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RE: Minimum Requirements for Appraisal Management Companies

Ladies and Gentlemen-

The National Association of Appraisers (NAA) is a nonprofit, 506c (6) association representing appraisers in 43 States and 1 US Territory. We appreciate this opportunity to provide comments on the proposed rules establishing minimum requirements for appraisal management companies. NAA generally supports the proposed rules as written, however, we would like to respond to the Agencies' specific request for comment on several items.

Responses to Specific Questions Posed:

Question 1. *The Agencies request comment on all aspects of the proposed definition of AMC.*

NAA is in agreement with the Agencies' analyses regarding the proposed definition of AMC. The language of the statute would appear to clearly exclude appraisal management services performed in connection with commercial transactions. Additionally, excluding internal departments or divisions appears consistent with the intent of the Act.

Question 2. *The Agencies request comment on the proposed definition of "appraiser network or panel" and on the alternative of defining this term to include employees as well as independent contractors. The Agencies also request comment on whether the term "independent contractor" should be defined, and if so why and how, including whether it should be defined based upon Federal law (e.g., using the standards issued by the Internal Revenue Service or standards adopted in other Federal regulations, such as those issued under the Secure and Fair Enforcement for Mortgage Licensing Act (S.A.F.E. Act) or left to State law (so as to be consistent with existing AMC laws).*

NAA believes the statutory language is clear that the definition of "Appraiser Panel" should only include independent contractors and not employees. For this reason, we believe the term "Independent Contractor" should be defined to avoid inadvertently capturing traditional appraisal firms (using only W-2 employees) in the definition of AMC. Many appraisal firms and AMCs operate in multiple States and for the sake of consistent interpretation throughout the country, we recommend basing the definition of "Independent Contractor" on standards issued by the Internal Revenue Service.

Question 3. *The Agencies request comment on the distinction the Agencies have drawn between employees and independent contractors as a basis for exclusion of appraisal firms from the definition of an AMC.*

NAA is in agreement with the Agencies' distinction between employees and independent contractors as a basis for exclusion of appraisal firms from the definition of AMC. We are aware of many companies that operate as "hybrid" firms and we believe these firms should, in fact, be required to register as AMCs and be subject to supervision to the extent that they utilize independent contractors. We do not believe employees of hybrid firms should be included in the numerical test of overseeing more than 15 appraisers in a State or 25 in two or more States within a given year.

Question 4. *The Agencies request comment on whether references to the NCUA and insured credit unions should be removed from the definition of 'Federally regulated AMC' and other parts of the final regulation to clarify that AMC CUSOs are subject to State registration and supervision.*

Consumers who are customers of credit unions (or CUSOs) should be afforded the same benefits/protections from the Agencies' proposed AMC regulations as customers of state or federally chartered banks and savings associations. For clarity, NAA therefore believes references to the NCUA and insured credit unions should be removed from the definition of "Federally regulated AMC" to clarify that AMC CUSO's are intended to be subject to State AMC registration and supervision.

Question 5. *The Agencies request comment on the proposed definition of "secondary mortgage market participant." Are the types of entities cited in the proposed definition appropriately included in this context? Should any other types of entities be expressly included or excluded from this definition, for the sake of clarity? Should any other types of entities be considered "an underwriter or other principal in the secondary mortgage markets" for the purpose of the definition of AMC in the Dodd-Frank Act?*

NAA takes no position on this question.

Question 6. *The Agencies request comment on the proposed minimum requirements for State registration and supervision of AMCs.*

While NAA understands the need to prevent circumvention of state AMC registration requirements, NAA has serious concerns about proposed methods by which AMC appraiser panels will be calculated. These concerns are primarily due to the unintended consequences of AMC registry fees that will be imposed in the future based on the number of appraisers on an AMC's panel. We do not agree with the proposed regulations that "*an appraiser is deemed part of the AMC's appraiser panel as of the earliest date the AMC accepts the appraiser for consideration for future appraisal engagements*" but rather that the calculation should only include those appraisers actually engaged by an AMC in a calendar year. To do otherwise will have serious negative consequences once registry fees are imposed. Some key points:

- The process of vetting and approving appraisers is laborious and time-consuming. For this reason, AMCs often perform "preliminary approval" of a large pool of appraisers whom they seldom or never actually engage to perform appraisal assignments. If each of these appraisers is included in the calculation, the resulting annual fee (based on an estimated \$25 per appraiser) would become unduly burdensome, particularly for small to mid-size companies. For example, an AMC might maintain a pool of 1,000 appraisers in a given state but only offer assignments to 250 of them. If all 1,000 appraisers are included in the calculation the resulting annual fees would total \$25,000 as opposed to \$6,250 if only those appraisers who actually performed appraisals for the AMC are counted.

- Due to the high cumulative cost of these fees, it is likely that AMCs will drastically reduce the size of their panels by removing seldom or never used appraisers in order to control cost of operation. AMCs may also be unwilling to add new appraisers in the future. This places undue hardships on consumers in less populated or underserved areas. Consumers will either have their loans delayed while an AMC locates and approves an appraiser or worse; an AMC may contract with a less qualified appraiser from a distant location simply because he/she is already approved.
- Alternatively, AMCs may pass the cost of registry fees on to appraisers if they wish to remain on an AMC's panel and again, this places an undue burden on appraisers in rural or underserved areas. Appraisers in more densely populated areas may only do business with a handful of AMCs. The fees are therefore manageable. Appraisers operating in less populated areas, however, are often approved to perform appraisal for many AMCs, though they may only be engaged by a handful of them in a given year. If they are required to pay a \$25 fee to "wait in the wings" for each AMC, the fees would become unduly burdensome. As a result, fewer appraisers will be willing to serve the less populated areas which, again, causes hardships to consumers in the form of delays or the utilization of less qualified appraisers.
- The proposed rules state "*...an appraiser is deemed to remain on the panel until the date in which the AMC sends written notice to the appraiser.*" Some states have laws/regulations that make it difficult or impossible to remove an appraiser from a panel for reasons other than misrepresentation, violation of State/Federal law or USPAP violations. As an example, an appraiser may be added to an AMC panel to complete a single, specific complex assignment or to complete an assignment in a remote geographic area. The AMC may never have a need for the (unique) services of that appraiser in the future, yet he/she cannot be removed from the panel in some jurisdictions. This is yet another reason we feel it is important to calculate the panel based on the number of appraisers engaged in a calendar year rather than requiring removal of an inactive appraiser in writing.

NAA also asks that additional consideration and clarification be provided regarding panel calculations for appraisers and AMCs operating in multiple States. For example, it often happens that an appraiser holds more than one State credential and may perform appraisals for an individual AMC in multiple States. Because State appraiser regulatory agencies are tasked with collecting the registry fees, in this instance, would the AMC be required to pay a registry fee for this individual appraiser multiple times?

Question 7. *The Agencies request comment on the proposed approach to the appraisal review issue.*

NAA is in agreement with the Agencies' approach to address the appraisal review issue in subsequent rulemaking.

Questions 8 - 11.

NAA believes that the Association of Appraiser Regulatory Officials and individual State appraiser regulatory agencies are best equipped to provide comments to these questions.

Thank you for your consideration. Should there be any questions regarding our comments, please contact Michael Brunson, at (800) 766-1936 or info@naaappraisers.org.

Sincerely,



Michael L. Brunson, MAA
President, NAA