



NATIONAL ASSOCIATION
OF REALTORS®
The Voice for Real Estate®



May 20, 2003

The Honorable Michael Oxley
Chairman
House Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20510

The Honorable Barney Frank
Ranking Minority Member
House Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20510

The Honorable Richard Shelby
Chairman
Senate Committee on Banking, Housing and Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20515

The Honorable Paul Sarbanes
Ranking Minority Member
Senate Committee on Banking, Housing and Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20515

Dear Sirs,

We read with interest the General Accounting Office (GAO) report on the effectiveness of the appraiser regulatory structure ("Regulatory Programs: Opportunities to Enhance Oversight of the Real Estate Appraisal Industry -- GAO-03-404"), which was released on May 14, 2003. In the report the GAO makes several important observations, beginning with the point that federal, state and private entities report facing impediments to carrying out essential activities called for and authorized by Congress through Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA). In addition to impediments, agency regulatory officials, mortgage industry representatives, the Department of Housing and Urban Development and government-sponsored enterprises such as Fannie Mae and Freddie Mac all raised concerns about the regulatory structure created by Title XI.

Given the observations in this report, and the serious deficiencies noted, we believe further examination is warranted. As the leading professional organizations for real estate appraisers, we urge you to hold hearings to examine the impact of such an ineffective regulatory system on the safety and soundness of our nation's financial institutions. Proper valuation of real estate held as collateral is of vital importance especially in this time of economic uncertainty. Competent and qualified real estate appraisers serve as a crucial safeguard in our banking system, but lax enforcement and ineffective federal oversight only serve to diminish this safeguard.

In addition to the GAO Report, the Appraisal Subcommittee of the Federal Financial Institutions Examinations Council has submitted its 2002 Annual Report to Congress pursuant to Section 1103 of Title XI of FIRREA. According to the Report, 43 percent of the state appraisal regulatory agencies reviewed in 2002 failed to resolve complaints against real estate appraisers expeditiously; were inconsistent in applying disciplinary sanctions; failed to pursue all alleged violations of the Uniform Standards of Professional Appraisal Practice or did not adequately document enforcement-related files. In addition, one state did not forward disciplinary actions to the Appraisal Subcommittee, which is required by Title XI and Appraisal Subcommittee Policy Statement 9.

The fact that so many state appraisal boards failed to resolve complaints against real estate appraisers in an expeditious manner is troubling. Yet it is not surprising to us that these problems, and others identified by the GAO, exist. Since Title XI was enacted, it has been difficult to achieve necessary consistency among the states for enforcement of both standards and certification requirements. Whether through a lack of resources or a lack of will by those charged with providing oversight, the current system allows some unscrupulous and unqualified appraisers to continue practicing with little or no recourse for their actions. In fact, some of these appraisers have been linked to mortgage fraud schemes throughout the country.

We bring these deficiencies to your attention because we are concerned about the effectiveness of the current regulatory structure for appraisers as created by Title XI of FIRREA. Title XI was enacted to protect federal financial and public policy interests in real estate related transactions by requiring that real estate appraisals be performed by individuals with demonstrated competency. FIRREA mandated state licensing under federal standards, and in the time since it was passed more than ten years ago, the regulatory structure for appraisers has evolved into a unique and complex system. It involves licensing boards in the various states, qualifications criteria and uniform standards set by The Appraisal Foundation, and federal oversight by the Appraisal Subcommittee of the Federal Financial Institutions Examinations Council. State licensing boards license, certify and provide oversight and enforcement of nationally recognized standards (the *Uniform Standards of Professional Appraisal Practice*) and state laws. It is apparent from this that the current regulatory structure is overly complex, inconsistent from state-to-state and in need of thorough review and examination by Congress.

With a patchwork of state laws and ineffective federal oversight allowing for only “minimum” qualifications criteria for licensing and certification in some cases, states and the federal oversight bodies too often have not carried out their specific intended responsibilities to enforce the standards as required by the federal law. Too often, complaints against real estate appraisers in some states are not reviewed by state appraiser boards, leading to a lack of disciplinary action against poorly performing appraisers. Other boards have been known to spend inordinate time and research and collect fines for inconsequential offenses, leaving little time for enforcement of major issues. Frequently, veiled threats and recommendations from federal regulators to state appraisal boards are ignored, leading to a continuing cycle of ineffective enforcement.

Although a fundamental goal of Title XI was to raise the professionalism of appraisers involved in federally related transactions, we have concluded this goal has not been met. Having provided for only “minimum” qualification requirements, the implementation of FIRREA has failed to offer incentives for appraisers to seek additional training, education and experience. In the end, we believe the public would

be better served by a system that encourages appraisers to excel through appropriate professional development. Many appraisers see acquiring a license as the be-all and end-all of becoming an appraiser, and while our professional organizations maintain high standards of conduct and strict codes of ethics, nearly half of all licensed appraisers choose not to be affiliated with such organizations.

Our research indicates that an overwhelming number of appraisers whose licenses have been recently suspended or revoked are unaffiliated appraisers. Furthermore, major secondary market participants have begun referring appraisers who perform poor or inaccurate appraisals to state licensing boards, resulting in hundreds of referrals to state licensing boards for review and possible disciplinary action. Two major observations offered by Fannie Mae to the GAO were that they have observed a lack of consistent and effective oversight of state appraisal boards by the Appraisal Subcommittee and a lack of consistent and effective enforcement actions by state appraisal boards.

Our organizations believe the GAO investigation is just a first step in addressing the issue of mortgage fraud. Mortgage fraud involves collusion between two or more parties and of necessity goes beyond the real estate appraiser. Similar scrutiny should be applied to the regulatory structures of the other known participants in the perpetration of mortgage fraud. The public must be assured that all of the professionals in real estate mortgage-related transactions are ethical, accountable and subject to proper oversight and review.

There is an immediate need to find solutions to deficiencies in the system and our organizations are committed to assisting you in this effort. We look forward to working with you to identify solutions to solve the problems associated with residential mortgage fraud.

For further information, contact Don Kelly, Vice President of Public Affairs, Appraisal Institute, at 202-298-5583 or dkelly@appraisalinstitute.org, Ted Baker, Executive Vice President, American Society of Appraisers, at 703-733-2019 or tbaker@appraisers.org, or Peter Morgan, Senior Regulatory and Industry Relations Liaison, National Association of REALTORS®, at 202-383-1233 or pmorgan@realtors.org, Doug Slothower, Executive Vice President, American Society of Farm Managers and Rural Appraisers at 303-758-3513 or dslothower@agri-associations.org.

Sincerely,

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American Society of Farm Managers and Rural Appraisers
Appraisal Institute
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