

Testimony of
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Appraisal Oversight: The Regulatory Impact on Consumers and Businesses

U.S. House of Representatives
Committee on Financial Services
Subcommittee on Insurance, Housing and
Community Opportunity

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INTRODUCTION

Madame Chair and members of the Subcommittee, The Appraisal Foundation greatly appreciates the opportunity to appear before you today to offer our perspective on the regulation of real estate appraisers.

There are many misconceptions about The Appraisal Foundation and let me begin by stating that the Foundation is not:

- a government agency or regulatory body;
- created by Congress;
- an appraisal trade association.

Rather, The Appraisal Foundation:

- is a non-profit 501 (c) 3 educational organization;
- was founded by eight national appraisal organizations 25 years ago;
- serves as an umbrella organization representing over 100 organizations and government agencies with an interest in valuation (see attached list);
- was created to foster professionalism in appraising.

We are the private sector expertise in the real property appraiser regulatory system. The Foundation was given specific authority by Congress in 1989 (Title XI of FIRREA) regarding the real property appraiser regulatory system. The Foundation does not have any regulatory authority, but it provides tools for the regulatory community.

Specifically:

- individuals seeking to become a trainee appraiser, supervisory appraiser, state licensed appraiser or state certified appraiser must meet the minimum qualification requirements established by the Foundation's Appraiser Qualifications Board;
- all states and territories must use licensing and certification examinations either issued or endorsed by the Foundation's Appraiser Qualifications Board; and
- all state licensed and certified real estate appraisers must adhere to certain standards of conduct (the *Uniform Standards of Professional Appraisal Practice*) written by the Foundation's Appraisal Standards Board.

Before addressing the specific topics on which you are seeking our perspective, I would like to provide some additional background on the Foundation and its work to date.

FOUNDATION STRUCTURE

The Appraisal Foundation is governed by a 25 member Board of Trustees. The Board of Trustees appoints members to the Foundation's independent Boards, secures funding for Foundation operations and provides oversight of the Foundation's advisory councils and independent Boards. The three independent Boards are:

Appraiser Qualifications Board (AQB)

The AQB sets the minimum education, experience and examination requirements for trainees, state licensed appraisers, state certified residential appraisers and state certified general appraisers. These AQB established minimums are collectively known as the *Real Property Appraiser Qualification Criteria* ("*Qualification Criteria*"). State regulatory agencies must meet the threshold set by the AQB and may exceed that level if they so choose.

First offered in 2008, the AQB National Uniform Licensing and Certification Examination is currently used by all 55 states and territories that license and certify appraisers. States and examination vendors may opt to develop their own examinations that must be approved by the AQB, but at the present time none have chosen to do so.

Approximately every five years the AQB reviews the *Qualification Criteria* to determine what, if any, revisions should be made. Their most recent revision will go into effect on January 1, 2015 and, for the first time a college degree will be required for the state certified classifications. Even with four significant *Qualification Criteria* revisions over the past twenty years, the U.S. still has the distinction of having one of the lowest sets of qualifications for appraisers in the industrialized world. For example, in Mexico an individual must first become an architect or engineer before they can subsequently become an appraiser (known as a "valuer" in most other countries).

Appraisal Standards Board (ASB)

The ASB sets forth the rules for developing an appraisal and reporting its results through the *Uniform Standards of Professional Appraisal Practice* (USPAP). USPAP contains the recognized standards of practice for real estate, mass appraisal, personal property and business appraisal and is considered one of the finest sets of domestic valuation standards in the world.

The authority of USPAP extends beyond FIRREA. Since 1992, the Office of Management and Budget (OMB) has required federal land acquisition and direct lending agencies to use appraisals in conformance with USPAP. In addition, many

states require appraisals performed for any purpose to be USPAP-compliant and completed by state licensed or certified appraisers.

In addition to containing the Standards, USPAP also provides guidance in the form of Advisory Opinions and over 300 Frequently Asked Questions. Originally updated quarterly, USPAP is now published every two years. USPAP is a living document that reflects the ever-changing needs of the marketplace. For instance, the growing presence of Appraisal Management Companies (AMCs), alternative valuation products and the electronic transmission of appraisal reports in recent years has resulted in numerous inquiries to the ASB from appraisers, appraiser regulators and users of appraisal services.

Appraisal Practices Board (APB)

The APB was created by the Foundation in 2010. This board offers voluntary guidance to appraisers, regulators and users of appraisal services on recognized valuation methods and techniques for all valuation disciplines. For lack of a better term, it is our “how to” board.

The genesis of the APB was the collapse of the housing market in 2008. For many appraisers this was the first time that they were confronted with declining prices, short sales and foreclosures. Because a majority of appraisers do not belong to any professional appraisal organization, the question became “*Where do appraisers get guidance for their practice?*” The Foundation established the APB to fill an existing void.

The APB annually solicits stakeholders to identify topics where additional guidance appears to be needed. Teams of experts are then selected to work with the APB in developing the appropriate guidance. This guidance is known as a *Valuation Advisory* and may include more than one recognized method or technique that addresses the specific issue.

Valuation Advisories issued to date include:

- *The Identification of Contributory Assets and the Calculation of Economic Rents (Business Valuation)*
- *Adjusting Comparable Sales for Seller Concessions*
- *Residential Appraising in a Declining Market*

Valuation Advisories currently under development include:

- *Identifying Comparable Properties*

- *Appraising Green Buildings – Background Competence*
- *The Valuation of Customer-Related Assets (Business Valuation)*
- *Control Premiums for Financial Reporting (Business Valuation)*
- *Contingent Consideration (Business Valuation)*

It should also be noted that this guidance is available to appraisers, regulators and the general public at no charge and there is no requirement to use or adhere to the guidance.

PUBLIC TRUST AND TRANSPARENCY

A cornerstone of the work of the Foundation lies in building and maintaining public trust in the appraisal profession. In fact, the words “public trust” appear in our mission statement:

*The Appraisal Foundation is dedicated to promoting professionalism and ensuring **public trust** in the valuation profession. This is accomplished through the promulgation of standards, appraiser qualifications, and guidance regarding valuation methods and techniques.*

One important way to build and maintain public trust is to promote transparency whenever and wherever possible. Our Boards conduct public meetings and adopt their work product in that setting. The Boards issue exposure drafts of pending work and post all public comments received on our website. We also conduct public interviews of candidates seeking to serve on our Boards.

In addition, as part of our commitment to promoting the public trust, we have worked with several U.S. government agencies, at their request, on developing specific recommendations to improve their internal appraisal operations, to assist in their investigative work relating to valuation or to assist in developing new policies and procedures. Over the past several years we have worked with the following government agencies:

- U.S. Department of Agriculture, Forest Service
- U.S. Department of Interior, Bureau of Land Management
- Office of Special Trustee for American Indians
- U.S. Department of the Interior, Minerals Management Service
- U.S. Department of Agriculture, Natural Resources Conservation Service
- U.S. Department of Energy

**FOUNDATION PROJECTS TO IMPROVE
THE REAL PROPERTY APPRAISER REGULATORY SYSTEM**

In recent years we have had an excellent working relationship with the Association of Appraiser Regulatory Officials (AARO). The real property appraiser regulatory system is an unfunded federal mandate which has resulted in many states facing significant personnel and financial challenges. As a part of the appraiser regulatory system, the Foundation has made it a priority to assist state appraiser regulators whenever possible. The following are some examples of collaborative efforts benefitting state appraiser regulators.

State Investigator Training

State appraiser regulatory agencies investigate complaints using a variety of methods. Some states have full-time appraiser investigators, some share investigators with other professions and trades, some use state board members and others contract with appraisers.

To help promote consistency in investigations of appraisal complaints, AARO and the Foundation developed a 2 ½ day course focusing on USPAP, fundamental investigative and interviewing techniques and reporting the findings.

Since 2009 we have conducted ten State Investigator Training Course offerings attended by more than 360 state investigators. Nearly 240 investigators have taken the entry-level course and over 125 have gone on to take the 2 ½ day advanced course. This year, we are offering the entry-level course in June and the advanced course in August. The Foundation, with a grant from the Appraisal Subcommittee (ASC), covers all of the travel and lodging expenses for the attendees so that state budgetary restrictions do not limit participation.

In addition, in December 2011 we filmed a four-hour “investigator update” at the Mock Court Room of George Washington University Law School. This update is for those who have taken both the entry-level and advanced courses. It is our belief that this video will have a shelf life of at least five years and can be viewed from the investigators home or office.

This project is a great example of how the Foundation, AARO and the ASC can cooperatively produce a successful program that benefits the public in the form of a more efficient and consistent nationwide appraiser regulatory system.

Foundation eLibrary/Training Videos

The Appraisal Foundation has produced a series of video training sessions, some designed specifically for state appraiser regulators and others for all appraisers. These training videos are located in the eLibrary on the Foundation's web site.

Some of the videos currently included in the eLibrary are of specific interest to state appraiser regulators, including:

- *USPAP Summary of Actions for the 2012-13 Edition*
A brief summary of the most recent changes to USPAP provided by the ASB Chair and Vice Chair.
- *2012-13 USPAP Update for State Regulators*
A presentation by the ASB Vice Chair on the most recent changes to USPAP geared specifically for state regulators.
- *Mock Administrative Hearing*
A four-hour Mock Administrative Hearing that includes a question and answer session with state regulators.
- *An Introduction to Green Buildings and their Valuation*
A panel discussion including representatives from the White House, the U.S. Department of Energy, the U.S. Green Building Council and Cushman & Wakefield.
- *Appraisal Regulatory Investigator Update*
An update for participants who have completed the entry level and advanced level of the State Investigator Training filmed at the George Washington University Law School.

This August we are filming the following videos that will be of interest to state appraiser regulators:

- Understanding the Real Property Appraiser Regulatory System
- The AQB *Real Property Appraiser Qualification Criteria* Changes Effective 2015
- The Role and Responsibilities of the Appraisal Practices Board

Consistent Enforcement

Many jurisdictions have differing enforcement philosophies, with some placing more emphasis on fines, education or probation. However, they are all enforcing the same document, USPAP, so there should be consistency in enforcement.

The Foundation appointed a task force composed of state and federal appraisal regulators to develop recommended voluntary disciplinary guidelines for the states. In August 2010 the Foundation issued a *Voluntary Disciplinary Action Matrix* for use by state appraiser regulatory agencies. The matrix cites specific violations of USPAP and recommended disciplinary action. The matrix also contains a list of aggravating and mitigating circumstances to consider. The matrix is updated with each edition of USPAP and is made available to all state regulators.

SPECIFIC COMMENTARY REQUESTED BY THE SUBCOMMITTEE

1) Please provide a summary of and the challenges of the new strategic plan of The Appraisal Foundation and a review of the evolution of the Appraisal Practices Board (APB).

The Proposed Strategic Plan of The Appraisal Foundation

The Strategic Plan Task Force was established in 2011 by the Chair of the Board of Trustees. With 2012 marking the 25th Anniversary of The Appraisal Foundation, the leadership of the Board of Trustees agreed that the time was right to take a close look at where The Appraisal Foundation is heading as it moves into its next 25 years. The Task Force, which is composed of appraisers, users of appraisal services and regulators, with representation from the many appraisal organizations and stakeholders, was charged with reviewing the history of The Appraisal Foundation (where it started, where it is now and where it will go in the future).

Since May of 2011, the Task Force met numerous times via conference call and held in person sessions in September 2011 and January 2012. The January meetings culminated in an initial briefing with the Executive Committee of the Board of Trustees. Since that meeting, the Task Force held several conference calls to refine its initial recommendations. These draft recommendations were presented to the Board of Trustees and the Sponsors of the Foundation on May 17 and May 18 in conjunction with the Spring Board of Trustees meeting.

It is anticipated that the proposed Strategic Plan of the Task Force will be submitted to the Board of Trustees next month. Assuming it is accepted by the Board of Trustees, *it will be publicly exposed to all stakeholders for ninety days*. This November the Board of Trustees will take into account public comments received and make a final determination on approving the Strategic Plan.

The main elements of the plan include:

- 1) Revised Foundation Vision and Mission Statements
- 2) Outreach and Communications
- 3) Interaction with State and Federal Regulators
- 4) Future Educational Role of The Appraisal Foundation
- 5) Potential Future Funding Sources
- 6) Future Role of Foundation Sponsors
- 7) Proposed Foundation Structure
- 8) Staying Abreast of Changing Valuation Products
- 9) Reaching out to Young and New Professionals
- 10) Future Foundation Relationship with Academia
- 11) Branding of The Appraisal Foundation

Following the briefing to the Trustees in May on the above items, the Board voted to revise the Vision and Mission Statements as suggested by the Task Force because they were viewed by the Trustees as being merely clarifying in nature. A National Education Partnership Task Force was also appointed to further define and look into the feasibility of draft recommendation #4, which included a joint effort to develop educational course materials with the Sponsors of the Foundation.

The Evolution of The Appraisal Practices Board

The genesis of the APB was the collapse of the housing market in 2008. For many appraisers this was the first time that they were confronted with declining prices, short sales and foreclosures. Because over two thirds of appraisers do not belong to a professional appraisal organization, the question became “*Where do appraisers get guidance for their practice?*” This was first brought to the attention of the Foundation at a meeting with the Appraisal Subcommittee in December 2008. At that meeting some members of the Appraisal Subcommittee expressed concern about the fact that the Foundation was not providing guidance to appraisers regarding valuation methods and techniques. They stated that, given our public charge, the Foundation has a responsibility to be of assistance.

This discussion was brought to the attention of the Executive Committee of the Foundation’s Board of Trustees by Foundation staff the following month. It was the determination of the Trustees that a task force should be appointed to determine:

- 1) Does a void currently exist regarding the issuance of guidance on valuation methods and techniques?

- 2) If such a void exists, is the Foundation the appropriate organization to fill the void, or is there another vehicle (or entity)?

Following several months of deliberations, the Task Force on Recognized Valuation Methods and Techniques recommended that the Foundation Board of Trustees give consideration to creating a third independent Board charged with issuing recognized valuation methods and techniques.

In October 2009 the Board of Trustees approved the creation of the Appraisal Practices Board (APB). It was constituted on July 1, 2010.

The APB annually solicits stakeholders to identify topics where additional guidance appears to be needed. Teams of experts are then selected to work with the APB in developing the appropriate guidance. This guidance is known as a *Valuation Advisory* and may include more than one recognized method or technique that addresses the specific issue.

In summary, it is important to note the following about the APB:

- (1) The APB does not have any Congressional authority and adherence to the guidance is *strictly voluntary*;
- (2) The APB does not operate with any public/grant funds; and
- (3) The Foundation does not charge for the Valuation Advisories issued by the APB.

2) Please provide a summary of and the challenges to the Uniform Standards of Professional Appraisal Practice (USPAP).

The *Uniform Standards of Professional Appraisal Practice* (USPAP) are promulgated by the Appraisal Standards Board of The Appraisal Foundation. They are the generally recognized set of valuation performance standards in the United States and are considered one of the best sets of domestic standards in the world. In addition to real estate, USPAP also covers, mass appraisal, personal property and business valuation.

Promulgating USPAP has several challenges. The first is that it must be flexible and broad enough to address the myriad of valuation problems confronting appraisers while at the same time being definitive enough to be an effective enforcement document for appraiser regulatory officials to use in their disciplinary proceedings. This is one of the primary reasons that the Foundation has established such a close and productive relationship with the Association of Appraiser Regulatory Officials (AARO) over the years. AARO shares concerns the regulators have about USPAP and we have the opportunity to share the rationale and intent of the Appraisal Standards Board in drafting the Standards.

The ever changing conditions of the marketplace present another challenge for the Appraisal Standards Board in promulgating USPAP. For instance, the growing presence of Appraisal Management Companies (AMCs), alternative valuation products and the electronic transmission of appraisal reports in recent years has resulted in numerous inquiries to the ASB from appraisers, appraiser regulators and users of appraisal services.

As far as the effectiveness of the Appraisal Standards Board in issuing standards, the Government Accountability Office (GAO) report issued in January of this year (Report 12-147) contained a survey of state appraiser regulatory agencies. One question asked about the effectiveness of the Appraisal Standards Board in setting standards for the way appraisals should be conducted. The results were as follows:

Very/Somewhat Effective: 74%
Somewhat/Very Ineffective: 6%
Neutral/Don't Know: 20%

3) Please provide an overview of the regulatory actions taken by The Appraisal Foundation and the Appraisal Subcommittee.

The Appraisal Foundation

As previously stated, the Foundation does not have any regulatory authority but does provide the tools for the appraiser regulatory community to perform its duties. The Dodd-Frank Financial Reform Act gave additional Congressional authority to the independent Boards of the Foundation.

States who have a state licensed residential appraiser classification must now meet the *AQB Real Property Appraiser Qualification Criteria* for that classification. In addition if a state has a trainee appraiser classification, it must meet the *AQB Qualification Criteria* for trainee appraiser as well as for supervisory appraisers. The AQB adopted revisions to the *Qualification Criteria* for these and other classifications in December 2011, with an effective date of January 1, 2015.

The Dodd-Frank Financial Reform Act also calls for the Federal financial regulatory agencies to consult with the Appraisal Standards Board regarding quality control standards for automated valuation models (AVMs). While we have not been contacted to date, we stand ready to assist.

The Appraisal Subcommittee

We believe that the increased regulatory authority granted to the Appraisal Subcommittee as a result of the enactment of the Dodd-Frank Financial Reform Act enhances and clarifies the role of the Appraisal Subcommittee. Grants to the states, the establishment of a national appraisal hot line, the ability to promulgate regulations and the future regulation of Appraisal Management Companies (AMCs) all are improvements to Title XI.

4) Please outline any other industry related Federal activities that are of importance to your organization.

We have two areas of industry related Federal activities that are of importance to the Foundation:

Recommendation Regarding Appraisal Subcommittee Grants to the States

The Dodd-Frank Financial Reform Act authorizes the Appraisal Subcommittee to:

“make grants to state appraiser certifying and licensing agencies in accordance with policies to be developed by the Appraisal Subcommittee, to support the efforts of such agencies to comply with this title, including the complaint process, complaint investigations and appraiser enforcement activities of such agencies.”

Providing grants to individual jurisdictions may prove to be problematic due to issues relating to defining specific needs, tracking funds and grant administration. We recommend that consideration be given to using the funds to train numerous states concurrently. This could be done through the classroom format used for state investigator training or through videos and/or webcasts. While we may never achieve *uniformity* in all 55 states and territories regulating appraisers, this would go a long way to help promote *consistency* among the states. Topics for such training could include:

1. Legal Staff Training
2. Board Member Training
3. Administrative Staff Training
4. Understanding the Complaint Process
5. Promoting Consistent Enforcement

The Appraisal Foundation stands ready to assist in administering these training sessions, as it has with the state investigator training sessions.

Recommendation Regarding The Feasibility of Establishing a Self-Regulatory Organization System for Appraisers in the U.S.

It has been brought to our attention that there may be a proposal offered at the hearing to replace the current appraiser regulatory system as mandated by Title XI of FIRREA with a Self-Regulatory Organization (SRO) system, operated by a trade association.

For the past two decades the Foundation has been working with non-profit organizations and governments around the world regarding appraiser regulatory systems. In countries where there is one principal appraisal trade organization, such as in Great Britain and Australia, the system can work quite well. It can also work well in countries or regions where the valuation profession is just developing. We assisted groups in Russia and the League of Arab States in the Middle East in this regard.

However, in many countries it can be problematic and the U.S. is one of those countries. The Appraisal Institute is the largest trade association in the U.S., yet over two-thirds of state licensed and certified appraisers are not members. In addition, there are over fifteen national and regional appraiser organizations. Due to this fragmentation, an SRO doesn't appear to be feasible.

In addition, there is the question of effective enforcement. According to the Government Accountability Office (GAO) report issued in January of this year (Report 12-147), state appraiser regulatory agencies, often with limited resources, have been very active over the past ten years. They have issued almost 16,000 disciplinary actions, including almost 2,300 revocations and voluntary surrenders and over 1,800 suspensions.

We don't believe an SRO system would produce anywhere near the diligence and enforcement record that has occurred in the 55 jurisdictions currently regulating appraisers. In addition, it is important to note that Title XI was in large part enacted because the trade associations did not adequately police their own members.

CONCLUSION

The Title XI real property appraiser regulatory system, while certainly unique and not without its flaws, has made a very real difference. It is the glue that holds the 55 jurisdictions together and every effort should be made to further refine and improve a system that has demonstrated effectiveness *without the use of appropriated funds*. The

Appraisal Foundation stands ready to assist with this effort in any manner you believe is appropriate.

Again, The Appraisal Foundation appreciates the opportunity to share its perspective with you today and we urge this Subcommittee and all members of Congress to continue to use the Foundation as a fair, impartial and objective resource on valuation-related issues.