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**STATEMENT OF
EXECUTIVE DIRECTOR JAMES R. PARK
APPRAISAL SUBCOMMITTEE
OF THE
FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL**

**BEFORE THE
HOUSE FINANCIAL SERVICES SUBCOMMITTEE ON
INSURANCE, HOUSING AND COMMUNITY OPPORTUNITY**

**HEARING ON
“MORTGAGE ORIGINATION: THE IMPACT OF
RECENT CHANGES ON HOMEOWNERS AND BUSINESSES”**

JULY 13, 2011

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I. Introduction

The Appraisal Subcommittee (ASC) appreciates the opportunity to provide information on behalf of the Chairman of the Federal Financial Institutions Examination Council about the Appraisal Subcommittee's mission and current activities. This statement will provide a general background and history of the ASC, including its creation in response to the savings-and-loan crisis of the 1980s, up to and including the ASC's expanded mission and authority pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The statement will describe the unique system and oversight structure for real estate appraisals and appraisers that involves private, State, and Federal entities.

Additionally, the statement will discuss the responsibilities of the ASC pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (Title XI). The Dodd-Frank Act amendments to Title XI authored by Chairman Biggert and former Congressman Kanjorski changed several provisions related to the ASC's operations, mission, and responsibilities. The statement will also address actions taken by the ASC consistent with Title XI as amended by the Dodd-Frank Act, and finally, will provide an overview of the ASC's Compliance Review process for evaluating State¹ appraiser regulatory programs' compliance with Title XI.

I. History of the ASC

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 created the ASC as an entity within the Federal Financial Institutions Examination Council (FFIEC). The FFIEC was established pursuant to the Financial Institutions Regulatory and Interest Rate Control Act of 1978 as an interagency body empowered to set uniform principles for the examination of federally regulated financial institutions. In general, the ASC operates

¹ "State" refers to the 50 States, the District of Columbia, and five territories.

independently of the FFIEC. The mission of the ASC, pursuant to Title XI, is to promote effective appraisal standards and appraiser qualification requirements in support of the Federal and State appraisal regulatory framework governing federally related transactions, which includes any real estate-related financial transaction that a Federal financial institution's regulatory agency engages in, contracts for, or regulates, and that requires the services of an appraiser.²

Following the savings-and-loan crisis of the 1980s, Congress passed Title XI to address identified weaknesses regarding real property appraisals used in connection with federally related transactions. Title XI recognized the need for minimum standards for the performance of appraisals and minimum qualifications of appraisers. Prior to Title XI, appraisals for federally related transactions and the appraisers who performed them, were, for the most part, unregulated at either the Federal or State level. Poor quality appraisals were a contributing factor to the numerous bank and savings and loan failures. Therefore, Title XI sought to address this situation with an emphasis on the importance of appraisals to support safe and sound real estate lending activity of federally regulated institutions and to protect Federal financial and public policy interests in real estate transactions.

Title XI created a regulatory framework for real estate appraisals and appraisers that involves private, State, and Federal entities, including:

- The Appraisal Foundation, a private non-profit corporation, is responsible for promulgating generally accepted appraisal standards and minimum real property appraiser qualification criteria. The Foundation serves as the parent organization for two boards established to accomplish this mission: the Appraisal Standards Board (ASB) and the Appraiser Qualifications Board (AQB). These boards respectively promulgate and

² Title XI § 1121 (4), 12 U.S.C. 3350, as amended.

maintain the Uniform Standards of Professional Appraisal Practice (USPAP) and the Real Property Appraiser Qualification Criteria (AQB Criteria).³

- State appraiser regulatory agencies⁴ are responsible for the certification, licensing and supervision of appraisers.
- The Federal financial institutions regulatory agencies are responsible for prescribing appropriate standards for the performance of real estate appraisals in connection with federally related transactions under the jurisdiction of each such agency.
- The ASC provides Federal monitoring, support and oversight to both the private and State entities.

The ASC Board is made up of seven members as designated by the heads of the Federal financial institutions regulatory agencies, the Department of Housing and Urban Development, and, pursuant to the Dodd-Frank Act, the Federal Housing Finance Agency (FHFA) and the Consumer Financial Protection Bureau (CFPB). FHFA appointed a representative to the ASC in November 2010. The ASC anticipates the CFPB will appoint a representative once the Bureau is established.

II. Responsibilities of the ASC Pursuant to Title XI

In response to the most recent financial crisis, Congress passed the Dodd-Frank Act, which was signed into law on July 21, 2010. The Dodd-Frank Act has added an emphasis on consumer and residential mortgage lending, recognizing that appraisals provide important information on a property, including its market value, that assists consumers in making informed borrowing decisions. With the enactment of the Dodd-Frank Act, the amendments to Title XI expanded the

³ The AQB Criteria establishes the minimum requirements for credentialing of appraisers qualified to perform appraisals for federally related transactions, including education (for initial qualification and continuing), experience and examination.

⁴ "State" refers to the 50 States, the District of Columbia, and five territories.

ASC's mission and authority and provided additional tools for the ASC in carrying out its responsibilities.

Pursuant to Title XI as amended, the ASC monitors the requirements established by States for the certification and licensing of appraisers qualified to perform appraisals in connection with federally related transactions (including a code of professional responsibility).⁵ Specifically, States must adopt and/or implement all relevant AQB Criteria for the certification and licensing of appraisers.

Title XI requires the ASC to monitor both the requirements established by the Federal financial institutions regulatory agencies with respect to appraisal standards for federally related transactions under their jurisdiction, and the agencies' determinations as to which federally related transactions under their jurisdiction require the services of a State certified or licensed appraiser.

The ASC is required to maintain a National Registry of State certified and licensed appraisers who are eligible to perform appraisals in federally related transactions. Through the National Registry, State and Federal regulators, lenders, and consumers can determine whether an appraiser holds the appropriate credentials and remains in good standing with the State. The Registry became operational in 1992 and is available on the ASC website (www.asc.gov). Over the years, system enhancements have been made to the National Registry to improve public access. In March 2010, an updated National Registry system and ASC website were implemented, including automated email notification to registry subscribers on updates to National Registry information, such as credential expiration and public disciplinary actions. The updated National Registry allows authorized and properly trained personnel from each State to

⁵ Title XI § 1103 (a), 12 U.S.C. 3332, as amended.

update in real time a State's own disciplinary actions taken against appraisers and National Registry submissions.

At the end of 2010, the Registry contained more than 110,000 credential entries,⁶ down approximately 5 percent from the 116,000 credential entries at the end of 2009, and down approximately 9.5 percent from the peak of over 121,000 in 2007. The decrease in credential entries appears to be attributable, in part, to declining mortgage lending volume since 2007. The ASC continues to evaluate the Registry to add features that improve its value to Federal and State regulators, lenders, consumers and other users of appraisal services.

The ASC is required to transmit an annual report to Congress not later than June 15 of each year that describes its activities during the preceding year. The 2010 Annual Report has been submitted to Congress and is available on the ASC website (www.asc.gov).

The ASC is further required to monitor and review the practices, procedures, activities and organizational structure of the Appraisal Foundation. In monitoring the Foundation's Title XI-related activities, ASC staff attends AQB, ASB, and Foundation Board of Trustees meetings. ASC staff also reviews and comments on proposed and final published documents regarding the AQB Criteria and USPAP.

Pursuant to Title XI, amounts appropriated for or collected by the ASC shall be used, among other things as enumerated in Title XI, "to make grants in such amounts as it deems appropriate to the Appraisal Foundation, to help defray those costs of the Foundation relating to the activities of the Appraisal Standards and Appraiser Qualifications Boards."⁷ The Appraisal Foundation submits an annual grant request to the ASC for Title XI-related activities of the ASB and AQB. The ASC provided approximately \$1.28 million in grant funding to the Foundation in fiscal year

⁶ "Credential entries" refers to the number of appraiser credentials, not the number of appraisers. It is not uncommon for the same appraiser to hold multiple State credentials.

⁷ Title XI § 1109 (b) (4), 12 U.S.C. 3338, as amended.

2010. Between 1989 and 2010, the ASC has provided approximately \$15 million in grant funds to the Appraisal Foundation. The ASC engages a public accounting firm to review the Foundation's grant-related activities and the request(s) for reimbursement.

Since 2009, the ASC has been providing the Foundation grant funds for the development, presentation, and hosting of State Investigator Training Courses. The courses, developed jointly by the Appraisal Foundation, the States, and the ASC staff, fill a void for States that would not otherwise have access to these professional development opportunities at a time when States have limited financial resources. During 2010, the course was offered in four locations across the country. Attendance at these courses included 49 of the 55 States, and over 160 State investigators, board members, attorneys and board staff participated. The grant funds paid for attendees' materials, lodging, and travel expenses for at least three individuals from each State. The course is intended to promote more effective complaint investigation and resolution by establishing training for State investigators. The training covers topics such as USPAP and proper investigative techniques, and provides resources to aid the States in their investigative processing of complaints against appraisers. Due to the positive feedback from the States, the ASC approved funding for additional investigator courses for 2011.

The Dodd-Frank Act contains several provisions related to the ASC's operations, mission, and responsibilities. The most significant provisions address:

- Addition of the FHFA and CFPB as Federal agencies with representation on the Appraisal Subcommittee;
- Authority to monitor States' regulation of Appraisal Management Companies (AMCs);
- Rulemaking authority with regard to (1) temporary practice, (2) National Registry, (3) information sharing, and (4) enforcement;

- Authority to provide grants to the State programs;
- Requirement for States to have a policy for issuing a reciprocal certification or license to an appraiser from another State under certain conditions;
- Requirement for States with an appraiser license level category to adopt and implement the minimum qualification criteria issued by the AQB;
- Minimum qualification requirements established by a State for individuals in the position of “Trainee Appraiser” and “Supervisory Appraiser;” and
- Establishment of a National Appraisal Complaint Hotline.

As a result of these new Federal statutory mandates, States will need to revise their programs and, in some States, may need to adopt legislation or regulations to implement changes to their programs. Actions already taken by the ASC pursuant to the requirements of the Dodd-Frank Act include:

- *ASC Meetings:* In October 2010, the ASC approved amendments to its Rules of Operation to implement formal open meeting requirements in the legislation. Through the ASC’s website and publication in the *Federal Register*, the public receives advance notice of the ASC’s monthly board meetings and may attend the open session with advance notification.
- *ASC Membership:* In November 2010, the FHFA designated a representative to the ASC. The FHFA staff attended ASC meetings as observers in advance of formally designating a representative. The CFPB staff recently began attending ASC meetings in advance of CFPB formally designating a representative.
- *Modification to the ASC National Registry Fee:* To be listed on the National Registry, appraisers are required to pay an annual registry fee to States which remit the funds to the

ASC. On October 13, 2010, the ASC approved an increase in the annual National Registry fee from \$25 to \$40 to support its activities, including additional authority under the Dodd-Frank Act.⁸ The fee increase takes effect January 1, 2012. This is the first increase in the National Registry fee since Title XI established the fee in 1989.

- *National Appraisal Complaint Hotline:* The Dodd-Frank Act required, within six months of its enactment, the ASC to determine whether a national appraisal complaint hotline existed to receive complaints of noncompliance with appraisal independence standards and USPAP. At its January 12, 2011 open meeting, the ASC determined that an appraisal complaint hotline as prescribed in the Dodd-Frank Act was not currently in operation. Consistent with the Act's mandate, the ASC is now studying the establishment and operation of a national appraisal complaint hotline.
- *GAO Study:* The Dodd-Frank Act required the GAO to conduct a study on the ASC. That study is currently underway and scheduled to be completed by the end of 2011.

The Dodd-Frank Act also requires the ASC to undertake several other reforms, which the ASC has not yet fully implemented. For example, the ASC must monitor the requirements established by States for the registration and supervision of AMCs⁹ and maintain a National Registry of AMCs, which is dependent upon the establishment of AMC registration framework requirements by the Federal financial institutions regulatory agencies, FHFA and the CFPB. The

⁸ See 75 *Federal Register* 65629 (October 26, 2010).

⁹ Pursuant to Title XI § 1121 (11), as amended by the Dodd-Frank Act, the term "appraisal management company" means, in connection with valuing properties collateralizing mortgage loans or mortgages incorporated into a securitization, any external third party authorized either by a creditor of a consumer credit transaction secured by a consumer's principal dwelling or by an underwriter of or other principal in the secondary mortgage markets, that oversees a network or panel of more than 15 certified or licensed appraisers in a State or 25 or more nationally within a given year—

(A) to recruit, select, and retain appraisers;
(B) to contract with licensed and certified appraisers to perform appraisal assignments;
(C) to manage the process of having an appraisal performed, including providing administrative duties such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and underwriters, collecting fees from creditors and underwriters for services provided, and reimbursing appraisers for services performed; or
(D) to review and verify the work of appraisers.

commencement date for the AMC Registry and the annual AMC registry fees will be dependent upon the adoption of the Federal regulations and establishment of the State's AMC registration framework.

Overview of State Compliance Review Process

A key part of the ASC's mission is to monitor and assess State appraiser regulatory programs. State programs are assessed every two years, through an on-site Compliance Review process, for compliance with Title XI. Compliance Reviews are scheduled to coincide with a meeting of a State program's decision-making body whenever possible, and are conducted over a two- to four-day period. ASC staff assess the State programs for compliance with Title XI, ASC Policy Statements,¹⁰ and AQB Criteria. For example, ASC staff will assess whether States' appraiser qualification criteria meet the AQB Criteria, and whether States are taking disciplinary actions against appraisers in a responsible and timely manner so that incompetent and unqualified appraisers are not allowed to conduct appraisals for federally related transactions. The ASC's Compliance Review of the State programs focuses on three key components of Title XI: (1) implementation and enforcement of USPAP and the AQB Criteria; (2) adequacy of the State's statutory or regulatory authority, funding and staffing to successfully carry out Title XI-related functions; and (3) consistency with Title XI in the decisions of the State programs.

Over the past three years, the ASC has taken steps to increase and improve communications with the States. Last year marked the second full year the ASC conducted State reviews under the revised ASC Compliance Review process, and with positive results. During the 2009-2010 review cycle, 41 percent of the States were found in substantial compliance with Title XI as compared to 16 percent during the 2007-2008 review cycle. The new process provides a State

¹⁰ The ASC periodically issues Policy Statements to assist the States in understanding the ASC's expectations for State programs. The Policy Statements reflect the general framework that the ASC uses in the Compliance Review process. Any revisions to the Policy Statements would be considered in light of the ASC's new rulemaking authority as established by the Dodd-Frank Act.

with an opportunity to review the ASC staff's Preliminary Findings, ask for clarifications and provide their response to the ASC prior to a final determination of compliance. Once ASC staff completes their Preliminary Findings, which are communicated in an ASC staff report to a State, the State is given 60 days to respond. The ASC staff then considers the State's response(s) and makes formal recommendations to the ASC Board members for final disposition. The ASC Board members consider the ASC staff report and recommendations along with responses from the State before rendering a decision.

The ASC Board members issue a final Compliance Review Report and letter to the State with a determination regarding the State's compliance with Title XI. State programs are found to be either: (1) in substantial compliance; (2) not in substantial compliance; or (3) not in compliance.

The general areas of non-compliance with Title XI and the number of States experiencing those problems are presented in the 2010 Annual Report available on the ASC website (www.asc.gov). Timeliness of the investigation and resolution of complaints against appraisers continues to be the most common area of non-compliance for the States.

In 2010, the ASC staff conducted 26 Compliance Reviews and eight Follow-up Reviews. In addition, ASC staff conducted six State Priority Contact Reviews which are scheduled on an as-needed basis. These Priority Contacts provide ASC staff the opportunity to visit with a State that may pose a relatively high risk to the appraisal regulatory system, such as a State with a large population of appraisers, a State with major changes to the program leadership, or a State with past compliance concerns.

As reported in the ASC 2010 Annual Report, eight States collectively represented over 50 percent of the appraiser credentials on the National Registry and, therefore, are reviewed on an

annual basis. This included California, Colorado, Florida, Georgia, Illinois, New York, Texas, and Virginia.

The following table, based on information from the ASC 2010 Annual Report, recaps the results of the 2008, 2009, and 2010 Compliance Reviews organized by the requirements and areas of guidance considered by the ASC in the review of a State's appraisal regulatory program. As disclosed in the ASC 2010 Annual Report, States face significant challenges given the current financial environment, which has placed a strain on several States' resources for their appraiser regulatory programs.

Areas of Non-Compliance			
Requirement/Guidance Areas	26 States Reviewed for Compliance in 2010	32 States Reviewed for Compliance in 2009	26 States Reviewed for Compliance in 2008
	2010 26 States Reviewed	2009 32 States Reviewed	2008 26 States Reviewed
Statutes, Regulations, Policies and Procedures:	4	7	15
Temporary Practice:	1	0	8
National Registry:	1	1	4
Application Process:	9	19	8
Reciprocity:	0	0	0
Education:	0	0	0
Enforcement:	19	15	16
State Compliance Status			
	2010 26 States Reviewed	2009 32 States Reviewed	2008 26 States Reviewed
In Substantial Compliance	10	14	5
Not in Substantial Compliance	16	18	20
Not in Compliance	0	0	1

Title XI authorizes the ASC to take action against a State in the case of non-compliance, which historically was limited to an order of non-recognition. Such an order would effectively mean that federally regulated financial institutions would be unable to conduct real estate lending in a non-compliant State as institutions would be unable to employ the State's appraisers for appraisals in federally related transactions. Pursuant to the Dodd-Frank Act, the ASC now has

new rulemaking and additional sanctioning authority. With regard to any future ASC rulemaking, the Dodd-Frank Act directs the ASC to establish an advisory committee of industry participants, including appraisers, lenders, consumer advocates, real estate agents, and government agencies, and hold meetings as necessary to support the development of such regulations.

Conclusion

In conclusion, the Dodd-Frank Act made significant amendments to Title XI that will take several years to fully implement. Given the significant new responsibility and authority given to the ASC, staffing and other resources are being carefully analyzed and monitored to ensure the agency has the proper resources to fulfill its Title XI requirements. As stated in the 2010 ASC Annual Report, the ASC has indicated its dedication to carrying out its new and existing Title XI mandates transparently and efficiently.