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COMMUNITY
REINVESTMENT
COALITION



June 9, 2014

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Neighborhood Housing Services
of South Florida

Shelley Sheeby
River Cities Development Services

Dave Snyder
Minnesota Asset Building Coalition

Kevin Stein
California Reinvestment Coalition

Hubert Van Tol
PathStone, Inc.

Docket No. OCC-2014-0002

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
Suite 3E-218, Mail Stop 9W-11
400 7th Street, SW
Washington, DC 20219

Docket No. R-1486

Robert deV. Frierson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Ave., NW
Washington, DC 20051

RIN 3064-AE10

Robert E. Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Company
550 17th Street, NW
Washington, DC 20429

Docket No. CFPB 2014-0006

Monica Jackson
Office of the Executive Secretary
Bureau of Consumer Financial Protection
1700 G Street, NW
Washington, DC 20552

RIN 3133-AE22

Gerard Poliquin, Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

RIN 2590-AA61

Alfred M. Pollard, General Counsel
Attention: Comments/RIN 2590-AA61
Federal Housing Finance Agency
400 Seventh Street, SW, Eighth Floor
Washington, DC 20024

Re: Proposed Rule: Minimum Requirements for Appraisal Management
Companies

Dear Regulators,

The National Community Reinvestment Coalition (NCRC) is an organization of more than 600 community-based organizations with a mission to promote access to basic banking services, including credit and savings, to create and sustain affordable housing, job development, and vibrant communities for America's working families. NCRC has been an outspoken advocate on these issues for more than 20 years.

Over the past decade, NCRC has been at the forefront of identifying and challenging appraisal and valuation issues that have both a consumer and safety and soundness impact – beginning in June 2005 when we released our “Predatory Appraisals -Stealing the American Dream” report, through June 2012, when NCRC¹ testified before the U.S. House of Representatives’ Committee on Financial Services Sub-Committee on Insurance, Housing and Community Opportunity on the subject of Appraisal Oversight: the Regulatory Impact.

Notably, at this hearing, NCRC highlighted issues of concern related to exponential growth of Appraisal Management Companies (ACM) as a result of new processes required by the Government Sponsored Enterprises and Dodd-Frank. Since the financial crisis, the presence of third-party AMCs has significantly increased to a point where AMCs now order more than 80% of all appraisals². In 2008, mortgage brokers ordered 60% of appraisals³. This increase is due to a belief that AMCs are able to keep the appraisal process independent of any influence from lenders and mortgage brokers, so that the appraiser is able to assess and report a fair and independent valuation of the property.

On March 24th, 2014, the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Fed), the Federal Deposit Insurance Corporation (FDIC), the Consumer Financial Protection Bureau (CFPB), the Federal Housing Finance Agency (FHFA), and the National Credit Union Administration (NCUA) which proposes the implementation of minimum requirements for State registration and supervision of AMCs issued a joint rulemaking. This rule requires that for participating States an AMC must:

- Register in the State and be subject to its supervision;
- Use only State-certified or licensed appraisers for federally related transactions, such as real estate-related financial transactions overseen by a federal financial institution regulatory agency that require appraiser services;

¹ David Berenbaum, Chief Program Officer at NCRC, provided NCRC's testimony.

² Kate Berry, “Fed’s Appraisal-Fee Revamp Befuddles Mortgage Industry”. April 23, 2012. www.activerain.com/blogsvievw/3177693/confusion-about-appraisal-fees-

³ Id.

- Require that appraisals comply with the Uniform Standards of Professional Appraisal Practice;
- Ensure selection of a competent and independent appraiser; and,
- Establish and comply with processes and controls reasonably designed to ensure that appraisals comply with the appraisal independence standards established under the Truth in Lending Act.

NCRC and our member organizations also applaud the fact that the proposed rule also requires that the certifying and licensing agency of a participating State have specific duties and responsibilities, including the authority to:

- Approve or deny initial AMC registration applications and applications for renewals;
- Examine the AMC and require the AMC to submit relevant information to the State;
- Verify that the appraisers on the AMC's appraiser network or panel hold valid State certifications or licenses;
- Conduct investigations of AMCs to assess potential violations of appraisal-related laws;
- Discipline an AMC that violates appraisal-related laws; and,
- Report an AMC's violation of appraisal-related laws, as well as disciplinary and enforcement actions, and other pertinent information about an AMC's operations to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

These are all significant steps in the right direction. Further, the proposed implementation timeframe is appropriate – 36 months – and will provide participating States adequate time to create, and ideally fund augmented systems after the rules effective date to implement the minimum requirements. In the end, the rule will only be meaningful if the agencies who issued it or who apply it on a State level actually enforce its terms.

Based upon NCRC's ongoing work through the Center for Responsible Appraisals and Valuations, we respectfully request that the agencies consider and incorporate the following recommendations into the final rule:

Recommendation 1: The proposal establishes a meaningful regulatory floor for appraisal management companies, but the agencies should allow States and other stakeholders to proactively identify and address emerging valuation issues and a changing financial services and real estate marketplace.

Recommendation 2: Regulators need to define the term, "good moral character."

Recommendation 3: The regulators need to clarify the definition of AMC, so that AMC contract appraisers may only perform appraisals and related valuation services in the State in which they are licensed and have actual expertise.

Recommendation 4: Federally regulated ACMs need greater oversight due to a heightened conflict of interest.

Recommendation 5: AMCs must have a fiduciary duty to both valuation professionals and consumers when processing valuation transactions.

Recommendation 6: There should be due process procedures for AMC contract appraisers to appeal being unfairly “blacklisted.”

Recommendation 7: There should be a clear, efficient and easy process by which consumers can submit complaints and raise issues about AMCs, lender abuses, and issues with their appraisals to the State appraiser certifying and licensing agency, the Consumer Financial Protection Bureau, or consumer protection or HUD Certified housing counseling organizations.

Recommendation 8: AMCs should educate consumers on the valuation process.

Recommendation 9: There needs to be a future rulemaking on appraisal review standards.

Each of these recommendations is discussed in greater detail on the pages that follow.

Recommendation 1: The proposal establishes a meaningful regulatory floor for appraisal management companies, but the agencies should allow States and other stakeholders to proactively identify and address emerging valuation issues and a changing financial services and real estate marketplace.

Under the proposed rule, States can establish additional requirements for the oversight of AMCs.

NCRC suggests that when a State identifies an emerging issue with regard to an AMC or the marketplace as a whole, that there should be a transparent mechanism to report the development or rulemaking to the Agencies, so that Federal regulators could then initiate an updated proposed rule with these new requirements. In this way, the agencies and States will be implementing and enforcing the same requirements across the country while sharing developments in a fluid and changing marketplace.

Recommendation 2: Regulators need to define the term, “good moral character.”

The proposed rule requires that AMC owners meet the requirements for “good moral character”. In the proposed rule individual State appraiser certifying and licensing agency, the State overseer of the ACMs, are required to define this term. This is an issue, as some States can be less restrictive than others in defining good moral character, which allows individuals to be owners in one State who could never be an owner in another State.

In the final rule, NCRC encourages the regulators to define this term, and not allow each individual State to make this determination, in order to ensure consistency of AMC principals across the country.

Recommendation 3: The regulators need to clarify the definition of AMC, so that AMC contract appraisers may only perform appraisals and related valuation services in the State in which they are licensed and have actual expertise.

The proposed rule defines an AMC as overseeing 25 or more State-certified or State-licensed appraisers in two or more states. The Proposed rule defines an appraisal management service as reviewing or verifying the work of appraisers. The combination of these two definitions creates a perception in the rule or an environment in which appraisers from one State are able to conduct an appraisal in a different State from where they are registered. As a result, appraisals can be conducted by appraisers who are unfamiliar with the communities where the property is located and then an AMC employee who has general knowledge of the State reviews the appraisals. This is already an issue in States with many distinct communities, housing types, neighborhoods, etc., and NCRC's is concerned that a lack of local and regional knowledge by the appraiser negatively affects the quality of the appraisal.

NCRC urges the regulators to limit the definition of AMC, so that AMC contract appraisers can only perform appraisals in the State in which they are licensed, and in regions and/or housing markets that they have demonstrated experience, thereby ensuring that qualified appraisers, who know the different neighborhoods, are producing appraisals.

Recommendation 4: Federally regulated ACMs need greater oversight due to a heightened conflict of interest.

The proposed rule states that a Federally regulated AMC needs to meet the same minimum requirements as other AMCs, although such an AMC is not required to register with a State. NCRC recommends that these AMC's must receive similar or even greater regulatory oversight as State regulated AMC's due to heightened conflict of interest issues present as a result of it being operated by a Federally regulated financial institution.

Recommendation 5: AMCs must have a fiduciary duty to both valuation professionals and consumers when processing valuation transactions.

Under the definition section for Appraisal Management Services, a service provided by AMCs, is "collecting fees from creditors and secondary market participants, and paying appraiser for services performed". NCRC is concerned that AMC owners will interpret this language to mean that AMCs fulfill a role of being a payment processor and do not have a fiduciary duty to both the consumer, the valuation professional, creditors, and the secondary market.

NCRC believes that this processing role that AMCs play is similar to Mortgage Servicers. As such, NCRC believes that AMCs have a responsibility to disclose to the consumer how much the appraiser is paid and how much the AMC receives for its intermediary role. NCRC encourages the regulators to include in the definition language that places upon

AMCs a fiduciary duty to the valuation processes stakeholders to ensure the integrity of the appraisal when processing funds.

Recommendation 6: There should be due process procedures for appraisers to appeal being blacklisted.

The proposed rule does not provide a due process system for appraisers who are blacklisted by AMCs for “alleged” problems identified in their valuations. Currently, the Proposed rule only requires the AMC to send written notice to the appraiser of their removal and an explanation for the removal. There is no process by which the appraiser can provide an explanation or have a hearing about the allegations.

NCRC requests that the regulators implement in the final rule the opportunity for appraisers to have a due process procedure by which appraisers can appeal both to the Federal agencies, the State appraiser certifying and licensing agency and within the AMC. This will ensure both due process and a means to document problematic practices in AMC hub and spoke mechanisms.

Recommendation 7: There should be a clear, efficient and easy process by which consumers can submit complaints and raise issues about AMCs, lender abuses, and issues with their appraisals to the State appraiser certifying and licensing agency.

The proposed rule provides the State appraiser certifying and licensing agency with the authority to conduct investigations of AMCs for possible violations of appraisal related laws, regulations, or orders. However, the proposed rule does not provide a process by which consumers can be informed of these proceedings, nor does it provide consumers the opportunity to file complaints against an AMC or appeal an inappropriate appraisal to the State appraiser certifying and licensing agency.

NCRC strongly encourages the regulators to implement in the final rule a clear, efficient and easy process by which consumers can submit complaints and raise issues about AMCs, lender abuses, and issues with their appraisals to the agencies, the State appraiser certifying and licensing agency, or to not for profit consumer protection, or HUD Certified Housing Counseling Organizations.

Recommendation 8: AMCs should educate consumers on the valuation process.

Currently, the proposed rule does not provide a requirement to educate the public on the valuation system. The minimum requirements for AMCs should include a requirement for consumer education by either the AMC or the State appraiser certifying and licensing agency. This educational requirement will help consumers better understand the valuation process, and it will help to ensure that both AMCs and appraisers are providing clients with correct appraisals. Educating the public can be accomplished in partnership with

non-profit organizations. NCRC encourages the regulators to implement this educational requirement.

Recommendation 9: There needs to be a future rulemaking on appraisal review standards.

NCRC understands the reasons the regulators decided not to address the issue of appraisal review standards in this proposed rulemaking. However, NCRC believes that it is imperative that the regulators issue a rulemaking on appraisal review standards in the near future, so that appraisals across the country can be consistently conducted at the highest level possible.

NCRC, on behalf of our over 600 member groups, thank you for the opportunity to comment on the Minimum Requirements for Appraisal Management Companies. If you have any further questions or need additional information regarding our comments, please do not hesitate to contact either myself or David Berenbaum, NCRC's Chief Program Officer, at (202) 464-2731.

Sincerely,



John Taylor
President/CEO