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Assessing VA-Approved Appraisers and How to Improve the Program for the 21st Century

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Before the Subcommittee on Economic Opportunity

House Committee on Veterans' Affairs

April 4, 2017

Chairman Arrington, Ranking Member O'Rourke and Members of the Subcommittee on Economic Opportunity, thank you for the opportunity to testify on improving the VA Appraiser Fee Panel on behalf of the 19,000 members of the Appraisal Institute, the largest professional association of real estate appraisers in the United States.

EXECUTIVE SUMMARY

- The U.S. Department of Veterans Affairs (VA) Appraiser Fee Panel purposefully is unique, given the charge of supporting our nation's veterans. The VA loan program is an important veteran benefit that performs better than other government loan programs, in part, because it has strong appraisal independence mechanisms.
- The VA appraisal staff are some of the most accessible and responsive within the federal government relative to real estate appraisal issues. They often help resolve payment and underwriting issues between VA appraisers and VA lenders.
- The Appraisal Institute opposes changing the VA Fee Panel to one that mirrors what is found in the Federal Housing Administration or the private sector. We do not believe that this would reduce turnaround times for appraisals, nor would it be in the best interest of veterans.
- Measures may be taken to improve the consistency of the program and to maintain its competitiveness with the private sector, as discussed in greater detail in Part 3:
 - Maintain an independent Fee Panel of VA appraisers;
 - Develop a "stand-by" list of approved VA appraisers;
 - Enhance appraiser recruitment efforts;
 - Encourage lenders to provide better information at the time of the appraisal assignment; and
 - Address appraiser concerns about unpaid appraisal fees.

Part 1. Background and Private Sector Issues

VA Fee Panel

The Veterans Administration (VA) maintains a Fee Panel of approved real estate appraisers who work on behalf of the agency in providing collateral risk assessment in support of the VA Home Loan program. The Fee Panel is directly managed by the VA and consists of a pool of several thousand appraisers who accept VA appraisal assignments on a rotating basis.

The Federal Housing Administration once maintained a panel similar to the VA Fee Panel, but in the 1990s that program was changed to what is known as "Lender Select." This allowed FHA Direct Endorsement lenders to manage the appraisal process and to engage appraisers directly. The FHA Lender Select program operates similarly to the conventional mortgage market.

By comparison, the VA Fee Panel is a much stronger proponent of appraisal independence and presents a much more positive environment for real estate appraisers than what is found in other government programs or the private sector. Outside of the VA, appraisers often face a litany of challenges ranging from marginally qualified appraisal review processes to stifling fee compression. This, along with a complicated national regulatory structure that is in need of modernization¹, has produced an overall unattractive environment for real estate appraisers, particularly residential appraisers.

¹ On November 16, 2016, The House Financial Services Committee Subcommittee on Housing and Insurance held a hearing on, "Modernizing Appraisals – A Regulatory Review and the Future of the Industry." Available at <http://financialservices.house.gov/calendar/eventsingle.aspx?EventID=401174>

Appraiser Population Trends

The Appraisal Institute has been tracking appraiser population trends for many years. The trend has been downward for several years, with the ranks of residential appraisal accounting for nearly the entire decline. Real fees for residential mortgage appraisers have been in decline for many years, while the costs of doing business (i.e., licensing fees, continuing education, books, supplies, vendor fees, etc.) have gone up. When one adds in fee-splitting with appraisal management companies, many residential appraisers actually are making much less than they were some 20-30 years ago (see attached chart - *U.S. Appraiser Population Estimates Licensed/Certified Residential*).

We anticipate a continued decline in the number of practicing appraisers, between 20-25 percent, over the next 5-10 years.

AI data does not indicate a national shortage of appraisers at this time, but there are indications of temporary shortages in some markets. We anticipate, however, that longer-term shortages will appear going forward should the projected decline materialize.

The VA Fee Panel is somewhat insulated from these national trends in that it is a hand-picked list of approved appraisers. While the national pool of appraisers has narrowed in recent years, there still is an ample number of appraisers to support the VA Home Loan program. Moreover, the national figures better represent the status of private sector residential appraisal issues and problems than issues transpiring within the VA Home Loan program.

Interim Final Rule & Customary and Reasonable Fees

The Dodd-Frank Act requires creditors and their agents to pay “customary and reasonable” fees to appraisers to reflect what an appraiser typically would earn for an assignment absent the involvement of an appraisal management company. Under the Act, evidence for such fees may be established by objective third-party information, such as government agency fee schedules, academic studies and independent private sector surveys.

Rules that have been promulgated by the Federal Reserve (Interim Final Rule) and the Consumer Financial Protection Bureau (Final Rule) are not consistent with the plain language and intent of the Dodd-Frank Act². Two presumptions of compliance are provided by the Federal Reserve and accepted by the CFPB that are internally inconsistent. One presumption requires independent studies or fee schedules that align with retail appraisal fees direct from the appraiser, while the other accepts internally-generated results that include what amounts to wholesale fees involving third parties.

The CFPB adopted a final rule earlier this year, leaving these presumptions unchanged. We continue to have concerns with the internal inconsistencies found in the two presumptions for compliance.

The problem of customary and reasonable fees paid to appraisers is masked by consumer disclosure rules that allow the co-mingling of the fee paid to the appraiser and separate appraisal management company fees on the Appraisal line of the Consumer Disclosure form issued by the CFPB. This co-mingling confuses consumers into believing that they are paying appraisers more for services today, when, in fact, compensation levels may have declined significantly because appraisal management companies are taking a sizable portion of the total cost paid by the consumer.

The Dodd Frank Act authorized the CFPB to require the disclosure of AMC fees separate from fees paid to appraisers. In developing the final TRID (TILA-RESPA Integrated Disclosure) rule, the CFPB conducted consumer testing of sample Closing Disclosure forms. This testing concluded that consumers were indifferent to the disclosure of AMC fees separate from appraisal fees. Consumers were not confused by a disclosed appraisal management company fee. Despite this, the CFPB opted to allow disclosure simply on a voluntary basis, but not

² The Appraisal Institute’s comment letter on the issue of customary and reasonable fees is available at http://www.appraisalinstitute.org/file.aspx?Document=AI-ASFMRA-ASA-NAIFA_on_IFR-Final.pdf

to mandate it. Today, while some lenders break out the fees paid to AMCs separate from appraisal fees, most do not do so.

As discussed below, the VA Fee Schedule essentially is the only government agency fee schedule that exists, and it is a strong measure of our concern and the inconsistencies between retail appraisal fees and those paid by some appraisal management companies. Changing the VA Fee Panel to the model employed by the private sector would result in stiff fee compression for VA appraisers and come at the expense of the strong appraisal independence components and expertise found in the current VA Fee Panel.

Loan Program Performance and Taxpayer Protection

The VA Appraiser Fee Panel enjoys support from other objective observers. Recently, the American Enterprise Institute reviewed the VA appraisal program in comparison with the FHA operations and concluded that the VA processes and procedures provide more taxpayer protection and helped to produce lower defaults and loss severity. VA appraiser engagement helps to create a more positive environment for risk management and loan performance, among other things, the report concluded³.

Part 2. VA Appraisal Issues

VA Fee Schedules

Generally speaking, the VA fee schedules are much more indicative of customary and reasonable than what is found in the private sector today. This largely is because the schedule is developed by surveying local market participants. As such, the schedule has become an important measure for customary and reasonable fees in the marketplace. In recent years, several states have recognized the VA Fee Schedule in assessing customary and reasonable fees.

Below is the current Fee Schedule from the Phoenix VA Regional Loan Center for Arizona, California, New Mexico and Nevada, effective December 1, 2016:

Fees and Timeliness

Effective for all VA appraisals, repair inspections and compliance inspections; please see the following table:

Fannie Mae Forms	1004 1004c 1073 Single Family*	2055 1075 Exterior	1025 Multi-Family*	Appraisal Updates All	1004d Repair Inspection	Appraiser Timeliness
Arizona, California, New Mexico, Nevada	\$600.00	\$450.00	\$750.00	\$200.00	\$100	7 Business Days

*If the appraisal is completed for liquidation appraisal purposes, appraisers are authorized to charge an additional \$50.

³ Pinto, E. (2013). *Alignment of Incentives – VA Best Practices*. American Enterprise Institute. Available at http://www.aei.org/wp-content/uploads/2013/08/-pinto-alignment-of-incentives-va-best-practices-082613_110818557056.pdf

In contrast, we contacted an AI professional in the California market and asked what was being offered by several national appraisal management companies that bundle the fee paid to the appraiser and the appraisal management company fees, as opposed to a “cost-plus” model that would charge the management fee on top of the appraiser service fee:

National Appraisal Management Company A:

- \$350 for 1004 (Fannie Mae form) Single Family

National Appraisal Management Company B:

- \$255 for 1004 (Fannie Mae form) Single Family

National Appraisal Management Company C:

- \$255 for 1004 (Fannie Mae form) Single Family

This professional indicated several banks that engage appraisers directly (as opposed to using appraisal management companies as third parties) in this particular market are paying appraisers \$450, on average, for the same service request.

Timeliness

The VA also maintains timeliness requirements of seven (7) business days for the VA Fee Panel, as you can see in the VA fee schedule cited above. We are aware of complaints about appraisal timeliness in some markets. This was particularly acute last year where loan volumes were strong in many markets. We do not believe this was a national problem, but it was experienced in many markets around the country, particularly in rural areas. Here, turnaround times for appraisals may have exceeded more than 30 days in some areas.

We understand that many of these markets have normalized since December when interest rates increased. As such, appraisal volumes have declined and we expect that turnaround times have declined in these markets, as well. Further, we do not believe that the experiences in some markets last year were unique to the VA Fee Panel, as similar concerns were expressed in the conventional market in many of these areas.

Underwriting and Review

VA lenders are using an automated appraisal review program that attempts to warn them of items to check in the report narrative. However, lenders often take it as a cue to call the appraiser and ask for more of the same language in a different place in a revised report. Further, lenders frequently confuse the VA requirements with those of FHA or Fannie Mae/Freddie Mac. This is particularly bad whenever a new VA lender comes online.

As one VA Panel Appraiser/AI Member stated recently:

On the positive, it is good that VA says the appraiser can use their three best comps (we are often lucky to have one good one in rural areas, while the other two are the best of a sorry lot), and that if a lender wants more, they have to pay extra. VA does a pretty good job of backing up the appraiser to the lender, and, as you know, the assignments are on rotation. As one who is very well qualified, I dislike working at the same fee as a newbie, but at least the assignments are fair.

Personally speaking, as one who has been a VA Panel appraiser in the not-too-distant past, I believe in the VA appraisal program and truly believe it to be of great benefit to Veterans. The personnel I have encountered at the VA, during my time on the panel, were extraordinarily dedicated to Veterans. I either personally witnessed or heard stories of Veterans being treated with respect and assistance in times of challenge that have protected and benefited them. In that vein, the VA appraiser panel is integral to protecting Veterans, the VA and the public interest. Maintaining a roster of objective, qualified and professional appraisers is the way that effective real estate collateral risk mitigation is accomplished.

Dismantling or significantly changing the VA Roster platform that provides for a critical level of independence would be a mistake. Furthermore, seeking alternative valuation products, such as desktop appraisals, also would be a mistake in terms of collateral risk mitigation. I will acknowledge that from time-to-time we experience high volume demand for appraisals and delivery times are elevated to less-than-optimum levels. Nevertheless, although these intervals can be somewhat protracted, they are temporary. Dismantling a working system is not the answer. The Appraisal Institute would like to offer some suggestions to enhance an already-workable and successful system.

Lender Payment Concerns

Our members report that some lenders fail to pay for services rendered or push payment off for months – even years. Some appraisers write off a certain number of fees every month, knowing that lenders will fail to pay. What is even more frustrating for VA Fee Appraisers is being forced to complete assignments for the same lender that is in arrears with the appraiser. This serves as a major disincentive for some appraisers who otherwise would be interested in applying to be on the VA Fee Panel.

“Tidewater Initiative”

The VA maintains a process that requires the appraiser to contact the agent or seller when the appraisal does not support the sales price. This provides the agency/seller with the opportunity to provide more information to the appraiser for consideration.

We had our doubts about the Tidewater Initiative when it first was released, but according to our members who participate in the program, it has worked relatively well. Many appraisers proactively request information from the agent and seller on the front end to avoid complication after the appraisal is complete. We now are supportive of the program and believe that it could be replicated by other agencies and the private sector.

In our opinion, the whole system would be improved if we could adopt the VA appraisal model of a limited panel of appraisers who routinely are reviewed by someone without an agenda, and which uses fair rotation and establishes some sort of fee range to reward experience and qualification.

VA Fee Panel Recruitment

The VA recruits appraisers on an ongoing basis to the Fee Panel, and the AI even has assisted the agency in marketing the opportunity to the appraisal community. But some of our members report an uneven response from the VA regarding their applications. While those appraisers who currently are on the VA Fee Panel generally give it high marks, those who are not on the Fee Panel and are interested in doing so have expressed some frustration about the length of approval time or their outright rejection.

VA officials report that it actively recruits existing licensed and certified appraisers to the Fee Panel, which currently stands at roughly 5,700 appraisers nationally. The agency has apparently undertaken efforts to proactively contact licensed and certified appraisers encouraging application to the Fee Panel. However, if appraisers are choosing not to apply or deferring work in favor of the conventional appraisal assignments, that would indicate the agency must do more to remain attractive to appraisers in the marketplace, such as increasing fees or reducing administrative burdens. We understand that the recent fee increases in states such as Oregon have produced positive results, and we would encourage similar actions elsewhere.

Part 3. Recommendations

As Congress reviews appraisal issues, we would like to suggest several reforms to help improve the VA Home Loan program and the VA Appraiser Fee Panel, as follows:

1. Avoid the pitfalls found in the private sector and other government agencies by maintaining an independent Fee Panel of VA appraisers. By comparison, we do not believe that a move to a lender select program, such as those found in the conventional or FHA mortgage markets, would improve timeliness, nor would it be in the best interests of veterans.

2. Develop a “stand-by” list of approved VA appraisers to serve as a “buffer” against surges in loan demand. This would help avoid what may have been observed in some markets last year.
3. Enhance appraiser recruitment efforts by targeting appraisers who have completed peer review and/or demonstration appraisal requirements for professional appraisal designations from nationally recognized professional appraisal organizations. The VA Fee Panel would benefit from greater involvement by highly-qualified appraisers.
4. The VA should make several improvements to VA lender processes, including:
 - a. Improve timeliness by encouraging lenders to provide appraisers with better information, such as the legal description, on the front end of the appraisal assignment. We often see the form VA 26-1805-1 form incompletely filled out. In areas where there are ingress-egress easements, this can eat up a tremendous amount of time trying to obtain property-access details, which is a critical mortgage security and collateral value component.
 - b. Improve the attractiveness of the VA Fee Panel by addressing prompt payment concerns. Authorize VA Appraisers to reject appraisal assignments when lenders are in arrears more than 60 days.

Thank you for the opportunity to testify on this important issue. I would be happy to answer any questions.