



September 2, 2014

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

**Attention:** Docket ID FFIEC-2014-0001

To Whom It May Concern:

On behalf of the nearly 23,000 members of the Appraisal Institute and the American Society of Farm Managers and Rural Appraisers, thank you for the opportunity to comment on the Office of the Comptroller of the Currency's ("OCC") review of regulations mandated by the Economic Growth and Regulatory Paperwork Reduction Act. We applaud your agency for soliciting comments on unduly burdensome regulations, and offer the following comments on the appraisal standards for federally related transactions.

### **Transactions Requiring a State Certified or Licensed Appraiser**

#### *De minimis*

Currently, appraisals are not required under federal law for residential mortgage loans below the \$250,000 *de minimis*. This threshold for requiring appraisals has been raised twice since its inception, first from the original \$50,000 level to \$100,000, then up to \$250,000. Our organizations see no justification to raise the threshold level once again, and are view of appraisals being the "gold standard" in valuation is validated by their requirement for government agency loans, as well as loans backed by the government sponsored enterprises. As it stands now, too many federally related transactions fall below \$250,000, and require no appraisal at all, which sacrifices the safety and soundness of lending institutions, and exposes the public to unregulated valuation products.

#### *Evaluations*

Though appraisals are not required for loans of \$250,000 or less, under federal bank regulatory policy, lenders must obtain an "evaluation" to fully understand the collateral risk involved with the loan. This results in a significant portion of the real estate valuation work throughout the country being done by automated valuation models ("AVMs"), broker price opinions ("BPOs"), or through "competitive market analysis" ("CMA") reports. In many cases, evaluations are done by staff of institutions that have a vested interest in a real estate transaction. This negates the benefit of having an independent third party involved in the real estate transaction, and the omission of a licensed or certified appraisal requirement for properties under \$250,000 creates a disruptive gap in the enforcement of appraisal standards.

As you know, upon the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act (“FIRREA”), the Federal and state governments spent millions of dollars setting up and maintaining a system of accrediting, educating, and disciplining appraisers while simultaneously creating a dual system by allowing other actors in the real estate space to receive a loophole in the regulations via the performance of an evaluation, which have no official regulation or standards, can be ordered on any property type, and have no discipline for bad actors. The Uniform Standards of Professional Appraisal Practice (“USPAP”) allows an appraiser to tailor an assignment to a lender’s needs through the scope of work rule, and USPAP also provides two report types that will cover every demand a lender might have. It seems the very definition of redundancy to allow for evaluations when an appraiser can fulfill the same function.

Advisory Opinion 13 in USPAP indicates the following regarding evaluations:

*“An evaluation, when performed by an individual acting as an appraiser, is an appraisal. In addition to complying with USPAP, the appraiser must be aware of and comply with any additional assignment conditions and reporting requirements imposed on the assignment.”*

In other words, USPAP prohibits a licensed or certified appraiser from doing evaluations. There should be only one way to express an opinion of value and that’s through an appraisal. It avoids confusion, protects consumers from unregulated valuation products, and most importantly, protects the safety and soundness of the financial system.

Our organizations strongly urge the OCC to reassess the entire evaluation structure in light of the stringent standards applied to only appraisers in this space. One solution to allowing appraisers to compete with unregulated evaluators lies in the Scope of Work Rule in USPAP. The scope of work rule provides appraisers are responsible for establishing the scope of work to be performed in rendering an opinion of the property's market value, and with that in mind, lenders ensure the scope of work is appropriate for the assignment. Through this avenue, we believe an appraiser can, and should, be able to work in the evaluation space, where a written appraisal isn’t mandated by law.

Barring a reassessment of the evaluation structure, another way to level the playing field for professional real estate appraisers would be by granting an exemption from conducting appraisals in accordance with USPAP. Essentially, when a lender is required by a federal regulatory agency to determine the value of real property for any purpose, including for a federally related transaction, and the regulated institution is not required to obtain an appraisal, the value of the real property may be determined by an appraiser and not be subject to compliance with USPAP. This creates flexibility for lenders to turn to appraisers to provide cost competitive valuation services where the development and reporting requirements suit the needs of the assignment.

### **Professional Association Membership/Designations**

Our organizations continue to stress that when engaging an appraiser, lenders should base their selection on competency, rather than focus on factors such as pricing and turnaround time. Appraiser credentials, experience and competency largely have been ignored in the current market that is dominated by Appraisal Management Companies. This cannot be allowed to continue, and the issue of competency, as well as appraisal assignment complexity, must become the primary factors for all parties when hiring appraisers. We hoped the attempt to “raise the bar” was correctly addressed in the Dodd-Frank Bill, which amended Section 1122(d) of FIRREA to read:

*“may include education achieved, experience, sample appraisals, and references from prior clients. Membership in a nationally recognized professional appraisal organization may be a criteria considered, though lack of membership therein shall not be the sole bar against consideration for an assignment under these criteria.”*

This language was included to promote greater professionalism and advanced training within the appraisal industry, and codifies language now found in the GSE selling guides to allow for the consideration when making appraisal assignments of education achieved, sample appraisals, references, experience, and membership in a nationally recognized professional appraisal organization. However, with the passage of Dodd-Frank several years behind us, the appraisal industry has not seen a positive change in the criteria for ordering appraisals. We strongly encourage the OCC to look at this, and to encourage those ordering appraisals to give special consideration to those appraisers who have earned professional appraisal designations that exceed the minimum licensing requirements.

Thank you again for the opportunity to comment. We hope that you find these suggestions and comments constructive and beneficial. Please call Bill Garber, Director of Government & External Relations for the Appraisal Institute, at 202-292-5586 or bgarber@appraisalinstitute.org, or Brian Rodgers, Manager of Government Relations, at (202) 298-5597 or brodgers@appraisalinstitute.org should you have any questions.

Sincerely,

Appraisal Institute  
American Society of Farm Managers and Rural Appraisers