

January 29, 2002

Regulations Division  
Office of General Counsel  
Room 10276  
Department of Housing and Urban Development  
451 Seventh Street, SW  
Washington, DC 20410-0500

To Whom It May Concern:

Thank you for the opportunity to comment on the Department of Housing and Urban Development's (HUD) Proposed Rule on Appraiser Qualifications for Placement on the FHA Single Family Appraiser Roster. This proposed rule is designed (among other things) to strengthen the licensing and certification requirements for placement on the FHA Appraiser Roster.

The Proposed Rule requires that appraisers on the Appraiser Roster have professional credentials that are based on the minimum licensing/certification standards issued by the Appraiser Qualifications Board (AQB) of The Appraisal Foundation. Under AQB-suggested criteria for the licensed real property appraiser, the appraiser must attain the following:

- a. Successful completion of the AQB endorsed Uniform State Licensed Real Property Appraiser Examination or its equivalent;
- b. 90 classroom hours of courses in subjects related to real estate appraisal which shall include 15 classroom hours relative to the Uniform Standards of Professional Appraisal Practice;
- c. Two thousand (2,000) hours of appraisal experience; and
- d. The equivalent of 14 classroom hours of instruction in courses or seminars for each year during the period preceding the renewal of the license.

The Proposed Rule also clarifies that an appraiser may be removed from the Appraiser Roster if the appraiser loses his or her license or certification in any state due to disciplinary action, even if the appraiser continues to be licensed or certified in another state. Finally, the proposed rule provides that an appraiser who is licensed or certified in a single state and whose license or certification has expired, or has been revoked, suspended or surrendered as a result of a state disciplinary action, will be suspended automatically from the Appraiser Roster until HUD receives evidence demonstrating renewal or that the state-imposed sanction has been lifted.

The Appraisal Institute and the American Society of Appraisers have reviewed the Proposed Rule and agrees that the proposed actions represent a sound first step in addressing problems related to

the Appraiser Roster. Unfortunately, hundreds of unqualified appraisers have been accepted on the FHA Appraiser Roster, and HUD should take steps to remove them.

Despite the progress the Proposed Rule makes, it has several deficiencies that should be addressed. Specifically, a course of action should be taken against those appraisers on the Roster who currently fail to meet AQB criteria. In addition, HUD, as a member of the Appraisal Subcommittee, should seek remedies for deficiencies within the appraisal regulatory structure that have contributed to this problem.

Our detailed comments are outlined below.

1. Requiring a state license/certification that meets AQB criteria.

We believe that appraisers applying for acceptance on the FHA Appraiser Roster must have credentials that are based on the minimum licensing/certification standards of the AQB on FHA - specific education. In addition, improving the quality and accuracy of FHA appraisals can be accomplished only through higher standards for qualification and agency-specific education. FHA has a much different mission than conventional mortgage lenders, which requires appraisers to be more knowledgeable about the physical components and repair needs of the home being appraised. Minimum AQB requirements only touch on these needed skills.

This being said, we agree with HUD that appraisers should not be approved for assignments if at the time they obtained their license or certification, a state's licensing/certification requirements did not conform to AQB criteria. This should be the case, even if the state has subsequently adopted AQB criteria but has "grandfathered" previously licensed or certified appraisers.

We are concerned over the hundreds of licensees accepted on the FHA Appraiser Roster who have not met AQB criteria. Under the Proposed Rule, no action would be taken against such unqualified appraisers on the Appraiser Roster. We believe HUD should immediately identify and remove these unqualified appraisers on the FHA Appraiser Roster to ensure the competency of the program.

HUD has had requirements for acceptance on the Appraiser Roster in place for more than two years, and yet hundreds of unqualified appraisers have been allowed on the FHA Appraiser Roster. Under Mortgagee Letter 99-35, issued November 24, 1999, to be eligible for placement on the FHA Appraiser Roster, an appraiser must:

- a. Be state licensed or certified in accordance with the minimum licensing criteria established by the Appraiser Qualifications Board of The Appraisal Foundation;
- b. Not be listed on the General Services Administration's Suspension and Debarment List, HUD's Limited Denial of Participation List-or HUD's Credit Alert Interactive Voice Response System; and
- c. Pass a HUD/FHA examination on appraisal methods and reporting.

It appears that these requirements were not enforced effectively, in that hundreds of unqualified appraisers were admitted to the Roster who was not state licensed or certified in accordance with the minimum licensing criteria established by the AQB.

According to the Proposed Rule, an internal HUD analysis indicates that of the approximately 22,163 appraisers currently on the Appraiser Roster, 330 do not have licensing in conformance with the standards issued by the AQB. In addition, there are hundreds of appraisers on the current Roster who failed to conform to the minimum requirements upon their application.

To ensure the competency of the program, HUD should immediately remove the 330 appraisers not conforming to the minimum standards issued by the AQB. In addition, HUD should identify the hundreds of appraisers who failed to conform to AQB requirements upon application for acceptance on the Appraiser Roster, and ensure that they have met the AQB minimum requirements.

2. Removal of an appraiser who does not meet established HUD guidelines.

The Proposed Rule clarifies that an appraiser may be removed from the Appraiser Roster if the appraiser loses his or her license or certification in any state due to disciplinary action, even if the appraiser continues to be licensed or certified in another state. The Proposed Rule also provides that an appraiser who is licensed or certified in a single state and whose state license or certification has expired or has been revoked, suspended or surrendered as a result of a state disciplinary action, will be automatically suspended from the Appraiser Roster and prohibited from conducting FHA appraisals until HUD receives evidence demonstrating renewal or that the state-imposed sanction has been lifted.

We believe these actions will help ensure that competent appraisers are performing work on behalf of HUD. However, HUD should be prepared to contact all state licensing boards for a list of disciplinary actions taken by the state, and contrast this list with the FHA Appraiser Roster. HUD might consider using the National Registry of Appraisers maintained by the Appraisal Subcommittee of the Federal Financial Institutions Examinations Council and compare that list with the HUD Appraiser Roster. However, we warn HUD that the National Registry is inadequate in a number of respects due to the Appraisal Subcommittee's inactions in enforcing federal law. With this, HUD should consider establishing its own independent verification method to ensure that appraisers meet AQB minimum standards before being placed on the HUD Appraiser Roster.

In addition, we recommend HUD clarify the difference between disciplinary and non-disciplinary actions with regard to this change in policy. One can imagine a situation where an individual leaves the appraisal profession for a period of time, allowing his/her license to expire. Depending on state law, it may appear that the license expired because of a disciplinary action. HUD should be aware of this so as not to unfairly limit access to a person returning to the profession.

3. Appraisal Subcommittee oversight over state appraisal boards, HUD involvement.

Although not addressed by the Proposed Rule, we believe that deficiencies within the existing appraisal regulatory structure have contributed to unqualified appraisers being accepted on the HUD Appraiser Roster. We understand that some states have failed to conform to the minimum licensing/certification standards issued by the AQB, and yet the Appraisal Subcommittee has failed to take action.

Title XI of the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) of 1989, as amended, established the Appraisal Subcommittee and charged it with monitoring state appraisal boards with regard to federally related transactions. The Appraisal Subcommittee's mission is to ensure that real estate appraisers, who perform appraisals in real estate transactions that could expose the United States government to financial loss, are sufficiently trained and tested to assure competency and independent judgment, according to uniform high professional standards and ethics. The Appraisal Subcommittee is responsible for monitoring the individual states in the licensing and certification of real property appraisers. In addition, the Appraisal Subcommittee acts as an oversight mechanism for activities of The Appraisal Foundation relating to real property appraisal.

The Appraisal Subcommittee consists of six members, each designated respectively by the heads of the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the National Credit Union Administration and HUD.

We believe the Appraisal Subcommittee has not provided sufficient oversight over the state appraisal boards to ensure that the state boards recognize and enforce standards, requirements and procedures prescribed by Title XI of FIRREA. In addition, when states have been identified as having insufficient regulatory systems in place, little or no action has been taken by the Appraisal Subcommittee to rectify these situations. Many of the unqualified appraisers on the FHA Appraiser Roster were from these very states.

At least one state has a new licensed appraiser classification composed of two differently qualified groups of appraisers – those who meet the AQB experience criteria and those who do not. In this state, users of those appraisers have no way to identify which licensed appraisers meet the AQB's experience criteria and which appraisers do not. Under this state's new law, users of appraisal services could be misled into believing that all licensed appraisers meet the AQB's minimum criteria. This misconception could cause agencies, institutions and individuals to use appraisers whom they otherwise would not use, as it did with HUD.

The Appraisal Subcommittee has asked this state's appraisal board to take the following steps:

- a) Identify all licensed appraisers who were grandfathered into the state's newly defined licensed classification on a specific date;
- b) Require these appraisers to provide documentation supporting their appraiser experience;
- c) Determine what submitted experience is acceptable under AQB criteria;
- d) If an appraiser does not have sufficient experience to meet the AQB minimum criteria for licensed appraisers, recall the appraiser's paper license, pocket card, and the like, and issue replacement documents that have a clear and conspicuous statement on its face saying, "The license holder has not documented that he/she meets the minimum experience criteria of the Appraiser Qualifications Board"; and
- e) Send a notification to all federally regulated financial institutions within the state explaining the two classes of licensed appraisers and the meaning of the conspicuous notice.

That state's appraisal board has thus far failed to meet the deadlines imposed by the Appraisal Subcommittee. In addition, the Appraisal Subcommittee has since withdrawn its deadlines and simply encouraged the appraisal board to update its licensing system. As a member of the Appraisal Subcommittee, HUD shares the responsibility for insufficient oversight of the state appraisal boards. Where state appraisal boards are failing to meet minimum standards required by Title XI, the Appraisal Subcommittee should act promptly to resolve the deficiency and rectify the situation.

The Appraisal Institute is the acknowledged leader in residential and commercial appraisal education, research, publishing, and professional membership designation programs, and we have a long and detailed history of working with HUD. The American Society of Appraisers is the oldest and only major appraisal organization representing all of the disciplines of appraisal specialists. Collectively, we represent more than 25,000 valuation professionals. We appreciate this opportunity to comment on the Proposed Rule on Appraiser Qualifications for Placement on the FHA Single Family Appraiser Roster. Should you have any questions, please contact Donald E. Kelly, Vice President of Public Affairs, Appraisal Institute at 202-298-5583 or [dkelly@appraisalinstitute.org](mailto:dkelly@appraisalinstitute.org) or Edwin W. Baker, Executive Vice President, American Society of Appraisers at 703-733-2109 or [tbaker@appraisers.org](mailto:tbaker@appraisers.org).

Sincerely,

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President