



Statement for the Hearing Record

Mortgage Bankers Association

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

**“Appraisal Oversight: The Regulatory Impact on Consumers
and Businesses”**

June 28, 2012

The Mortgage Bankers Association (MBA)¹ appreciates the opportunity to submit this statement for the hearing of the House Financial Services Subcommittee on Insurance, Housing and Community Opportunity entitled “Appraisal Oversight: The Regulatory Impact on Consumers and Businesses.”

Property values are in a period of dramatic fluctuation, with some areas of the country experiencing significant declines, while others are showing signs of recovery. Now, more than ever, it is critical for property appraisals to be undertaken in an unbiased manner for both consumer protection and safety and soundness reasons.

The appraisal industry has undergone tremendous change since 2008 and the establishment of the Home Valuation Code of Conduct (HVCC) for government sponsored enterprise (GSE) mortgages. HVCC required appraisal independence and accuracy by limiting outside influences on appraisers and it prohibited the GSEs from purchasing mortgages from any lender that did not adhere to the HVCC's requirements. The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank), which repealed the HVCC and required that it be replaced with similar, federal regulations, further solidified these changes, as did the Federal Reserve's Interim Final Appraisal Rule (the Interim Rule), which became mandatory on April 1, 2011. Final rules from the Bureau of Consumer Financial Protection (CFPB) are anticipated later this year.

The changes that have already occurred have, in MBA's view, been extremely beneficial to consumers and the mortgage industry that serves them. Homebuyers can be more confident that the value of their homes have been objectively assessed before closing and lenders can also be more confident that the appraisal was arrived without undue pressure through an independent appraiser, an appraisal management company (AMC), or through a separate in-house appraiser panel.

Currently, the full range of legislative, regulatory and industry-based measures work in concert with each other to provide a comprehensive framework for ensuring appraisers are protected from undue influence. These measures include:

- Provisions of the Dodd-Frank Wall Street Reform and Consumer Protections Act, Home Ownership and Equity Protection Act, and Truth in Lending Act;
- Supervisory guidance issued by the federal banking agencies;
- Appraisal requirements issued by the Federal Housing Administration;
- The Uniform Standards of Professional Appraisal Practices; and

¹ The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,200 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: www.mortgagebankers.org.

- The aforementioned Interim Rule.

MBA has long supported efforts to require residential property valuation practices that minimize opportunities for fraud, coercion or undue influence in the loan approval process. Appraisals that overstate or understate the market value of properties are harmful to unsuspecting consumers and ultimately increase consumer borrowing costs. Lenders have a vested interest in obtaining an accurate appraisal because appraisals serve as the primary valuation tool for lenders' collateral. When a home is over-appraised, lenders are left with a security interest that is unlikely to satisfy the debt in the event of foreclosure. Fannie Mae and Freddie Mac customarily use inaccurate appraisals to require lenders to repurchase mortgages sold to them upon default – regardless of how minor the inaccuracy is, and even if the inaccuracy is immaterial to the default. Additionally, the high rate of GSE loan repurchases is preventing many qualified borrowers from obtaining a mortgage.

For these reasons, we strongly endorse the following principles underlying existing appraisal-related requirements:

- Clear, distinct firewalls should exist between the appraiser and those who will be compensated based on the outcome of the transaction for which the appraisal was prepared, including mortgage brokers, real estate sales personnel, and loan officers directly involved in the transaction.
- As long as sufficient firewalls are established, lenders should be permitted the option of utilizing in-house appraisers, independent appraisers and/or appraisal management companies.

These principles are embodied in MBA's positions on key appraisal issues:

MBA strongly supports efforts to promote residential property valuation practices that minimize opportunities for fraud, coercion or undue influence.

Current compliance requirements comport with many of MBA's principles for ensuring the validity of property valuations and the integrity of those who conduct such valuations. MBA strongly endorses policies to ensure that appraisers conduct property valuations in a manner that is free from the influence of any party to a real estate transaction that has a financial interest in its outcome, including real estate agents, title agents, mortgage brokers, loan officers, sellers and buyers. Allowing a party with a material interest in the completion of the loan transaction to influence an appraiser undermines what must be an arms-length collateral valuation process. Appraiser independence is critical to protecting the lender and the borrower from valuations that misrepresent the true market worth of a property.

Lenders have adjusted their business models to support these new compliance requirements and have utilized a variety of methods to ensure compliance, including using Appraisal Management Companies (AMCs), independent appraisers, in-house

appraisal staff, and automated valuation models. MBA strongly believes lenders should have all of these options to properly assess the risk that lenders ultimately hold.

MBA supports the “reasonable and customary fee” provision as long as it is sensibly applied.

Key provisions in Dodd-Frank and the Interim Rule require appraisers to be paid “customary and reasonable fees.” With respect to this provision, MBA supports the Federal Reserve’s determination that the marketplace should be the primary determiner of the value of appraisal services. This test adopted by the Board in the Interim Rule is logical, fair, and objective. It best protects consumers from excessive fees and allows the marketplace to create efficiencies which ultimately result in lower consumer borrowing costs.

MBA supports regulation of appraisal valuation standards by a strong, single, federal entity, rather than a patchwork of state laws where separate and conflicting state requirements create confusion and costly compliance burdens for lenders.

The proliferation of legislative activity in the states regarding the regulation of the appraisal industry and AMCs is an area of particular concern. Many states have considered a range of legislative proposals aimed at dictating how appraisal/vendor management companies should operate their businesses. This activity has resulted in myriad laws that have unnecessarily increased the regulatory burden on lenders requiring them to comply with often conflicting state regulations. Some proposals for appraisal/vendor management company governance have presented conflicts of interest and inconsistencies and would bring unintended consequences. Generally, these proposals would neither improve the industry nor safeguard the consumer.

In an effort to provide reasonable and effective oversight and consistent policies, MBA recommends that instead the regulation of appraisal valuation standards be carried out by a strong, single, federal entity, rather than through a patchwork of state laws where separate and conflicting state requirements create confusion and costly compliance burdens.

MBA believes that strong, uniform national supervision of the appraisal industry is critical to achieving consistently high standards to serve consumers. One possible approach that deserves consideration would be for the Appraisal Subcommittee of the Federal Financial Institutions Examinations Council (FFIEC) to serve in that capacity. Effective national regulation would assist in rebuilding trust and confidence in the appraisal and mortgage industries and provide protection against unscrupulous actors who taint the home buying process and place both lenders and consumers at financial risk.

Importantly, AMCs owned by insured depository institutions, independent national institutions and agents acting on behalf of the depository institution, including joint

ventures, should be exempt from state regulation and instead be subject only to federal oversight. Small AMCs, not working on behalf of lenders, who are typically local or regional companies, would still be under state regulation. This federal oversight would ensure the standardization and consistency of high quality appraisals and consistent expectations and experiences for consumers.

MBA appreciates the opportunity to present the above points for your consideration and we stand ready to serve as a resource as you study this issue further.