



February 4, 2025

Appraisal Subcommittee—FFIEC
Attn: Lori Schuster
Management and Program Analyst
1325 G Street NW, Suite 500
Washington, DC 20005

RE: Docket Number AS24-22

Dear Ms. Schuster:

On behalf of the National Association of REALTORS® (NAR), we thank the Appraisal Subcommittee (ASC) for the opportunity to comment on the [proposed rule](#) titled the *Appraisal Subcommittee Enforcement Authority Regarding the Effectiveness of State Appraiser and Appraisal Management Company Regulatory Programs*. Appraisals are the bedrock of the housing finance system, and credible independent valuations of real property are critical to the health of the overall real estate industry. Therefore, the effective and consistent oversight of state appraiser regulatory agencies who oversee appraisers and Appraisal Management Companies (AMCs) is vital to the long-term success of the market.

The National Association of REALTORS® is America's largest trade association, including five commercial real estate institutes and its societies and councils. REALTORS® are involved in all aspects of the residential and commercial real estate industries and include among its variety of housing industry professionals approximately 25,000 licensed and certified appraisers.

Access to credit is key to homeownership and most credit decisions depend on an appraisal. Many, if not most, appraisals obtained for home loan transactions currently involve an AMC. Effective oversight of appraisers and AMCs is crucial to protect consumers and lenders. NAR recommends that the proposed rule include additional monitoring; whistleblower protection; more consistency in regulation and investigation; monitoring to assess the adequacy of jurisdictions' funding, and measurement of how effectively new rules and oversight achieve compliance.

Additional monitoring needed

Although the ASC's [proposed rule](#) includes the registration of AMCs in its evaluation criteria, and paragraph (c)(2)(i) of proposed §1102.603 lists requirements for the registration function of regulatory program for AMCs, including "the State Appraiser Regulatory Agency must establish and maintain an AMC regulatory program with legal authority and mechanisms consistent with Title XI, the AMC Rule, and the AMC Registry Fee Rule," the rule does not go into detail about what compliance with the AMC rule would look like. [Section §34.213 of the AMC Rule](#), "appraisal management

company registration,” requires that each state not only review and approve or deny an AMC’s application for initial registration and renewal, but also to “examine the books and records of an AMC operating in the State and require the AMC to submit reports, information, and documents,” “conduct investigations of AMCs to assess potential violations of applicable appraisal related laws, regulations, or orders,” and “discipline, suspend, terminate, or deny renewal of the registration of an AMC that violates applicable appraisal-related laws, regulations, or orders.” Although the additional requirements above are in the registration section of the rule, they are listed as separate actions, not as a part of the initial registration and renewal. In fact, two of the four appraisal management company minimum requirements listed in [U.S. Code, Title 12, Chapter 34A, § 3353](#) are to 1. “require that appraisals coordinated by an appraisal management company comply with the Uniform Standards of Professional Appraisal Practice;” and 2. “require that appraisals are conducted independently and free from inappropriate influence and coercion pursuant to the appraisal independence standards established under section 1639e of Title 15.” Thus, Section §34.213 implies an on-going obligation to monitor the AMC for compliance with USPAP and appraisal independence.

NAR believes that appraisals must be conducted in adherence to all applicable state and local laws, including in accordance with standards established in the Uniform Standards of Professional Appraisal Practice (USPAP) and free from any influence causing the appraised value to be based on anything other than the independent analysis of the appraiser. However, NAR is concerned that the lack of enforcement and governance of Appraisal Management Companies may have led to impacts on the quality of appraisals provided to consumers and the independence of valuations. NAR urges the ASC to clarify and strengthen the language of the proposed rule to require the ongoing monitoring of AMCs outside of the initial registration and complaint process, as required by the AMC Rule.


Title XI does not include similar language for states to monitor appraisers’ books and records or require appraisers to submit reports, or other documents outside of the complaint investigation process. However, the lack of ongoing monitoring like that required of AMC could also have a detrimental impact to the quality of appraisals. For instance, an individual appraiser may pass the credentialing test and have their work completed as a trainee approved by the state, but then perform non-credible appraisals for years until a complaint is made to the state.

With this in mind, enforcement of the required ongoing monitoring of AMCs is a stopgap to the issue of appraiser oversight. An expanded focus to ongoing compliance could raise quality and prevent future complaints, fostering a stronger housing environment.

Whistleblower protection

The proposed rule specifies two requirements for receiving and tracking complaints against appraisers and AMCs including systems for processing, investigating, tracking, and monitoring all complaints. Historically, the number of complaints

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against AMCs has been very low. However, AMCs that act inappropriately, for instance, by violating the [Appraisal Independence Requirements](#) (AIR), may not be reported to boards by the appraiser victims due to fear of negative repercussions, including loss of work from the reported AMC. In fact, many of the comments already submitted to this proposed rule were posted anonymously by appraisers for that reason. Likewise, this concern is frequently voiced by REALTORS® and may result in the low incidence of AIR complaints in the ASC statistics.

NAR believes that appraisers should have a mechanism to voice AIR violations to regulators in an anonymous manner or with adequate whistleblower protections. NAR urges the ASC to consider modification to the complaint requirements to include whistleblower protections. With these protections in place, regulatory agencies would have a clearer understanding of ongoing AMC practices and how to ensure compliance with existing laws.

Question of funding

Language in the [AMC Rule](#), which went into effect on August 10, 2015, stated: *“...minimum requirements for AMCs under the final rule (verifying the use of licensed or certified status of appraisers, requiring that appraisers comply with USPAP, complying with any contractual review provisions, and establishing and complying with processes to ensure appraisers are qualified and independent and that the AMC acts in compliance with applicable valuation independence regulations), as well as the standard for removing appraisers from the appraiser panel, would not result in new burden on AMCs because these standards merely reinforce existing compliance requirements as well as industry practice.”*

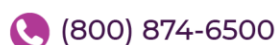
However, in practice, it does not appear that State Agencies currently adhere to the ongoing monitoring responsibility outlined in the AMC rule. One reason for the lack of compliance with this rule may be the financial burden on the states to fund the oversight.

In addition, some State Appraiser Regulatory Agencies meet infrequently, which makes adherence to the short time periods for processing complaints and completing investigations difficult and could make implementation of the proposed rule challenging.

To the extent that financial burdens limit states' ability to implement adequate oversight, the ASC should investigate and consider grants to states to develop adequate regulatory structures to comply with the AMC Rule and Title XI.

Consistency in Regulation and Investigation

The proposed rule repeatedly calls for State Regulatory Agencies to act in a timely, consistent, equitable, and well-documented manner. However, in the [Recommendations by the ASCAC section](#) of the notice of the proposed rule, it is pointed out that agencies have differing interpretations of existing regulations *“The ASCAC also provided examples of how State Appraiser Regulatory Agencies*



have different definitions of what constitutes an “investigation.” For some State Appraiser Regulatory Agencies, the “investigation” may consist simply of the screening of a complaint by a staff member. If the staff member decides that the complaint has no merit or that it needs only a telephone call or letter to the appraiser, it is either not opened or opened and closed immediately. For other State Appraiser Regulatory Agencies, a full field investigation is conducted on all complaints. As a result of these different definitions, it is challenging to establish a standard definition of an investigation because the investigatory process is typically governed by State law or regulation. Additionally, each investigation is contingent upon the specific facts of the complaint. During a compliance review, the ASC examines a sample of complaint files to assess whether the State Appraiser Regulatory Agency is following the investigatory process governed by State law to ensure timely and effective supervision of appraisers. Therefore, the ASC does not plan to further clarify what qualifies as an “investigation” of the merits of a complaint.”


NAR has no policy on how specific states should interpret and act on existing regulations. However, it is important to note that the lack of consistency from state-to-state leads to inequity of appraisers across the country when they are held to different levels of accountability depending on where they are credentialed. While the ASC’s proposed rule holds states accountable for equitable behaviors within the state, this raises a larger question of overall enforcement of regulations governing appraisers and AMCs actions across the country. Are the differing interpretations of the states leading to differences in compliance with existing laws, and could this lead to differences in appraisal quality across the country as a result? These differences may create material problems for banks and investors who hold these assets.

Does the addition of new discipline actions ensure compliance?

Currently the ASC is authorized by Title XI to impose certain sanctions against a State Regulatory Agency that fails to have an effective appraiser regulatory program, including interim actions, suspensions, and non-recognition. As noted in the “Reasons for Issuing This Proposed Rule” section, “non-recognition is a severe enforcement action that could affect the real estate markets and financial institutions within the State. To date, the ASC has not imposed non-recognition against a State Appraiser Regulatory Agency.” The proposed rule adds and defines “negotiated agreements” as an intermediate enforcement action, which could be helpful with specifying specific terms and conditions when deficiencies are identified by the ASC. However, if there is a breach of the negotiated agreement, it appears that further sanctions of suspension and non-recognition would come into play.

This leads to the question: what methodologies are in place to ensure that the states comply with any sanctions detailed in negotiated agreements or other sanctions leading to the most severe of non-recognition, since non-recognition has been proven to be an ineffective threat to date because of nonenforcement? For instance,

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per the [ASC's Appraiser Regulatory Program Compliance Review Findings](#), the last review of the Arkansas appraiser regulatory program resulted in a finding of "Needs Improvement" with a two-year review cycle, but the last date of review listed was in 2020, over four years ago.

Conclusion

REALTOR® appraisers must perform competent appraisals that are independent, impartial, and objective. Credible independent appraisals are critical to the overall health of the real estate industry and housing finance system. We believe these recommendations on how to strengthen the proposed rule will provide for a more effective oversight of appraisers and AMCs and better protect consumers and lenders.

If you have any questions or comments, please feel free to reach out to Keisha Wilkinson, NAR's Senior Policy Representative for Valuation Policy, at KWilkinson@NAR.Realtor.

Sincerely,



Kevin Sears
President, National Association of REALTORS®