National Credit Union Administration
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To: Gerard Poliquin, Secretary of the Board

RIN: 3133-AE22 April 15, 2014

The following are suggestions for the federal regulators joint proposed rule regarding appraisal management companies. I am an appraisal instructor with many years of experience working for various appraisal management companies in the capacity of a quality control manager and consultant. I have worked for some excellent appraisal management companies and, unfortunately, some deceptive appraisal management companies. I felt compelled to write and offer my personal experience to the agencies in regards to appraisal management companies to hopefully assist in expanding the current regulations in order to strengthen the appraisal profession and protect the consumer.

Background

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 contain a number of provisions addressing the authority of the Appraisal Subcommittee (ASC) over the State appraisal regulatory programs. One of those provisions has inadvertently allowed appraisal management companies and the appraiser's they employ and contract to perpetrate appraisal fraud and advocate for the client. This provision has produced significant adverse ramifications to the consumer and appraisal profession and inadvertently created predatory appraisal management practices.

The Dodd-Frank Act provision that allows this loophole is nationwide appraiser reciprocity. The current reciprocity requirement states: *"A State board shall issue a reciprocal license or certification to an applicant from another state if the applicant holds a valid appraisal license or certification from a state who's licensing and certification program: (1) Is in compliance with the provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 [12 U.S.C. 3331-3351] as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010; and (2) That has credentialing requirements that meet or exceed those of the reciprocal licensing state."*

The Agencies state in the Guidelines the importance of appraiser competency for a particular assignment relative to both the property type and geographic market. The Agencies also state that when an institution is monitoring collateral values, an institution should have policies and procedures in place that address the need for obtaining current valuation information for collateral supporting an existing credit that may be modified or considered for a loan workout. An institution should be able to demonstrate that sufficient information is available to support the current market value of the collateral.

It is customary for banks and mortgage servicers to place orders with appraisal management companies for residential appraisals with an intended use of: loan workout, HAMP, short-sale decision, foreclosure, HELOC, equity loan, etc.

USPAP was revised January 2014 with updates to the appraisal report options and provided guidance on alternative valuation products and evaluations. The two appraisal options are now (1) Appraisal Report 2-2(a) and (2) Restricted Appraisal Report 2-2(b). An alternative desktop appraisal report or an evaluation appraisal report, completed by an appraiser, fall under one of these two reporting options depending on the needs of the client.

ASC Mandate Issue

There is no question that commercial appraisers may need to have multiple state licenses due to the complex nature of their work. However, appraisal management companies employ and contract with residential appraisers to quality-control review valuation reports and complete appraisal assignments. Reciprocal residential appraisal license requirements use to be up to the (potential) reciprocal state. Typically, if the appraiser's home state bordered another state that had similar licensing requirements, reciprocity was sought and granted by the secondary state. After the Dodd-Frank Act mandate, all authority was removed from the states and was given to the ASC, to the detriment of the residential consumer. Many residential appraisers' now have licenses around the country and in states and towns they have never visited. They are completing residential appraisal reports and appraisal review reports (standard 2 and standard 3) when they do not possess the requisite expertise and market competence to perform the appraisal and evaluation assignment. USPAP and the Interagency Appraisal and Evaluation Guidelines require competency when completing a residential appraisal assignment, including geographic and market competence. Many lower quality

appraisal management companies feel 'market competence' only applies to mortgage origination lending; therefore they ignore the lack of competence when assigning orders to their panel or staff.

Fraudulent AMC Practices

The lower quality appraisal management companies encourage more orders, more revenue, and even staff jobs to those appraisers willing to get these easily-obtainable state reciprocal residential appraisal licenses. Since the newly enacted ASC mandate, some appraisal management companies ask appraisal staff to obtain these easily-obtainable reciprocal licenses, (that some AMCs offer to cover the cost of), so the appraisal management company can keep appraisal assignments in house and under the umbrella of the staff employee and away from certain legislation. There are many appraisers that knowingly violate standards and the Interagency Appraisal and Evaluation Guidelines to complete Appraisal Review Reports St 3(1-6), Appraisal Reports 2-2(a), and Restricted Appraisal Reports 2-2(b) for additional revenue in states where they hold no market or geographic competence. Many appraisal management companies disregard USPAP when assigning orders with appraisers they know lack market and geographic competence. When staff mentions the potential violation of the state AMC Act or USPAP, senior staff ignores the concerns. Most state AMC Acts, however, require appraisal management companies to ensure appraisal reports are completed and quality-control reviewed in accordance to USPAP. So the question is, is the ASC reciprocal mandate in compliance with USPAP, IAG and the current states' AMC Act?

Many concerned staff appraisers have discussed this issue at length since the ASC mandated reciprocal authority over the states, especially with the growing popularity of AMC driven, low-cost, desktop alternative appraisal reports and ECOA Regulation B. Since January 18, 2014, borrowers have complained, asking why an appraiser five states over was allowed to provide a market value opinion on their home. The ASC allows it; or so the appraisal management company argues. But the one who is impacted is the borrower, who now receives a copy of the appraisal report and who has relied on a mortgage servicer or bank to provide a credible, unbiased, third party appraisal report on their residence. The other entity that is treated unfairly is the appraisal management staffer who knows it is wrong but scared to say anything due to pressure by their employer.

Predatory Appraisal Management Practices

Many mortgage servicers and banks place bulk orders with appraisal management companies, who in turn place bulk orders with one 'licensed' hub appraiser. This 'hub' appraiser has a working relationship with the appraisal management company. The 'hub' appraiser has mass residential appraisal licenses nationwide, therefore can take many orders. But this one appraiser cannot possibly complete all these orders by the client due date, so the hub appraiser hires non-appraisal staff to fill in the appraisal 'form' and sign the appraisers name, without the appraiser ever seeing the appraisal report. The unlicensed, non-appraisal staff are not located in the states where the properties are located. These reports are completed for the lender or mortgage servicer and 'packaged' by the appraisal management company as USPAP compliant Appraisal Reports (2-2(a)(b)). These bulk appraisal orders are typically desktop or drive-by orders and are for HAMP, OREO foreclosures, short-sales, HELOC's, Second Mortgage, SR 3 (1-6) Reviews, OREO Asset Monitoring, etc. None of these appraisal reports are USPAP, IAG, or state compliant and none follow the actual requirements of the client engagement letters.

The employee and contractor appraisers that refuse to obtain reciprocity in non-bordering states (or in areas where they are not market and geographically competent) are appraisers that these lower quality appraisal Management companies do not hire or contract with. Additionally, these lower quality appraisal management companies do not turn in these fraudulent and misleading appraisal reports to the board since they will be found to be in non-compliance themselves under the State AMC Act and could possibly have their state license revoked.

Per USPAP, an *appraisal* is a supported opinion of value. Per USPAP, an *evaluation* (completed by a licensed appraiser) is also a supported opinion of value. USPAP applies when an appraiser is *expected* to provide an opinion of value. Per the current AMC Act enacted by most states today, an appraiser must provide an appraisal (opinion of value) in accordance with USPAP and an appraisal management company must ensure the appraisal report was completed and QC reviewed in accordance to USPAP. If the client is a federally regulated institution, then federal guidelines also apply for that particular assignment. In order to appropriately protect the consumer, and ensure compliance from residential appraisers and all appraisal management companies, then the minimum requirements set forth in the proposed federally mandated AMC Act must adequately protect those from predatory appraisal management companies and predatory appraisal practices. If the federal regulators do not include staff appraisers and address the ASC provision on reciprocity of residential appraisal licenses, then appraisal management companies will continue to grow the 'hub' model and continue to perpetrate appraisal fraud to ensure a profit and to advocate for the client.

The homeowner is the one who truly receives the brunt of this fraudulent deception. Homeowners rightly expect a reliable, unbiased, and credible appraisal to determine a potential residential mortgage, home equity, short-sale, foreclosure or loan modification decision on their principle residence. All of these are stressful and lengthy processes filled with paperwork and endless patience. When the process begins with an indolent lender or deceitful mortgage servicer who enlists a deceptive third party appraisal management company, that knowingly does not use competent, knowledgeable and ethical appraisers, then potential mortgage fraud backed with a biased or unreliable appraisal can occur.

AMC Act Suggestions

Licensed Staff Compliance Person Required: An appraisal management company must be required to employ a Compliance Officer who is, at minimum, a certified appraiser. Currently, some states already require the appraisal management company to have one appraiser who is responsible to ensure the company complies with state and federal law. Some states, however, do not enlist an appraiser for this post and the appraisal management company is free to appoint anyone. The lower quality companies often appoint the owner or those who are not trained in appraisal practice, USPAP, IAG, or state and federal law.

Covered appraisal management company transactions: Appraisal management companies perform valuation services that include other services besides appraisals. Some appraisal reports today also include a broker price opinion as tool within the final appraisal report. Therefore, it is important to make it clear to the appraisal management company that **all** valuation assignments that they engage in for a federally regulated institution will be considered a covered transaction under the AMC Act. It must be clear that tampering with the output or violating with the independence of the evaluator of an appraisal, evaluation, BPO, or AVM will not be tolerated. A covered valuation report includes any appraisal report for a federally regulated institution for purposes of a lending, home equity, mortgage, HAMP, HELOC, loan workout, asset monitoring, short-sale, or a foreclosure decision on a consumer's primary residence.

Appraiser Competency: An appraisal management company must ensure that orders are placed with an appraiser who has the competency for a particular assignment relative to both the property type and geographic market. The AMC Act must hold the appraisal management company accountable if they place orders with appraisers they know lack (1) market and geographic competency (2) a valid license or appropriate license level for the assignment, or (3) if they know appraisal independence was compromised before or during the assignment due to staff, client, or borrower interference, pressure, or intimidation.

Order Placement: Appraisal management companies must be prohibited from providing a pre-determined range of value or estimate of value when placing an order. This would include providing pre-selected *comparable* sales or listings or an 'estimate' of value when the order is placed or prior to completion of the written appraisal report. This would include the appraisal management company, its agent, or staff providing sales or listings with the order including predetermined comparables with an appraisal assignment or during the appraisal process. The Management section of USPAP requires an appraiser to decline an assignment with the reporting of predetermined results, a direction in assignment results or the amount of a value opinion or range of a value opinion. The lower quality appraisal management companies still practice these deceptive techniques. However, as a third party to a federally regulated institution this should be clearly prohibited with swift penalties for violators.

Appraiser Panel: 'Appraiser panel' must also include licensed appraisal staff since they are often ask to complete appraisal reports and provide an opinion of value. When they are not a covered entity under the AMC Act it gives the lower quality appraisal management companies license to commit fraud and avoid detection. Staff feel like they do not have a voice with the board or federal regulators and in turn must do what their employers tell them.

Reciprocity Requirement Updated: Give the authority back to the states.

Conclusion

Most appraisal management companies today provide services that encompass a host of valuation products, not just those that solely include a licensed appraiser. To ensure that consumers are protected regardless of the valuation method chosen by the lender, and to prevent circumvention of the AMC Act, it is important to include rules that hold the appraisal management company accountable if they do not engage an appropriately licensed and geographically competent appraiser or evaluator for any given assignment. It is equally important that the appraisal management company know that the manipulation of any valuation product in order to gain a client's business or to advocate for the client will be a violation of the Act. In order to protect the consumer, the AMC Act should be strengthened so that

predatory appraisal management practices are clearly acknowledged making it clear that practices such as those outlined today will not be tolerated by The Agencies, the FHFA, NCUA or the CFBP.

Thank you.

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