implemented AMC regulations since 2010 and we have seen states adopting minimum standards in accordance with Dodd-Frank and application fees in line with other regulated businesses. We have also been subject to laws and rules that go beyond the spirit and intent of Dodd-Frank with massive application fees being required. With only 500+- licensed AMC's and only 150+- AMC's applying in all 30 states it is unclear why these states are going so far beyond the scope and intent of Dodd-Frank in imposing such harsh requirements and excessive fees to one specific business class. Some states are also expanding the law to include ALL appraisals and appraisal services versus federally-regulated transaction for primary residences only.

VMG also understands and appreciates there are costs associated with any imposed regulation, but various states appear to be charging anything they want, with no explanation for these costs. For example, The State of Texas AMC procedures are ridiculously cumbersome and very expensive.

Please see attachment with our top key concerns regarding specific state additional regulations.

Question 7: The Agencies request comment on the proposed approach to the appraisal review issue.

AMC's provide "appraisal review" as defined by the Uniform Standards of Professional Appraisal Practice ("USPAP") as well as non-USPAP analysis as required by various client agreements. AMC's and their employees (appraiser and non-appraiser) also fall under the "Mandatory Requirement" under Dodd-Frank to report appraisal reports we believe to violate USPAP or any appraiser we believe to have acted in an unethical or unprofessional behavior.

It is important for all parties to understand clearly the requirements of a USPAP-defined appraisal review and a non-USPAP appraisal analysis for "checklist" type needs. Banks, Mortgage Companies, Federal Agencies, GSE's, Appraisal Firms and AMC's do both types of services on a daily basis.

VMG supports and promotes USPAP by all independent appraisers engaged as well as any appraiser employees we have providing appraisal services to our clients including USPAP-defined reviews.

VMG would like to point some inconsistencies which we believe need some clarification;

1) Some states are requiring AMC's to provide USPAP-compliant reviews on a percentage of appraisals completed every year. (Again Texas is one of these) These reviews must be completed by a licensed appraiser in that specific state. We find this to be inconsistent and onerous to VMG as an appraiser providing a review for USPAP compliance is not reviewing for value but for USPAP standards only. If USPAP is the standards in Dodd-Frank and promulgated by the Appraisal Foundation why should AMC's have to engage a state-specific licensed appraiser to conduct a USPAP-only appraisal review?

2) Some states require AMC's to engage and compensate appraisers in the field to provide USPAP field reviews on a percentage of appraisals completed every year for state board purposes. VMG has to bear this cost and provide these reports to the state board. It appears AMC's have been tasked with a state board's responsibility of policing appraiser licensees at our cost.

3) If AMC's and their appraisers and non-appraiser employees are required by Dodd-Frank to report any and all USPAP violations, unprofessional and/or unethical behavior we encounter to state boards, then why are certain states boards requiring additional review report requirements, such as being required to use only state-licensed appraisers for USPAP-standard reviews? This appears to be an unnecessary and unreasonable requirement.

Question 8: What barriers, if any, exist that may make it difficult for a State to implement the proposed AMC rules?

VMG sees no barriers that exist that may make it difficult for a State to implement the proposed AMC's rules. Our National AMC association will be happy to work with any federal agency and/or state board to craft rules consistent with Dodd-Frank requirements. If a State were to not choose to come up with AMC guidance, thus allowing no AMCs to do business in their state, this would be a travesty to lenders and borrowers, as well as AMCs.

Question 9: What aspects of the rule, if any, will be challenging for States to implement within 36 months? To the extent such challenges exist, what alternative approaches do commenter's suggest that would make it easier, while maintain consistency with the statute?

VMG sees no aspects of the rule that would be challenging for States to implement within 36 months. Over 30 states have already shown that this can be done.

Question 10: Are there any barriers to a State collecting information on federally regulated AMCs and submitting such information to the ASC? And if so what are they?

VMG does not see any barriers.

Question 11. Are any questions raised by any differences between State laws and the proposed AMC rules? Should these be addressed in the final AMC rules and, if so, how?

VMG would suggest the federal agencies propose a standard application and process in order to encourage a standard for states to implement. Application reciprocity would be supported by VMG and our National AMC Organization. This would allow for a more efficient and consistent process for all parties.

Please refer to our answer for Question #6 also, and the attachment provided below. Thank you for the opportunity to comment on the proposed regulations.

Sincerely,

Vicky Thompson, Chief Executive Officer,
Valuation Management Group

Patrick McMillen, Chief Operating Officer
Valuation Management Group

Valuation Management Group, LLC

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10 Key Concerns with Dodd Frank and State AMC Legislation

#1 State Regulations of Appraisal Management Companies ("AMC") is not following the Legislative Intent of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd Frank").

- Dodd Frank is entitled and intended to be "An Act to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes."

- Dodd Frank requires that each state enact a process for registration of appraisal management companies. This process must include; a certification of compliance with the Uniform Standards of Professional Appraisal Practice ("USPAP"); certification of adherence to certain appraiser independence requirements; a certification requirement that an AMC is not owned by any person who has had an appraisal license refused or revoked.

- Under Dodd Frank states may impose additional requirements. However, many of the state added requirements are not for the protection of the homeowner or consumer and will not in any way promote the financial stability of the United States.

- Charging AMCs excessive regulatory fees and ensuring that an independent contractor (the appraiser) is compensated by a non- governmental business

(the AMC) at a rate mandated by the government is clearly not the intent of Dodd Frank.

#2 Dodd Frank permits the Appraisal Subcommittee to collect from an AMC an annual fee (up to $50) for each appraiser on that AMC's panel.

- An AMC panel is the group of approved appraisers to which the AMC distributes appraisal orders. AMC's appraisal panel size varies and could consist of a few hundred or several thousand appraisers.

- The Appraisal Subcommittee per panelist fee will be in addition to the $40.00 annual fee that the appraiser must already pay every year to the Appraisal Subcommittee.

- This would cost an AMC with a modest panel of 2,500 appraisers $125,000.00 each and every year. (2500 appraisers x $50.00).

- As many appraisers are on several AMCs' panels, the Appraisal Subcommittee will be receiving in some cases hundreds of dollars just for one appraiser. For instance, if an appraiser is on 6 AMC panels the Appraisal Subcommittee will receive $340.00 for that one appraiser (6 AMCs x $50 plus the appraiser's own $40.00 Appraisal Subcommittee fee).

- Many appraisers are on an AMC's panel but are not used every year. Appraisal orders for properties in certain rural towns or areas across the United States are not ordered frequently, however, an AMC must have competent appraisers in those areas in anticipation that at some time there will be an appraisal order placed. This fee requires an AMC to either remove a totally competent appraiser and at some point a needed appraiser from the panel in order to avoid paying for the appraiser or the AMC will have to pay a fee for an appraiser that is not currently being used.

#3 Payment of Reasonable and Customary Fees Rates to Independent Appraisers

- Traditionally, AMCs do not receive a separate fee for the appraisal management services. The appraisal fee paid by the client covers both the cost of the appraisal report provided by the appraiser and the cost of the management services conducted by the AMC.

- Most commonly, AMCs pay the appraiser in two methods, 1) Appraisers are paid according to the fee schedule he or she provides, or 2) Fees are set by client in accordance with the Customary and Reasonable Fee requirement of Dodd-Frank.

- A market driven fee between the two private parties (AMC's and Appraisers) should be negotiated based on the appraisers experience, service level ability, quality of reports, coverage area, scope of work and complexity of property. This dynamic provides and will continue to provide the homeowner with a superior appraisal product at the most competitive price.

    - The interim final rule of Dodd Frank requires the payment of reasonable and customary fees to independent appraisers. To determine a reasonable and customary fee The Truth-in-Lending Act ("TILA") provides two presumptions of compliance.

    - TILA states for one presumption of compliance that "a creditor and its agent is presumed to have paid a customary and reasonable fee if the fee is reasonably related to recent rates paid for appraisal services in the relevant geographic market, and, in setting the fee, the creditor or agent has:

        - Taken into account specific factors, which include, for example, the type of property and the scope of the work; and

    - Not engaged in any anticompetitive actions in violation of state or federal law, that affect. "
    - The second presumption of compliance is if the payment of the appraiser is paid at rates established by other parties such as the Secretary of Veterans Affairs (VA).

- Some states have tried to regulate reasonable and customary fees as dictated by the Dodd Frank Act. This has adverse consequences on fees charged to homeowners for appraisal products. For example, the state of

Kentucky has proposed the mandated use of the US Department of Veterans Affairs (VA) rates to be paid to independent appraisers for standard appraisal products. However, the VA rates only represent one of the 2 presumptions of compliance set forth in TILA. As previously noted, Dodd Frank and TILA allows for AMC's and appraisers to be considered in compliance by following either presumption of compliance. Kentucky has ignored presumption one as allowed by Dodd Frank/ TILA.

- VA appraisal rate schedules are substantially higher than market-based appraisal rates. Payment of VA Rates for non- VA loans would increase the fees to homeowners by more than 30%. In addition, only a very small percentage of all licensed or certified appraisers are VA certified. For instance, in Kentucky there are approximately 1300 licensed appraisers of which there are only 84 VA approved.

- South Carolina proposed legislation that "A registrant shall compensate appraisers at a rate that is customary and reasonable for appraisal services performed in the market area of the property being appraised absent the involvement of the appraisal management company." This fee does not take into account the costs associated with the value added services an AMC provides. The management fee for those services will drive up the cost of appraisals to the homeowner and would artificially inflate the appraisal costs above current market prices.

- The competitive advantage to the independent appraiser is clear. Dodd Frank has dictated that AMC's and its lending clients pay independent appraisers a fixed non-market driven fee schedule but has imposed no such restrictions on the independent appraisers. Dodd Frank has no language which mandates a lender utilize the services of an AMC, but when such a decision is made the homeowner must pay more for an appraisal through an AMC. Nothing in the legislation prevents an independent appraiser from soliciting the same appraisal work from a bank at a lower rate which undercuts the mandated "reasonable and customary fee" required of an AMC.

  For example, a fee dictated by Dodd Frank utilizing an AMC could cost $350.00 for the independent appraiser and $75-$100 for the AMC totaling between $425-$450. However, an independent appraiser could solicit that

same work from the same lender for $250.00 at a fee which is neither "reasonable nor customary" to exploit their unfair competitive advantage in the market over an AMC because independents are operating with no federal price restrictions. By eliminating the value added of an AMC through its quality control, IT Security and third party independence, the lending markets would once again expose themselves to potentially fraudulent activities which played a large role in the initial mortgage industry meltdown. This scenario clearly strains the original intent of Appraiser Independence as set forth in Dodd Frank.

#4 States Excessive Initial and Renewal Registration Fees

- For example; Alabama $3500.00, Arizona $2,500.00, Arkansas $500.00, Minnesota $5000.00, Kentucky $2000.00, Arizona $2500.00, Nevada $2500.00. **Texas $3,300 plus $10.00 for each appraiser on the panel.**

- When compared to several states similar licensed professions AMC's fees are excessive and unjustly disproportionate. For instance: Connecticut AMC's license fee is $1,000.00, Real Estate Broker Firm License fee is $565.00 and Land Surveyor Firm is $565.00; North Carolina AMC license fee is $3,500.00 and a North Carolina Real Estate Firm License fees is $30.00; and Minnesota AMC license fee is $5,000.00, a Minnesota Insurance Company License is $1,500.00 and a Minnesota Real Estate Company license fee is $195.00.

#5 Excessive Bond Requirements

- Several states have enacted AMC surety bond requirements. A separate bond for each state must be issued. The bonds allow states to sue the bond if an AMC does not pay a state-imposed fine.

- Amounts of bonds per state vary with the typical range from $10,000.00 to $25,000.00. Typically, the AMC pays 1% to 3% of the face value of the bond as a yearly fee.

- Kentucky had initially required a $500,000.00 Surety Bond. This amount was excessive. Most bond companies will not write bonds for this amount. One bonding company was found to write this bond at an annual cost of

$2,500.00. Kentucky eventually reduced the bond requirement to $25,000.00.

- Virginia has recently adopted legislation for a surety bond requirement of $100,000.00 per year. It is unknown if this insurance amount is even available in the marketplace.

#6 Independent Appraiser Payment Schedule's

- Many states AMC legislation require that an AMC pay the appraisers within a certain amount of time from completion of the appraisal report. For example; Alabama, Arizona, and South Carolina require that an AMC pay the appraiser within 45 days of completion of the assignment; Colorado, Connecticut, Oklahoma, Tennessee and Texas require an AMC to pay within 60 days of completion of the assignment. Georgia requires an AMC to pay an independent appraiser for work performed within 2 weeks of completion of the assignment.

- These arbitrary payment schedules place an undue cash burden on AMCs because many lenders pay outstanding invoices between 30 and 60 calendar days from the end of a monthly invoicing period. These would include Government Sponsored Entities ("GSE"). The state legislation mandates a 14-60 day payment to independent appraisers based on date of completion. This model would be unsustainable for some AMCs and force many out of business.

- How can the state regulate frequency of payment from a business to an independent contractor? Should payment frequency be left up to the parties to negotiate and contract? If the AMC does not pay, doesn't an appraiser have the same legal recourses every other independent contractor? Why should independent appraisers be offered a special class of protection? Is it the role of a governmental entity to act as a collection agency for a private industry?

#7 AMC's ability to remove an appraiser from its panel

- Dodd Frank requires that states report USPAP violations to the Appraisal Subcommittee. State AMC registration requires that an AMC report a USPAP violation to the state appraiser board. As such, many states have

enacted a process by which an AMC must report violations and remove an appraiser from the AMC panel.

- However, several states have enacted a burdensome process for an AMC to report a violation and remove an appraiser from its panel.
- Connecticut, Texas, Arizona, Tennessee, Utah, Texas, and Oklahoma and other states require that an AMC send written notice to an appraiser when it is removed from the AMC appraiser panel. The appraiser then can file a complaint to the State Board against the AMC in which the State Appraisal Board can require the appraiser to be reinstated on that AMC's panel. Should a government entity have the ability to force a private company to engage with any particular independent contractor against their judgment?

#8 State Fees for adding and removing appraisers from AMC's panel

- In addition to the state registration fees, Texas' recently adopted board rules which require an AMC pay the State a $10.00 fee each time an appraiser is added to the AMC panel and $10.00 each time an appraiser is removed from the panel. Is it not administratively and financially overly burdensome for an AMC to be forced to pay for the removal of an appraiser from its panel even if that appraiser violated USPAP, Dodd Frank or any other federal or state appraiser regulations?

#9 State mandated – USPAP Standard 3 Review of Appraisals

- Appraisal Review is the process in which an appraiser reviews another appraiser's work.

- USPAP Standard 3 states: "In performing an appraisal review assignment, an appraiser acting as a reviewer must develop and report a credible opinion as to the quality of another appraiser's work and must clearly disclose the scope of work performed."

- USPAP further indicates that "Appraisal review requires the reviewer to prepare a separate report setting forth the scope of work performed and the results of the appraisal review."

- Texas' approved board rules require that each AMC conduct an appraisal review on 5% of all appraisals completed in Texas utilizing an additional

state certified appraiser at the AMCs cost. In addition, the rule requires that the AMC conduct an appraisal review on 1 of the first 5 appraisals completed by each newly appointed paneled appraiser added to the AMC's approved list. In essence this places the responsibility and costs of regulatory compliance on AMCs versus the appropriate state agency?

- Conducting this review for the benefit of the state would drive up the costs of appraisal products as AMCs will simply need to pass the cost onto the homeowners of Texas.
- After the review is completed the State has given no indication as to the ultimate dispensing of the report which may raise privacy and USPAP compliance issues

#10 AMCs requirement to verify an appraiser is in good standing

- Most state laws require AMC to verify that an appraiser is licensed and the license is in good standing.

- When an appraiser voluntarily joins an AMC's panel, he or she is required to submit a copy of the appraiser's current licenses. In addition, an appraiser's license is verified to be in good standing with the State Licensing Board and the Appraisal Subcommittee.

- Upon renewal and expiration of a license AMC computer software will not allow an appraiser with an expired license to be assigned an appraisal order.

- Some states have expanded or are proposing to expand the AMC appraisal license verification process by requiring a real time check of an independent appraiser's license status. This is not only time consuming but unrealistic and nearly impossible as any state resource listing this information is most often delayed and outdated.

- This verification would be a costly and an onerous task for an AMC to comply with. In what other licensed industry is real time status of a license required? Do hospitals check doctors and nurses licenses each day they perform their job? Do court clerks verify an attorney's license each time the attorney makes an appearance in court? Are real estate brokers required

to check the status of their agents' licenses before an agent shows or markets a property?

- Background check requirements are being implemented across the country. This will add another level or complexity to the management process. Who makes the decision to use or remove an appraiser who happens to have items on their background check but have an active, state-approved appraiser license? What are the compliance issues that will occur?