March 7, 2025

The Honorable Jerome Powell
Chair
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

The Honorable Travis Hill
Acting Chair
Federal Deposit Insurance
Corporation
550 17th Street, SW
Washington, DC 20429-9990

The Honorable Rodney E. Hood
Acting Comptroller of the Currency
Office of the Comptroller of the Currency
Constitution Center
400 Seventh Street, SW
Washington DC, 20219

Attention: Docket ID: OCC-2023-0016

Dear Chair Powell, Acting Chair Hill and Acting Comptroller Hood:

The undersigned professional appraisal organizations thank you for the opportunity to comment on the Office of the Comptroller of the Currency, the Federal Reserve, and the Federal Deposit Insurance Corporation's ("the Agencies") review of regulations mandated by the Economic Growth and Regulatory Paperwork Reduction Act ("EGRPRA"). We applaud your agency for soliciting comments on unduly burdensome and outdated regulations, as well as your pledge to hold outreach sessions across the Country. We offer the following comments for your consideration.

Appraisal Threshold and USPAP Standards

The Agencies raised the transaction value threshold for requiring an appraisal from $250,000 to $400,000 upon the completion of the last EGRPRA review in 2019. We see no justification to raise the threshold level once again. As it stands now, many real estate-related financial transactions fall below the $400,000 transaction value threshold and require no appraisal at all. This sacrifices the safety and soundness of lending institutions and exposes the public to unregulated valuation products.

Evaluations

During the previous EGRPRA review, the recurring theme from community banks and other institutions was the need for regulatory relief, with their sights set firmly on appraisals. When the dust cleared, the transaction value threshold for requiring an appraisal was raised from $250,000 to $400,000 for residential appraisals. Though appraisals are not required for loans of $400,000 or less, federal regulations allow lenders to utilize 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 carried out 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 $400,000 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") in 1989, the Federal and state governments spent millions of dollars setting up and maintaining a system of accrediting, educating, and disciplining appraisers. However, simultaneously with putting in place of a regulatory system designed to enhance the public trust in appraisals, a dual system was created that allows other actors in the real estate space to perform evaluations. Evaluations have no official regulation or standards, can be ordered on any property type, and have no disciplinary process for bad actors. On the other hand, 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 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 performing an evaluation, except in the 15 states that have specifically allowed appraisers to perform evaluations. AI's belief is that 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 allowances for financial institutions to utilize evaluations considering the stringent professional standards that are applied only to appraisers. One solution to allowing appraisers to compete with unregulated evaluators lies in the Scope of Work Rule in USPAP. The scope of work rule stipulates that appraisers are responsible for establishing the scope of work to be performed in rendering an opinion of the property's market value. Lenders can 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 USPAP when an appraiser is providing an evaluation service. Essentially, when a lender is required by a federal regulatory agency to determine the value of real property for a real estate-related financial transaction, and the regulated institution is not required by federal law to obtain an appraisal, the value of the real property may be determined by an appraiser who would 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.

Exemptions from FIRREA

In response to the savings in loan crisis in the late 1980's, Congress passed Title XI of FIRREA to ensure that property valuations used in mortgage lending were accurate and reliable, and to safeguard financial interests in the housing market, particularly for loans backed by government entities. However, the Agencies subsequently carved out exemptions from the appraisal requirements from FIRREA for several types of transactions, including real estate related loans that are eligible for sale to the Government

Sponsored Enterprises ("GSEs")[1]. As a result of this "GSE Exemption" and several other appraisal exemptions in federal law, nearly 90% of all residential real estate-related financial transactions engaged in by federally regulated institutions are exempt from the appraisal requirements; something that is unknown to many. While the GSEs have their own Selling Guide requirements for sellers to obtain appraisals, there is nothing in federal law that requires the GSEs to obtain appraisals. Did Congress really pass FIRREA with the intent that approximately 90% of transactions would be exempt from its requirements? Probably not.

Further, under Fannie Mae's "Value Acceptance" and Freddie Mac's Automated Collateral Evaluation programs that grant lenders the option to waive the appraisal requirements, no appraisals are being conducted for approximately 15.5% of mortgage loans that are sold to the GSEs. By allowing the GSEs to operate outside the appraisal requirements established under FIRREA, the Agencies risk undermining the very principles designed to protect consumers and stabilize the housing market. As we saw during the pandemic, the GSEs can ratchet up the number of appraisal waivers that are granted to around 60%. These relaxed underwriting requirements have led to the injection of a significant amount of risk into the financial system.

We ask the federal banking agencies to reexamine whether the Value Acceptance and ACE programs align with the intent of Congress when it passed FIRREA, especially in light of the Supreme Court's recent decision to end the "Chevron Deference". While FIRREA does allow the bank regulatory agencies to establish a dollar threshold below which appraisals are not required, no similar language exists in FIRREA that would allow the exemption of other broad categories of loans from FIRREA's appraisal requirements. Had the Chevron Deference not been in place when the bank regulators were writing the FIRREA-related rules, it is very possible that the broad categories of exemptions would have been disallowed had they been challenged. But the application of the Chevron Deference granted significant leeway to write broad regulations because of the assumption that they were statutorily authorized unless challenged and proven to not be within the construct of a specific statute.

Professional Association Membership/Designations

Our organizations continue to stress that lenders should base their selection of appraisers on competency and qualifications, rather than other factors such as pricing and turnaround time. Unfortunately, lenders' emphasis on fee and turnaround time continues to be the case in the current market that is dominated by appraisal management companies. Competency in appraisal services directly influences the integrity of real estate transactions. An experienced appraiser brings a wealth of knowledge and expertise, ensuring that valuations are not only accurate, but also reflective of current market conditions.

Appraisers who hold professional designations have demonstrated a commitment to maintaining high standards of practice. These designations are not merely credentials; they signify an appraiser's adherence to rigorous training, ethical guidelines, and ongoing professional development. Engaging appraisers with such qualifications assures clients of a thorough and objective appraisal process, which is essential in mitigating risks associated with real estate transactions.

The Dodd-Frank Act contained language promoting greater professionalism and advanced training within the appraisal industry, and codified language found in the GSE selling guides that allows for the consideration of an appraiser's education achieved, sample appraisals, references, experience, and membership in a nationally recognized professional appraisal organization when making appraisal assignments. More than a decade after the passage of the Dodd-Frank Act, the appraisal industry has not seen any meaningful changes in how appraisals are ordered. We strongly urge the Agencies to address this issue by emphasizing to financial institutions the need to focus on obtaining a high-quality appraisal

[1] See Federal Register: June 7, 1994, Part II, Department of the Treasury; Office of the Comptroller of the Currency
12 CFR Part 34; Office of Thrift Supervision, 12 CFR Parts 545, 563, and 564; Federal Reserve System
12 CFR Part 225; Federal Deposit Insurance Corporation, 12 CFR Part 323; Real Estate Appraisals; Rule

and to prioritize the use of appraisers who possess professional designations that go beyond the minimum licensing standards.

Thank you again for the opportunity to comment. We hope that you find these suggestions and comments constructive and beneficial. If you have any questions, or would like to discuss our views further, please contact:

- Scott DiBiasio, Director, Government Affairs for the Appraisal Institute, at 202-298-5593 or by email at sdibiasio@appraisalinstitute.org;
- Aiden O'Brien, Director of Government Relations for ASA, at 703-733-2108 or by email at aobrien@appraisers.org;
- Stephen Frerichs, Government Relations Consultant for the American Society of Farm Managers and Rural Appraisers (ASFMRA), at 703-212-9416 or by email at sfrerichs8@comcast.net; or,
- Stephen Sousa, Executive Vice President for MBREA, at 617-830-4530 or by email at steve@mbrea.org.

Sincerely,

Appraisal Institute
American Society of Appraisers
American Society of Farm Managers and Rural Appraisers
MBREA