



MEMORANDUM

TO: Board of Trustees
Appraisal Standards Board
Appraiser Qualifications Board
The Appraisal Foundation Advisory Council
Industry Advisory Council
Appraisal Foundation Sponsors

FROM: David Bunton, President

RE: *White Paper on Appraiser Regulatory Reform*

DATE: February 12, 2009

REQUEST FOR COMMENTS

The Appraisal Foundation is in the process of identifying issues and recommendations that should be included in a regulatory white paper that it intends to develop in the near future and distribute to key government officials. As an individual affiliated with the Foundation, we are seeking your opinion on what improvements could be made to the existing appraiser regulatory system. This memorandum contains a series of possible recommendations. You are encouraged to comment on these recommendations and are invited to offer others as well.

We request that you provide your comments to the Foundation by the close of business on **March, 2, 2009**. Comments can be sent in the following manner:

Mail: Regulatory White Paper
The Appraisal Foundation
1155 15th Street, NW, Suite 1111
Washington, DC 20005

E-mail: whitepaper@appraisalfoundation.org

Facsimile: 202-347-7727

BACKGROUND

Following each major financial crisis that our country has faced over the past century (the Great Depression, the S& L failures of the 80's), Congress has enacted financial institution regulatory reform legislation in the hope that the problem will not reoccur. Given our current financial problems, it is almost a certainty that financial institution regulatory reform legislation will be considered by Congress in the months ahead and there will in all likelihood be a valuation component to it.

Rather than being reactive, The Appraisal Foundation seeks to be proactive in this area and develop a white paper which will be circulated to key decision makers. As a part of the existing regulatory structure, we are in a unique position to offer our observations on possible improvements to the existing appraiser regulatory system. With 2009 being the twentieth anniversary of the enactment of FIRREA, we believe that our perspective on how it could be improved would be favorably viewed by Congress.

POSSIBLE RECOMMENDATIONS

Below is a list of possible recommendations. While not all-inclusive, it was developed for the purpose of facilitating comment and discussion.

1) Broader enforcement powers for the ASC:

- Provide the ASC with more regulatory options by giving it the authority to fine, suspend, etc.
- Explore the idea of giving the ASC grant making authority to the states, with a corresponding increase in the registry fee.

2) Require greater due diligence from federal financial institutions:

- Lower the de minimus amount from the existing level of \$250,000 to \$50,000. Many of the problem subprime loans were below the current de minimus level and were therefore outside of the appraisal requirements.

- Require the use of state certified appraisers for all transactions involving federal or state funds of \$50,000 or more or for all complex transactions. Complex transactions should be clearly defined.
- Place restrictions on the use of Automated Valuation Models (AVMs) and Broker Price Opinions (BPOs).
- Define and establish minimum standards for evaluations (BPOs, AVMs, etc).
- Require the federal regulatory agencies to report to Congress (through the ASC or individually) the result of their appraisal audits and their recommendations for improvement.
- Require every federal banking agency to establish a “Chief Appraiser” position that has independent reporting authority.

3) Improve enforcement among the states:

- Allow state appraiser regulatory agencies to make better use of their licensure fees by prohibiting states from “sweeping” appraiser fees into the general fund.
- All fines collected by the state appraiser regulators should be earmarked for use by the enforcement division.
- Provide funding to states, possibly through the ASC, by requiring lenders to pay a small amount (i.e. \$0.50) for each lending transaction involving federal or state funds.
- Require state board members and investigators to meet some level of minimum qualification criteria.
- Require states to immediately report adjudications to the ASC.

4) Implement national licensing or registration requirements for Appraisal Management Companies (AMCs):

- To ensure accountability, AMCs should be regulated by existing state appraiser regulatory agencies.
- Licensing/registration fees could serve as an additional source of revenue for the states.

5) Make AQB licensed, trainee and supervising guidance mandatory for the states.

6) Make federally related transaction sales data available to appraisers:

- Some states prohibit disclosure of sales data, making it difficult, if not impossible, to provide accurate opinions of value due to the lack of comparable sales information.

7) Improve Temporary Practice and Reciprocity between the states:

- Title XI currently includes provisions for Temporary Practice; however, Reciprocity is simply “encouraged.” Therefore, consider expanding the ASC’s authority over Reciprocity between the states.

8) Explore the need for a more defined set of best practices for appraisers performing federally related transactions:

- Identify, to the extent possible, the body of knowledge that currently exists and then codify it in some manner.
- Develop a mechanism for issuing timely guidance on current and emerging valuation issues for all real property appraisers.