



May 19, 2015

The Honorable Richard C. Shelby
Chairman
Committee on Banking, Housing and Urban
Affairs
534 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing and Urban
Affairs
534 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Shelby and Ranking Member Brown:

On behalf of the 21,000 Designated members, candidates and affiliates of the largest professional association of real estate appraisers in the world, please accept the attached comments relative to the Discussion Draft of the Financial Regulatory Improvement Act of 2015.

The Discussion Draft includes two provisions related to real estate appraisals. Section 112 provides persons involved in a real estate transaction (mortgage lenders, mortgage brokers, mortgage bankers, real estate brokers, appraisal management companies, employees of an appraisal management company, or any other person(s) involved in a real estate transaction involving an appraisal on a principal dwelling) with protection against defamation suits when reporting appraisal misconduct. Section 114 clarifies that appraisers who provide in-kind appraisal services are not deemed to be "fee appraisers" for purposes of meeting requirements for payment of customary and reasonable fees to appraisers.

Both of these issues are important and worthy of a broader review and discussion, but also are part of a more complex set of issues and regulations. We understand concerns about civil liability complaints for adhering to a mandatory filing requirement. At the same time, we have seen many instances of parties involved in the transaction filing complaints against appraisers in retribution for not delivering an appraisal that satisfied loan requirements or enabled individuals to collect commissions or bonuses. Section 112 carries a "good faith" provision, meaning that if an appraiser is referred to an appraiser licensing board for something he/she clearly did not do, the appraiser may file a complaint that the original referral was not issued in good faith. The existing provision is extremely broad, covering not just potential violations of appraisal standards, but also vague matters such as "unprofessional conduct."

Congress has previously addressed the issue of value pressure, and we are concerned that this would represent a step backwards. We believe the current version of the discussion draft may enable a new wave of value pressure, harming consumers, lenders and taxpayers. Any change offered on this issue must ensure the independence of the appraisal process. We suggest that a "reckless" standard be considered in lieu of a good faith standard to ensure that appraisers are afforded the legal recourse they deserve. Further, we believe this provision should include penalties for filing punitive or frivolous complaints against appraisers. Adding such measures would ensure that claims involving retribution are not allowed. Otherwise, we believe the discussion draft will enable parties with a vested interest in the transaction to apply inappropriate pressure on appraisers.

Further, we have been aware of the donated appraisal concern for several months now, having been contacted by a national charitable housing organization in 2014. For the record, we believe that any appraiser providing a donated appraisal would be eligible to write off the donation as a charitable contribution to a 501(c)(3) organization. The amount of this contribution would be reflective of the fair

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market value of the appraisal service, or the customary and reasonable fee. For example, if an appraiser normally charged \$500 for an appraisal, and performed an appraisal for a charitable organization, the \$500 would be eligible to be claimed by the appraiser as a business expense and non-cash charitable contribution. This satisfies the customary and reasonable fee requirement, in our view.

The fact that the Consumer Financial Protection Bureau has been unwilling to clarify issues such as this is troubling. This provision relates to an Interim Final Rule that was issued by the Federal Reserve Board shortly after enactment of the Dodd-Frank Act. The interim final rule left open a number of issues beyond the issue of donated appraisals. This includes an apparent inconsistency between the two methods of compliance provided in the interim final rule. As such, we believe that Section 114 would be enhanced by a provision that required the agency to issue a final rule, after notice and public comment by a certain date. This would require the agency to resolve an issue, such as the donated appraisal issue, in step with other outstanding concerns.

Moving forward, we believe that these and other issues relating to real estate appraisals deserve a full hearing by the Committee on Banking, Housing and Urban Affairs. The appraisal regulatory structure is unique and complex, and it has witnessed a bevy of new rules since the enactment of the Dodd-Frank Act. Rarely is there a hearing on regulatory relief or mortgage finance reform where community bankers, home builders or others do not raise concerns with appraisal issues. We, too, have concerns of our own regarding our regulatory structure, and we believe that a hearing on these issues would help inform and strengthen public policy and your Committee's oversight functions.

We look forward to working with you to improve financial industry regulation. Please contact Bill Garber, Director of Government and External Relations, at 202-298-5586, bgarber@appraisalinstitute.org or Brian Rodgers, Manager of Federal Affairs, at 202-298-5597, brodgers@appraisalinstitute.org if you have any questions or would like additional information.

Sincerely,

Appraisal Institute

Cc: Members of the Committee on Banking, Housing and Urban Affairs