

May 2003

REGULATORY
PROGRAMS

Opportunities to
Enhance Oversight of
the Real Estate
Appraisal Industry



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Highlights of [GAO-03-404](#), a report to Congressional Requesters

REGULATORY PROGRAMS

Opportunities to Enhance Oversight of the Real Estate Appraisal Industry

Why GAO Did This Study

Since the passage of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the appraisal and mortgage lending industry has changed dramatically. Some have concluded that the law is obsolete because the problems Title XI was intended to address—the risk to federal deposit insurance funds and the lack of uniform standards and qualifications—no longer exist. Others argue that the law’s purpose and scope should be expanded. To help Congress better understand these issues, GAO looked at the roles of the private, state, and federal entities that oversee the appraisal industry, the challenges Title XI presented to these entities, and industry participants’ concerns about the effectiveness of the Title XI regulatory structure.

What GAO Recommends

Among other things, the Chairman of the Appraisal Subcommittee should:

- develop and apply consistent criteria for determining and reporting states’ compliance levels with Title XI;
- explore potential options for assisting states in carrying out their Title XI activities, particularly for investigating appraiser complaints; and
- explore alternatives for providing future Title XI grant funding to the Appraisal Foundation and its two boards.

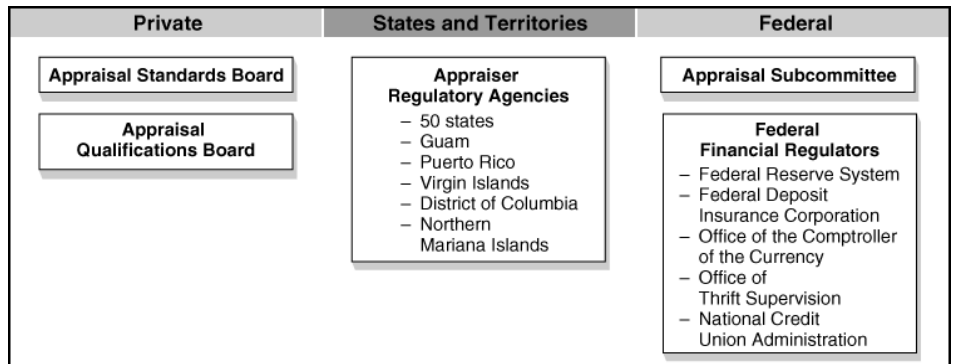
What GAO Found

Title XI created a complex oversight structure for real estate appraisals and appraisers that involves private, state, and federal entities. Two private entities establish uniform rules for real estate appraisals and set minimum criteria for certifying appraisers. State regulatory agencies certify appraisers based on these criteria. The federal financial regulators oversee financial institutions’ use of appraisals, and a federal agency, the Appraisal Subcommittee, monitors and coordinates the functions of the parties involved in regulating appraisals and appraisers.

All of these entities except the federal financial regulators identified potential impediments to carrying out their Title XI responsibilities. The two private entities stated that fund limitations could impede their ability to ensure that development of standards and qualifications evolve with changing conditions. State agencies said that funding shortfalls hindered their ability to enforce compliance. Appraisal Subcommittee staff reported that rule-making authority and additional enforcement sanctions could facilitate its oversight of state compliance with Title XI.

Industry participants raised concerns about aspects of the Title XI regulatory system for appraisers. They cited differences in state regulation that affect both lenders and appraisers, gaps in Title XI’s coverage—for example, transactions of less than \$250,000 do not require an appraisal—high fees and burdensome processes for having appraiser education courses approved, and weak enforcement and complaints processing. Some industry participants felt that states, traditionally involved in regulating professions, alone should regulate the appraisal industry. Others felt that the current structure needed a significant overhaul to become effective.

Title XI Regulatory Oversight Structure and Entities



Source: GAO.

www.gao.gov/cgi-bin/getrpt?GAO-03-404.

To view the full report, including the scope and methodology, click on the link above. For more information, contact David G. Wood (202) 512-8678 or woodd@gao.gov.

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Abbreviations

AQB	Appraiser Qualifications Board
ASB	Appraisal Standards Board
AVM	Automated Valuation Model
ECAFS	Education Council for Appraisal Foundation Sponsors
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration
FIRREA	Financial Institutions Reform, Recovery, and Enforcement Act of 1989
FRS	Federal Reserve System
GSE	Government Sponsored Enterprises
HUD	Department of Housing and Urban Development
IDECC	International Distance Education Certification Center
NCUA	National Credit Union Administration
OCC	Office of the Comptroller of the Currency
OTS	Office of Thrift Supervision
USPAP	Uniform Standards of Professional Appraisal Practice

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United States General Accounting Office
Washington, D.C. 20548

May 14, 2003

The Honorable Paul S. Sarbanes
Ranking Minority Member
Senate Committee on Banking,
Housing, and Urban Affairs
United States Senate

The Honorable Zell Miller
United States Senate

Recent predatory mortgage lending cases, involving fraudulent and inflated appraisals, have highlighted the need for accurate real estate appraisals in preventing losses to the federal government and significant financial harm to individual consumers. When making mortgage loans, lenders need an objective and accurate assessment of the value of properties used as collateral to help avoid losses in the event that borrowers do not repay the loans. Congress enacted Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) in response to concerns that faulty and fraudulent appraisals played a major role in the savings and loans crisis of the 1980s. Title XI provisions address both the quality of *appraisals* and the qualifications of *appraisers*. Specifically, Title XI requires that real estate appraisals used in connection with federally related transactions be performed (1) in writing, in accordance with uniform professional standards, and (2) by individuals whose competency has been demonstrated and whose professional conduct is subject to effective supervision.¹

To ensure that the purpose of the legislation was carried out, Title XI created a regulatory structure to monitor and oversee the real estate appraisal industry. Among other things, it established a federal entity called the Appraisal Subcommittee to monitor the Title's implementation. Title XI provides for national uniformity in appraisal standards and minimal national qualification requirements for some, but not all, appraisers. The Title XI regulatory structure was set up primarily to protect federally

¹As defined in Title XI, federally related transactions are real estate transactions involving financial institutions regulated by the federal government. These include banks, thrifts, and credit unions. Real estate transactions of mortgage bankers, brokers, pension funds, and insurance companies are not included.

insured depository institutions from losses and by extension the federal deposit insurance funds.

Because of your concerns about the effectiveness of the current regulatory structure, you requested that we assess the appraisal oversight structure established in response to Title XI. As agreed with your offices, this report describes (1) the specific responsibilities under Title XI of the private, state, and federal entities that oversee the appraisal industry and the way these entities perform their roles; (2) factors that these entities identified as potential impediments to carrying out their Title XI responsibilities; and (3) concerns expressed by regulatory entities and industry participants about the effectiveness of the existing regulatory structure.

To answer these questions, we reviewed FIRREA and its legislative history; interviewed representatives of the private, state, and federal entities involved in the Title XI regulatory scheme; and, using a mailed questionnaire, surveyed appraiser regulatory agencies in the 50 states, the District of Columbia, and 4 U.S. territories.² A copy of the questionnaire, including summary responses to each question, can be found in appendix I. Additionally, we contacted industry participants, including trade groups that represent appraisers and lenders; Fannie Mae and Freddie Mac, two government-sponsored enterprises (GSE) that establish standards for appraisals used in connection with mortgages that they purchase; the Department of Housing and Urban Development (HUD), which establishes requirements for appraisals used in connection with mortgages it insures; representatives of appraiser education providers; and academic experts on issues related to real estate appraisals. We also obtained and reviewed records of the Appraisal Subcommittee's state oversight activities, as well as information on appraisers maintained in the subcommittee's national registry database. We conducted our work between March 2002 and March 2003 in accordance with generally accepted government auditing standards. Appendix II provides a detailed discussion of our scope and methodology, and appendix III contains a list of the entities that we contacted.

²The territories included in our survey are Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands. The only other U.S. territory—American Samoa—does not have a regulatory oversight structure for appraisers because real estate there can only be inherited. In this report, the term “states and territories” refers to the 50 states, the District of Columbia, and the 4 territories.

Results in Brief

Title XI created a complex regulatory system that relies upon the actions of private, state, and federal entities to help assure the quality of appraisals and the qualifications of appraisers used in federally related transactions.

- The two private entities—the Appraisal Standards Board and Appraiser Qualifications Board—respectively establish (1) uniform rules for preparing and reporting real estate appraisals and (2) minimum qualification criteria for certified real estate appraisers. Certified real estate appraisers are one of the two categories of appraisers listed in Title XI, the other being licensed real estate appraisers.
- Title XI defers to the states with respect to the minimum qualification criteria for the licensed appraisers. In addition, Title XI relies on the states to (1) implement the certification and licensing of all real estate appraisers and (2) monitor and supervise compliance with appraisal standards and requirements. To assure the availability of certified and licensed appraisers, all of the states and territories have adopted structures to regulate and supervise the appraisal industry. These structures typically consist of a state regulatory agency coupled with a board or commission to establish education and experience requirements, license and certify appraisers, and monitor and enforce appraiser compliance.
- The federal financial institution regulators—defined in Title XI as the Federal Reserve System (FRS), Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), Office of Thrift Supervision (OTS), and National Credit Union Administration (NCUA)—are responsible for ensuring that federally insured depository institutions comply with Title XI requirements. To meet these responsibilities, the regulators have (1) adopted rules and policies specifying transactions for which regulated financial institutions are required to obtain an appraisal by a certified or licensed appraiser, (2) developed examination procedures to ensure that regulated financial institutions are in compliance with Title XI, and (3) appointed agency representatives to the Appraisal Subcommittee.
- The Appraisal Subcommittee is responsible for monitoring the implementation of Title XI by all parties—private, state, and federal. The subcommittee monitors the efforts of the federal financial institution regulators in developing and adopting appraisal-related regulations and policies, conducts periodic reviews of each state’s licensing and

certification program, and provides grants to the Appraisal Foundation to support the Title XI-related activities of its two boards—Appraisal Standards Board and Appraiser Qualifications Board.

The private, state, and federal entities involved in the Title XI regulatory structure described a number of factors that they believe could constrain their ability to perform more effectively and efficiently. For example, officials of the Appraisal Standards Board and the Appraiser Qualifications Board told us that insufficient federal grant funding may impede their ability in the future to ensure that standards and qualifications evolve with changing conditions, such as how to appraise contaminated or polluted properties. State appraiser agencies—which are funded at the state level—reported resource limitations as the primary impediment in carrying out their oversight responsibilities. For example, of the 54 states and territories that responded to our survey, 26 reported that the current number of investigators was insufficient for meeting its regulatory responsibilities, 37 cited a need for increasing the staff directed at investigations, and 22 cited a need for more resources to support litigation. Officials of the five federal financial institution regulators reported no major impediments to accomplishing their Title XI responsibilities. The Appraisal Subcommittee reported that rule-making authority and additional enforcement sanctions could facilitate its oversight of state compliance with Title XI. Subcommittee officials stated that the only enforcement action they can take under Title XI is to decertify a state, which would prohibit all licensed or certified appraisers from that state from performing appraisals in conjunction with federally related transactions. Subcommittee officials stated that using this sanction would have a devastating effect on the real estate markets and financial institutions within the state. However, the Appraisal Subcommittee stated that it has always been able to achieve states' compliance under the current enforcement and regulatory structure.

In addition to the impediments described above, officials of the regulatory agencies, appraiser trade groups, education providers, mortgage industry, HUD, and the GSEs raised concerns about the Title XI regulatory structure. However, there was no clear consensus regarding the need for or impact of possible changes. Some industry participants stated that a growing number of real estate transactions, such as those placed through mortgage brokers and those involving dollar amounts below the threshold level established by the federal financial institution regulators, are not universally subject to Title XI appraisal requirements. In addition, some industry participants cited concerns with the lack of a national qualification standard for the licensed real estate appraiser category. Education providers and appraiser

trade groups expressed concerns about the Appraiser Qualifications Board's fees and requirements for instructor certification and course approval. Federal and state regulatory officials expressed concern about the apparent reluctance of lending institutions to make referrals or complaints regarding questionable appraisals they identify. HUD and GSE officials expressed concerns about a lack of consistent and effective enforcement actions by the states on referred cases and the adequacy of the Appraisal Subcommittee's oversight of state programs. This report makes recommendations to the Appraisal Subcommittee intended to enhance the effectiveness of the existing regulatory structure.

We received written comments on a draft of this report from the Appraisal Subcommittee, the Appraisal Foundation, HUD, Fannie Mae, and Freddie Mac. In addition, we received technical comments from the federal financial institutions regulators, who indicated that their overall comments had been incorporated into those provided by the Appraisal Subcommittee. The Appraisal Subcommittee agreed to take action on our recommendation to develop and apply consistent criteria for determining and reporting states' compliance with Title XI, and did not comment on our recommendation for greater coordination with HUD, Fannie Mae, and Freddie Mac on referrals of problem appraisers. Concerning the remaining two recommendations, the Appraisal Subcommittee

- agreed that additional funding for the states would improve compliance with Title XI, but stated that the Subcommittee is not the answer to that issue. Because the recommendation is to explore additional funding as well as other options for assisting the states, we did not revise it.
- agreed that the Appraisal Foundation faces future grant funding constraints, but stated that using the Subcommittee's surplus is not a long-term solution. We modified the report to emphasize that we are recommending that the subcommittee explore options, including drawing on the subcommittee's surplus, if necessary, for addressing future Appraisal Foundation grant shortfalls.

HUD agreed with our recommendation for greater coordination on referrals of problem appraisers to state appraiser agencies. Both Fannie Mae and Freddie Mac expressed concern about this recommendation, commenting that they are not regulatory entities. We revised the wording of our recommendation to emphasize the role that HUD, Fannie Mae, and Freddie Mac can play in helping the subcommittee carry out its oversight responsibilities.

Background

An appraisal is a decision-making tool used to facilitate a real estate transaction. The primary role of appraisals in the loan underwriting process is to provide evidence that the collateral value of the property is sufficient to avoid losses on loans if the borrower was unable to repay the loan. Consumers often mistakenly assume that appraisals are intended to validate the purchase price of the property in question. Furthermore, appraisals are sometimes confused with home inspections, which are intended to warn consumers about serious defects in the home being purchased that should be repaired. In a loan transaction, the lender rather than the borrower engages the appraiser and this usually occurs after the borrower has agreed to purchase the property. The primary intent of the appraisal reforms contained in Title XI was to protect the federal deposit insurance funds—and, by extension, mortgage lenders—from avoidable losses.

An appraisal is an opinion of the value of a property as of a specific date. Appraisers generally consider the property's value from three points of view—cost, income, and comparable sales—and determine an estimated value based upon weighing the three valuation methods. The cost approach is based on an estimate of the value of the land plus what it would cost to replace or reproduce the improvements minus the physical deterioration, functional obsolescence, and economic obsolescence. The income approach is of primary importance in ascertaining the value of income producing properties and is an objective estimate of what a prudent investor would pay based upon the net income the property produces. The comparable sales approach compares and contrasts the property under appraisal with recent offerings and sales of similar property. This approach is usually considered the most appropriate valuation approach for estimating the value of residential real estate property.

In 1986, the House Committee on Government Operations issued a report concluding that faulty and fraudulent appraisals were an important contributor to the losses that the federal government suffered during the savings and loan crisis.³ In response, Congress incorporated provisions in Title XI of FIRREA that were intended to ensure that federally related transactions had appraisals that were (1) performed by real estate

³*Impact of Appraisal Problems on Real Estate Lending, Mortgage Insurance, and Investment in the Secondary Market*, H.Rep. 99-891 at 4-6 (Sept. 25, 1986), House Committee on Government Operations, 99th Congress, 2nd session.

appraisers that had met minimum qualifications criteria and (2) conducted in compliance with uniform standards.

In addition to those identified in Title XI, there are other federal and government sponsored entities that have roles with respect to oversight of the real estate appraisal industry. Among these entities, the most important with respect to appraisal oversight issues are the HUD's Federal Housing Administration (HUD/FHA) and the two large GSEs that purchase residential loans in the secondary market—Fannie Mae and Freddie Mac. HUD/FHA uses appraisals to determine a property's eligibility for mortgage insurance and to estimate the value of a property for mortgage insurance purposes. Certified and licensed appraisers wishing to perform appraisals for HUD/FHA loans must first be placed on the FHA Roster of Appraisers, which requires the appraiser to pass a HUD/FHA examination on appraisal methods and meet other eligibility requirements. Both Fannie Mae and Freddie Mac consider appraisals or evaluations of the property value as a vital part of their risk analysis for loans that they purchase. For those loans for which Fannie Mae and Freddie Mac require an appraisal, the lender is required to use an appraiser that is state licensed or certified in accordance with the provisions of Title XI.⁴ Fannie Mae and Freddie Mac largely hold the lender responsible for the selection and quality control of the appraiser. As such, Fannie Mae and Freddie Mac do not maintain a list of approved appraisers.

Title XI Created a Complex Appraiser Regulatory Oversight Structure

Various private, state, and federal entities play a role with respect to the Title XI regulatory structure (table 1). Private entities—the Appraisal Standards Board (ASB) and the Appraiser Qualifications Board (AQB)—establish minimum standards over the development and reporting of real estate appraisals and minimum qualification criteria for certified appraisers. States conduct the certification and licensing of appraisers, including setting education and experience requirements that, at minimum, must meet AQB criteria for certified appraisers and enforcing compliance with appraisal standards. FRS, FDIC, OCC, OTS, and NCUA—hereinafter referred to as the federal financial institution regulators—issue appraisal requirements for the financial institutions under their jurisdiction and

⁴Both Fannie Mae and Freddie Mac allow lenders the options to use an inspection or evaluation instead of a traditional appraisal, on loans that they determine to be low-risk based on their automated loan underwriting systems. In the case of Freddie Mac, certain low risk loans may be eligible for delivery to Freddie Mac with no appraisal or inspection.

monitor compliance with their regulations. Lastly, the Appraisal Subcommittee has primary responsibility for monitoring and reviewing the actions of the private, state, and federal entities as they relate to Title XI.

Table 1: Title XI Roles and Responsibilities for Appraisal Standards and Appraiser Qualifications

	Private	State	Federal	
Appraisal Standards Board (ASB)	Appraiser Qualifications Board (AQB)	Appraiser regulatory agencies	Financial institution regulatory agencies	Appraisal Subcommittee
Appraisal standards				
Standard setting				
Develop standards for the performance of real estate appraisals.			Promulgate regulations that establish appraisal standards, which meet or exceed ASB's standards, for federally insured depository institutions.	
Implementation/Monitoring				
		Enforce compliance with appraisal standards and requirements.	Monitor and enforce compliance by federally insured depository institutions with appraisal regulations.	Monitor and review the Appraisal Foundation's practices, procedures, activities, and organizational structure. Monitor policies, practices, and procedures of states to determine consistency with Title XI requirements. Monitor appraisal requirements established by federal financial institution regulatory agencies. Make grants to the Appraisal Foundation to defray the costs of the Appraisal Standards Board's Title XI activities.

(Continued From Previous Page)

	Private	State	Federal	
Appraisal Standards Board (ASB)	Appraiser Qualifications Board (AQB)	Appraiser regulatory agencies	Financial institution regulatory agencies	Appraisal Subcommittee
Appraiser qualifications				
Standard setting	Develop minimum qualification criteria for certified real estate appraisers.	Set qualifications criteria for certification, which meet or exceed AQB's criteria, and licensing of appraisers.	Establish additional qualification criteria as may be necessary or appropriate to carry out their statutory responsibilities.	
Implementation/Monitoring				
		Transmit to the Appraisal Subcommittee a roster of appraisers who have been licensed or certified.	Prescribe categories of federally related transactions that should be appraised by a state certified appraiser and those that can be performed by either a state certified or licensed appraiser.	Monitor qualification criteria set by states for the certification and licensing of individuals qualified to perform appraisals in connection with federally related transactions.
		Collect from appraisers and transmit to the Appraisal Subcommittee a \$25 annual registry fee.	Monitor and enforce compliance by federally insured depository institutions with appraisal regulations.	Maintain a national registry of state certified and licensed appraisers eligible to perform appraisals in federally related transactions.
		Enforce compliance with standards, requirements, and procedures prescribed by Title XI.		Monitor and review the Appraisal Foundation's practices, procedures, activities, and organizational structure.
				Make grants to the Appraisal Foundation to defray the costs of the Appraiser Qualifications Board's Title XI activities.

Source: GAO.

Appraisal Foundation and Its Two Boards Establish Appraisal Standards and Minimum Appraiser Certification Criteria

The Appraisal Foundation, a nonprofit educational organization composed of groups from the real estate industry, provides the organizational framework for the ASB and AQB to carry out their Title XI-related responsibilities.⁵ It was founded in 1987 by eight leading professional appraisal organizations in the United States to foster professionalism in appraising. The ASB and the AQB establish minimum standards for developing and reporting an appraisal and the minimum criteria for the certified appraiser category in connection with federally related transactions.

The ASB, which is responsible for setting standards for appraisals, is composed of six appraisers who are appointed for 3-year terms by the Board of Trustees of the Appraisal Foundation. The ASB's minimum standards for appraisals are contained in the Uniform Standards of Professional Appraisal Practice (USPAP). Under Title XI, these minimum standards apply to all federally related transactions. The standards cover both the steps appraisers must take in developing appraisals and the information the appraisal report must contain. The Foundation sells copies of USPAP but provides a copy of each updated version, free of charge, to the state regulatory agencies.

The AQB, which is composed of five appraisers who are appointed for 3-year terms by the Board of Trustees of the Appraisal Foundation, establishes the minimum education, experience and examination requirements for state-certified real estate appraisers (set out in Real Property Appraiser Qualification Criteria and Interpretations of the Criteria). In addition, the AQB performs a number of ancillary duties related to real property and personal property appraiser qualifications. The AQB's criteria cover four categories of appraisers—certified general, certified residential, licensed, and trainee—each with specific education, experience, examination, and continuing education requirements. Title XI does not require states to adhere to AQB criteria for licensed appraisers or for trainees.

Both the ASB and the AQB regularly evaluate USPAP and the appraiser qualification criteria to determine whether revisions are needed. According

⁵The 2002 sponsors of the Appraisal Foundation consisted of eight appraisal organizations, four affiliate organizations (representing primarily the users of appraisal services), and one international appraisal organization. In addition, over 80 organizations, corporations, and government agencies are affiliated with the Appraisal Foundation.

to the Appraisal Foundation, both boards solicit comments from appraisers, users of appraisal services, and the public before making final changes. Since the AQB set its original criteria in 1991, for example, it has issued numerous interpretations and approved two revisions of its criteria. As of January 2003, it was reviewing comments on a third draft of Real Property Appraiser Qualification Criteria.

State Agencies Oversee the Licensing and Certification of Real Estate Appraisers

Under Title XI, states may establish their own agencies to certify and license appraisers. At the time of our review, all 50 states, the District of Columbia, and 4 of the U.S. territories had established such agencies, which typically oversee the activities of appraisers for all types of transactions, including those that are federally related. Of the 54 state and territorial agencies responding to our survey, 30 reported operating as independent bodies, while 23 reported to another state agency or department.^{6,7} In addition, survey respondents reported that they used boards or commissions as well as state employees to carry out Title XI activities.⁸

All the agencies had established programs for certifying appraisers. Licensing requirements, however, differed. Some states did not require licenses unless appraisers planned to work with federally related transactions. Other states required appraisers to be either licensed or certified to perform a real estate appraisal, even for transactions that are not federally related. State agencies' licensing and certification programs typically included temporary and reciprocal licensing programs. An appraiser must, in general, obtain some type of license—temporary or reciprocal if not a standard state license—in all states where they want to perform appraisals for federally related transactions.⁹

⁶We did not receive a response to our survey from the Virgin Islands.

⁷The state of Wisconsin had a hybrid organizational structure composed of an independent board that handled the complaint process (including taking disciplinary action) and a state agency reporting to the Department of Regulation and Licensing that issued appraiser licenses.

⁸California and Guam reported that they did not use boards or commissions for appraiser oversight.

⁹Reciprocity allows appraisers to use a license from their home state to obtain a license in another state without taking examinations or meeting additional requirements.

In addition to conducting licensing and certification activities, all survey respondents indicated that they approve courses for appraisers' education or training, enforce state regulations concerning appraisals, and investigate complaints. Over half of the states reported that they had adopted appraisal standards in addition to those set by the ASB, and nearly 70 percent reported that they had introduced additional qualifications.

Although the states are responsible for the certification and licensing of appraisers under Title XI, the Appraisal Subcommittee has a role in ensuring that state qualifications satisfy Title XI objectives. Title XI directs federal agencies not to accept state certifications and licenses if the subcommittee issues a written finding that:

- the state certifying and licensing agency has failed to recognize and enforce the standards, requirements, and procedures of Title XI;
- the state agency does not have enough authority to carry out its functions under Title XI; or
- the state agency does not make decisions on appraisal standards and qualifications or supervise appraiser practices in a way that carries out the purposes of Title XI.¹⁰

In addition, Title XI requires states to provide the Appraisal Subcommittee with the names of those appraisers who become certified or licensed in accordance with Title XI and to collect from them an annual registry fee that goes to the subcommittee.

Federal Regulators Determine Which Transactions Require Appraisals and Establish Compliance Standards for Depository Institutions

Title XI requires the federal financial institution regulators to ensure that real estate appraisals used in connection with federally related transactions are performed in accordance with standards developed by the ASB.¹¹ In addition, Title XI requires that the federal regulators prescribe the categories of federally related transactions that should be appraised by a state certified appraiser and those that should be appraised by a licensed appraiser. Under the statute, state certified appraisers generally must be used in connection with federally related transactions for all commercial

¹⁰12 U.S.C. § 3347(a), (b) (2000).

¹¹12 U.S.C. § 3339 (2000).

real estate transactions greater than \$250,000 and all residential transactions in excess of \$1,000,000.¹² All other federally related transactions, unless subject to an exemption as authorized under Title XI, may utilize a state-licensed appraiser.¹³

Under Title XI, the federal financial institution regulators may establish a threshold level at or below which a certified or licensed appraiser is not required. As of December 30, 2002, each of the five regulatory agencies had set their appraisal threshold at \$250,000.¹⁴ Thus, financial institutions have the option of obtaining either an appraisal or some other form of an evaluation of the property's value for mortgage loans of \$250,000 or less. The regulators have issued guidelines to the institutions under their jurisdiction that specify the requirements for evaluating real estate collateral for those transactions that do not require an appraisal.

The federal financial institution regulators require that all appraisals for federally related transactions conform, at a minimum, to USPAP, that they be written, and that they contain sufficient information and analysis to support the institution's decision to engage in the transaction. Regulatory agencies may take informal and formal enforcement actions, including memorandum of understanding, removal, prohibition, and cease and desist orders, and imposing civil money penalties against institutions that violate their appraisal regulations. These actions can apply to contract (fee) appraisers as well as appraisers who are employees of the institutions and institution-affiliated parties. Moreover, pursuant to the FDIC Improvement

¹²The \$1,000,000 threshold does not apply to 1-4 unit, single family residential appraisals unless the size and complexity of the transaction requires a State certified appraiser. Also, under Title XI the federal financial institution regulators are responsible for determining whether other types of transactions warrant the use of a certified appraiser. See 12 U.S.C. § 3342 (2000).

¹³Although the States are responsible for establishing and administering licensing qualifications, Title XI authorizes the federal financial institution regulators to establish additional qualification criteria.

¹⁴The threshold amount is contained in regulations of the respective agencies that set forth the circumstances under which an appraisal by a state certified or licensed appraiser is required or not required. See 12 C.F.R. § 34.43 (2002)(OCC), 12 C.F.R. § 225.63 (2002)(FRS), 12 C.F.R. § 323.3 (2002)(FDIC), 12 C.F.R. § 564.3 (2002)(OTS), and 12 C.F.R. § 722.3 (2002)(NCUA).

Act of 1991, the federal financial institutions regulators can take action against institution-affiliated parties such as an appraiser.¹⁵

According to representatives of the regulatory agencies, regulators typically review an institution's compliance with appraisal regulations during examinations of business risk management policies and practices, during targeted examinations (for example, of real estate transactions and practices), or during reviews of lending transactions. If regulators detect violations or deficiencies, they may take enforcement action or address it within discussions with the institution's management for corrective action if they believe it affects the institution's safety and soundness.

Appraisal Subcommittee Monitors Title XI Regulatory Activities

Title XI established the Appraisal Subcommittee as the principal federal agency responsible for monitoring the activities of the other components of the real estate appraisal industry oversight structure. Specifically, the subcommittee is responsible for:

- monitoring and reviewing the practices, procedures, activities, and organizational structure of the Appraisal Foundation—including making grants in amounts that it deems appropriate to the Appraisal Foundation to help defray costs associated with its Title XI activities;
- monitoring the requirements established by the states, territories, and the District of Columbia and their appraiser regulatory agencies for the certification and licensing of appraisers;
- monitoring the requirements established by the federal financial institution regulators regarding appraisal standards for federally related transactions and determinations of which federally related transactions will require the services of state-licensed or state-certified appraisers;
- maintaining a national registry of state-licensed and state-certified appraisers who may perform appraisals in connection with federally related transactions; and

¹⁵12 U.S.C. § 1813(q) (2000).

-
- transmitting an annual report to Congress regarding the activities of the subcommittee during the preceding year.¹⁶

The Appraisal Subcommittee has six board members and seven staff members. The board members are designated by the heads of the five financial institution regulatory agencies that collectively make up the Federal Financial Institutions Examination Council—OCC, FRS, FDIC, OTS, and NCUA—and HUD. The subcommittee funds its activities through a portion of the fees assessed by the states against individual appraisers for licensing and certification.¹⁷

According to subcommittee officials, the subcommittee monitors the Appraisal Foundation by attending all significant meetings and events associated with its Title XI activities and reviewing all proposed changes or additions to its appraiser qualifications criteria or USPAP-related documents. In addition, the subcommittee reviews the Appraisal Foundation's grant requests to ensure that the requested funds will only be used for activities related to Title XI. The subcommittee evaluates the foundation's initiatives to determine whether they are eligible for reimbursement; the initiatives must be reasonable and not arbitrary or capricious.

The subcommittee monitors the federal financial institution regulators primarily through informal channels. For example, all six Appraisal Subcommittee board members are involved in the offices responsible for appraisal regulation in their individual agencies and provide input from the subcommittee informally to the agencies. The subcommittee also provides technical assistance on proposed regulations on appraisal issues. One official told us that the issues subject to subcommittee monitoring in this regard are few and tend not to change often. He stated that the only change he could recall in nearly 7 years was the NCUA's recent decision to raise the minimal threshold for transactions requiring appraisals from \$100,000 to \$250,000 to match the levels of the other regulatory agencies.

Monitoring state appraiser regulatory agencies requires performing on-site field reviews of state agency programs and maintaining close

¹⁶See 12 U.S.C. § 3332(a) (2000).

¹⁷Title XI authorizes the Appraisal Subcommittee to charge an annual registry fee of not more than \$25. However, the Federal Financial Institutions Examination Council may approve fees up to \$50 per year. As of March 31, 2003, the annual registry fee was \$25.

communications with, among others, appraisers, state and federal agencies, and users of appraisal services. The subcommittee has two primary review cycles for states—3 years and 18 months. Most states are scheduled on the 3-year cycle, and states are moved to an 18-month cycle if more frequent on-site visits are warranted—generally because of concerns identified during the prior field review. According to the Appraisal Subcommittee, its field review manual is intended to insure consistent review and policy applications from state to state. The reviews cover open and closed complaints; approved and disapproved education providers and courses; state statutes and regulations on certifying and licensing appraisers; minutes of board meetings; appraiser registries and fees; temporary practice and reciprocity; and topical issues such as predatory lending, fraud, and illegal real estate flipping.¹⁸ The letters that summarize the results of the state field reviews identify concerns, discuss whether the previous review’s concerns have been resolved, and make general conclusions about the state’s compliance with Title XI and Appraisal Subcommittee policy statements. The state field review letters are posted on the subcommittee’s Web site.

We reviewed the Appraisal Subcommittee’s state field review letters from 1992 to 2002. While the letters provide some information to the state regulatory agencies, we found no evidence of transparent criteria for how the subcommittee determined and reported states’ compliance levels. For example, state field review letters were sometimes inconclusive about whether the state regulatory program was in compliance. When the letter contained a determination of compliance, the rationale for this decision was not always given. For example, some states with identified concerns were deemed compliant, while others with identified concerns were deemed noncompliant. Developing and applying consistent criteria to assess states’ compliance with Title XI requirements could increase the usefulness of (1) the letters issued to the states in identifying best practices and how one state measures against other states and (2) the annual reports that the Appraisal Subcommittee provides to Congress on the implementation of Title XI.

¹⁸Illegal real estate flipping is a scheme where a real estate speculator buys a house, usually in a poor neighborhood, and obtains an inflated appraisal and other fraudulent financial documents to trick a lender into making a loan that exceeds the fair market value. The house is sold again at an inflated price to a second buyer. The seller has then made a large profit on the inflated value of the property. If the second buyer defaults on the loan, the mortgage lender may not be able to recoup the amount of the loan and will therefore absorb a loss.

Under Title XI, the subcommittee is also required to maintain a registry of state-certified and -licensed appraisers who are eligible to perform appraisals for federally related transactions.¹⁹ The registry database is designed to allow users to determine (1) whether an appraiser is eligible to perform such appraisals and (2) whether the appraiser has been subjected to disciplinary action. In addition to eligibility information, the database includes information about the number of active and inactive licenses, the types of licenses, and any disciplinary actions taken by states against appraisers. Appendix IV contains a detailed description of the database and summary information regarding the number of appraisers by license type and enforcement actions reported by the states.

Private, State, and Federal Entities Cited Potential Impediments to Fulfilling their Title XI Roles

The private, state, and federal entities involved in the oversight of the real estate appraisal industry identified a number of factors that they believe could constrain their ability to fulfill their Title XI responsibilities. ASB and AQB officials stated that an impediment that they may face in the future is inadequate federal funding, which would hinder their ability to ensure that appraisal standards and qualification criteria keep pace with changes in the mortgage industry and marketplace. State appraiser agencies reported that they often lack funding to revise their regulations with every USPAP update and to cover the increasing cost of administering the licensing and certification processes. The federal financial institution regulators did not identify any major impediments to fulfilling their Title XI responsibilities, but they did state that reaching consensus on regulatory standards was difficult because of the number of entities involved in the appraisal industry. Appraisal Subcommittee officials reported that rule-making authority and additional enforcement sanctions could facilitate its oversight of state compliance.

The Appraisal Standards and Appraiser Qualifications Board Cited Concerns about Federal Funding

The ASB and AQB reported that financial challenges arise when federal grant funding falls short of their needs. Since 1991, the Appraisal Subcommittee has allocated a total of over \$9 million in grants to the Appraisal Foundation to defray the costs of the ASB's and AQB's Title XI-related activities. For most of this time the allocations have been less than what the ASB and AQB have requested. For example, the ASB and AQB requested a total of over \$9 million in grant money between 1994 and 2003,

¹⁹12 U.S.C. §3332(a)(3).

but less than \$7 million was approved. However, the Appraisal Foundation also has other sources of revenue other than the grants it receives from the Appraisal Subcommittee. For example, the \$870,373 grant that the Appraisal Foundation received during calendar year 2001 represented approximately 36 percent of the Appraisal Foundation's total revenue of \$2.4 million for that year. (The largest source of revenue for the Appraisal Foundation in 2001 was \$1.1 million from publication sales.) Further, in commenting on a draft of this report, the Appraisal Subcommittee noted that the ASB and AQB had not used all of the grant funds provided in past years.

The Appraisal Subcommittee told us that it did not have the current-year funds to fully meet the ASB's and AQB's grant requests over the past 3 years. However, the Appraisal Subcommittee had a \$3.7 million surplus as of December 2001. According to Appraisal Subcommittee officials, the surplus was built up in its early years of operation when its revenues exceeded its expenses and grants to the ASB and AQB. Subcommittee officials stated that in recent years its expenses have increased—primarily due to inflation and expenses associated with its monitoring activities—and that this in turn has limited the amount of funds available for grants to the ASB and AQB from current-year funds. They explained that it has not been the Appraisal Subcommittee's policy to use the surplus to provide grants to the ASB and AQB. When the ASB's and AQB's initial grant requests have exceeded the difference between the Appraisal Subcommittee's current-year revenues minus its expenditures, the Appraisal Subcommittee has requested that the Appraisal Foundation adjust its grant requests accordingly.

Appraisal Subcommittee officials also stated that inflation and other factors will likely continue to raise the boards' expenses by up to 5 percent per year. Given that the number of appraisers has remained static for the last several years, subcommittee officials did not anticipate their revenues, which are based primarily on licensing and certification fees, to increase. As a result, future grants to the ASB and AQB are expected to fall unless the subcommittee uses its surplus, raises the \$25 fee that states collect from appraisers on the subcommittee's behalf, or both.

According to ASB and AQB officials, future funding shortfalls may limit the activities they believe enhance the quality, timeliness, and usefulness of standards and qualifications. For example, the AQB chair commented that additional funding is needed to update their "body of knowledge," which outlines the concepts, theories, paradigms, and applications of the real

property appraisal profession and delineates the skill necessary to practice. The AQB believes that updating its body of knowledge is necessary to keep pace with changes in the marketplace. Likewise, ASB and AQB officials stated that funding is needed to ensure that its education and professional standards keep pace with trends and issues such as the lack of terrorism insurance and polluted properties and how they might impact a property's value. According to ASB and AQB officials, the ultimate impact of funding shortfalls could be a weakening in the protections intended by Title XI because appraisal standards and appraiser qualifications may not keep pace with changes in the marketplace.

States Cited Funding Limitations and Frequent USPAP Updates as Impediments

Most of the states identified funding and staffing deficiencies as the most serious challenges they faced in carrying out their Title XI duties. Of those states that reported challenges, about two-thirds of the states said that they needed additional funding to conduct investigations, and over three-quarters said that they needed additional staff. The states also reported that the frequency of USPAP updates was an administrative burden and created challenges in investigating and enforcing complaints of USPAP violations.

Based on our survey of state and territorial regulators of the appraisal industry, the average state agency had about 3 staff members, who were responsible for overseeing almost 2,000 appraisers. Many of these state agencies reported that they needed to share resources—administrative staff, office space, investigators, or all three—with other state agencies in order to perform their Title XI duties. The survey results indicated that investigations of complaints about problem appraisers suffered most from these shortages. The majority of states sharing resources were sharing investigators, who often had no real estate appraisal experience. In one agency newsletter, a state official explained that without adequate funding states could not effectively administer their appraiser certification programs and investigate and dispose of disciplinary cases in a timely manner. According to an official from another state, the agency knows that more enforcement and faster turnaround times are needed in investigating complaints but is hindered by its limited resources. According to Appraisal Subcommittee officials, their general counsel analyzed whether the subcommittee could provide grants to the states to help provide funding for their Title XI activities and determined that it lacked the necessary legal authority.

Seventy percent of state appraiser regulatory agencies responding to our survey indicated that USPAP updates are too frequent. One state reported

that frequent changes to USPAP have made processing complaints difficult because staff had to review so many versions of USPAP to determine whether complaints were valid. Another state pointed out that regulating appraisers was difficult when the appraisal standards changed so frequently. According to ASB officials, USPAP has been in place for only 15 years, and annual updates have been needed because so many changes have occurred in the appraisal industry. Moreover, they told us that many of the changes that have been incorporated into USPAP are a result of requests from state regulators. The officials explained that over the years the ASB has experimented with different formats for updating USPAP but has found that issuing an annual publication has been the best way to ensure that everyone is using the same standards. The ASB and the Foundation are currently working on developing a future publishing schedule of having USPAP issued biennially. In addition, ASB officials stated that they have recently started providing state regulators complimentary newsletters highlighting ASB and AQB activities and noting any changes, modifications, or clarifications to USPAP or appraiser qualifications criteria. Some states have found the annual updates to be a legislative burden in terms of getting the new regulations adopted, but the majority of states reported that they had been able to update their real estate appraisal regulations or rules in 6 months or less.

Federal Financial Institution Regulators Did Not Identify Any Major Impediments

The federal financial institution regulators indicated that they have not encountered any major impediments to fulfilling their Title XI responsibilities. However, some of the federal financial institution regulators stated that the number of different entities involved in the Title XI oversight structure sometimes made resolving issues difficult and hindered efforts to develop a common approach to examining structural issues. They noted that faulty and fraudulent real estate appraisals have been associated with losses incurred by federally insured financial institutions—such as in the case of illegal real estate flipping—and have resulted in financial harm to individual consumers. However, all of the regulators stated that real estate appraisals have not been a major factor in the failure of depository institutions since the passage of Title XI.

Appraisal Subcommittee Stated That Rule-Making Authority and Enforcement Options Could Facilitate Its Oversight of States

As discussed earlier, the Appraisal Subcommittee is responsible for monitoring states' compliance with Title XI. According to subcommittee officials, the lack of rule-making authority and limited enforcement powers make achieving the uniformity and standardization intended by Title XI more difficult. In addition, the officials noted that because the 55 state appraiser regulatory agencies took a variety of approaches to implementing Title XI, expanding the subcommittee's function to allow it to issue regulations would help ensure greater consistency among the states in credentialing appraisers and enforcing the most current version of USPAP. However, giving the Appraisal Subcommittee rule-making authority would also change the subcommittee's role under Title XI from a monitoring to a regulatory function.

The Appraisal Subcommittee has issued 10 policy statements to "assist the states in the continuing development and maintenance of appropriate organizational and regulatory structures for certifying, licensing, and supervising real estate appraisers."²⁰ For example, Statement 5 indicates that states should not require temporary practitioners—appraisers from other states with temporary licenses—to affiliate with in-state appraisers and recommends that states forward information about disciplinary actions against visiting appraisers to the appraisers' home states. However, adherence to these recommendations varies across states. Our survey indicated that 98 percent of respondents adhered to the nonaffiliation policy but that less than 50 percent were notifying home states about disciplinary actions.

Subcommittee officials stated that currently the only enforcement action they can take under Title XI is to decertify a state. Decertification prohibits all licensed or certified appraisers from that state from performing appraisals in conjunction with federally related transactions. Because this action is so severe and could significantly affect a state's real estate market, the subcommittee has never used it, and its impact has not been tested. In addition, the decertification action can be taken only for the limited purposes specified in Title XI and is subject to proof requirements and judicial review.²¹

²⁰Appraisal Subcommittee, *Policy Statements Regarding State Certification and Licensing of Real Estate Appraisers* (Washington, D.C: Sept. 22, 1997, as amended).

²¹See 12 U.S.C. § 3347(b),(c) (2000).

During our review, the Appraisal Subcommittee noted that its oversight of the states could be strengthened if it had more enforcement authority—for example, the authority to assess monetary penalties or to require that a state stop an activity or practice. However, in commenting on a draft of this report, the subcommittee stressed that it has always been able to ensure that states are complying with Title XI within the current supervisory and enforcement structure.

Industry Participants Raised Various Concerns about the Title XI Oversight Structure

Representatives of federal and state regulatory agencies, appraiser trade groups and education providers, and the mortgage industry expressed various concerns and conflicting viewpoints about the Title XI regulatory structure. Some of the industry participants cited the concern that Title XI left the minimum qualification criteria for licensed real estate appraisers to the states resulting in the lack of a national standard and gaps in Title XI's regulatory coverage, particularly the exclusion of certain types of financial institutions and mortgage brokers who increasingly account for a large volume of loan originations. Second, some cited concerns about a lack of uniformity among the states in (1) licensing and certification practices, (2) requirements for approving educational activities, and (3) complaint referrals and enforcement activities, especially for suspected problem appraisers. These perceived gaps in the Title XI oversight structure are, in part, reflective of the primary intent of Title XI, which was to protect the federal deposit insurance funds rather than individual consumers. There was no clear consensus regarding the need for or impact of possible changes to the existing Title XI regulatory structure.

Industry Participants Cited Lack of National Licensing Criteria

Participants in the real estate appraisal industry expressed concern that licensed real estate appraisers, unlike certified appraisers, do not have to meet national qualification criteria. According to many of the groups we contacted, Title XI's most significant shortcoming is the provision that leaves the criteria for licensed appraisers to each state, including decisions such as how often appraisers should be licensed and whether they should be licensed at all. Under Title XI, a "state-licensed appraiser" is defined as "an individual who has satisfied the requirements for state licensing in a state or territory."²² In contrast, certified appraisers must meet certification

²²12 U.S.C. § 3345(c) (2000).

criteria that adhere to the AQB's requirements.²³ While Title XI contains this mandate for certified appraisers, it contains no reference to licensing requirements for licensed appraisers. Moreover, Title XI specifies that the subcommittee will not set requirements for licensing and that any subcommittee recommendations are nonbinding.²⁴ However, the federal financial institutions regulators have the authority to issue additional qualification requirements as needed to carry out their statutory responsibilities.²⁵

Some groups believe that this provision has led to a lack of uniform qualifications in licensing across the country (for example, in education and experience) and may also have helped to create an environment conducive to mortgage fraud. According to an official from the Appraisal Subcommittee, Title XI's intent was to ensure that appraisers for federally related transactions met minimum requirements for experience and education and had been examined in order to ensure a minimum level of competency. Under the current system, individuals in some states can qualify for an appraiser license without having satisfied any educational requirements or met any criteria for work experience and without having passed any examinations.

Officials from the Appraisal Subcommittee reported that while most states have adopted statutory or regulatory provisions requiring licensed appraisers to meet AQB recommended criteria, six states do not have a state-licensed appraiser category, and six have licensing requirements that are less stringent than the AQB's. As a result, subcommittee officials said, some licensed appraisers may not meet recommended qualifications criteria. For example, in 2002, one state passed legislation that eliminated the experience requirement for its licensed appraisers; and, in 2001, another state revised its licensing criteria to comply with AQB requirements but at the same time "grandfathered" in several hundred licensed appraisers. As a result, lenders and homebuyers who rely on proof of licensing when hiring appraisers may not know what kind of criteria, if any, the appraisers were required to meet. The Appraisal Subcommittee

²³12 U.S.C. § 3345(a) (2000).

²⁴12 U.S.C. § 3345(e) (2000).

²⁵12 U.S.C. § 3345(d) (2000).

and other industry participants view the issue as a growing problem, since licensed appraisers are likely to perform the majority of residential appraisals.

According to two regulatory officials, problems related to the lack of uniformity in licensing appraisers are compounded by the fact that Title XI also makes licensing voluntary at the state level. Voluntary licensing means that the state does not have a legislative requirement that appraisers be licensed or certified. However, the volunteer states do provide the opportunity for an appraiser to become licensed or certified to perform federally related transactions. These regulators, as well as one appraiser trade group, view voluntary licensing as a serious flaw in the industry's regulatory structure and a probable contributor to mortgage fraud. Moreover, voluntary licensing may indirectly place the onus on financial institutions to ensure that appraisers for federally related transactions have the appropriate qualifications. According to officials from the Appraisal Subcommittee, state licensing requirements for appraisers falls into one of three categories—voluntary, mandatory for federally related transactions, and mandatory (table 2). As of March 2003, 10 states were classified as being in the voluntary licensing category, and one federal financial institution regulator reported that most of the mortgage fraud problems it has encountered have occurred in states where licensing is voluntary. His views were echoed in an earlier Federal Bureau of Investigation testimony at a special congressional hearing on predatory lending in March 2000.²⁶ According to this testimony, the most egregious property flipping problems have occurred in states where licensing is voluntary for transactions that are not federally related.

²⁶*Form of Real Estate Fraud Known As Flipping: Hearing before a Subcommittee of the Senate Committee on Appropriations, March 27, 2000, Baltimore, Maryland.*

Table 2: State Appraiser Licensing Requirements

State licensing requirement	Description of requirement	States
Voluntary ^a	State law does not require appraisers to be state licensed or certified. A person wanting to perform appraisals connected with federally related transactions may choose to become state licensed or certified. ^b	Alaska, Indiana, Iowa, Kentucky, Louisiana, Massachusetts, North Dakota, Ohio, Oklahoma, and Wyoming (10)
Mandatory for federally related transactions only	State law requires all appraisers connected with federally related transactions to be state licensed or certified. Persons performing appraisals in transactions that are not federally related need not be licensed or certified.	Arkansas, California, Colorado, Florida, Georgia, Hawaii, Illinois, Kansas, Maryland, Montana, New Hampshire, New York, Vermont, Wisconsin, and Guam (15)
Mandatory	State law requires all persons performing any kind of appraisal activity for any kind of real estate transaction to be state licensed or certified.	Alabama, Arizona, Connecticut, Delaware, District of Columbia, Idaho, Maine, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New Mexico, North Carolina, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Northern Mariana Islands, Puerto Rico, and Virgin Islands (30)

Source: Appraisal Subcommittee.

^aAccording to a subcommittee official, under this requirement appraisers who are not licensed or certified could perform appraisals in connection with federally related transactions without violating state law, but the federally regulated financial institution using that appraiser's services could be subjected to federal regulatory action.

^bUnder state law, federally related transactions should include transactions involving the Federal Housing Administration and the two government-sponsored enterprises, Fannie Mae and Freddie Mac.

Industry Participants Were Concerned That Title XI Does Not Cover Many Transactions

Industry participants also voiced concerns about the fact that Title XI does not cover financial institutions and mortgage brokers that are not subject to federal regulation. When Title XI was enacted, federally regulated lending institutions made most mortgage loans. Today, other financial institutions, such as mortgage bankers and finance companies, account for a substantial share of the mortgage marketplace. Many of these financial institutions that are not federally regulated, as well as an increasing portion of regulated financial institutions, use mortgage brokers to originate loans, so that these brokers now originate about 50 percent of all mortgage loans. These entities and individuals may have state licenses, but they are not monitored by federal or state entities through, for instance, examinations

or audits.²⁷ Appraisers have anecdotally reported that these originators pressure them the most to appraise properties at or near the purchase price to assure that the mortgage transaction will occur.

As previously noted, the federal financial institution regulators have set the minimum for transactions requiring appraisals at \$250,000. Some industry participants have said that this threshold and any increases to it undercut efforts to protect consumers. These groups believe that oversight of real estate appraisals should be geared toward the interests of consumers, who should be able to expect an unbiased, objective third-party opinion of the value of real property offered as security for a loan. However, Title XI was enacted in response to the impact of appraisal problems on federally insured depository institutions, and federal financial institution regulators have identified few problems or risks to depository institutions associated with loans valued below the \$250,000 threshold. For transactions of less than \$250,000, federal financial institution regulators allow lenders to use either an evaluation—a simpler assessment of a property’s market value. For example, the results of a computerized valuation known as an automated valuation model (AVM) could be used as the basis for an evaluation.²⁸ The two groups holding some of the largest portfolios of residential real estate mortgages, Fannie Mae and Freddie Mac, increasingly are using AVMs in place of traditional appraisals. However, because an evaluation or AVM is not considered an appraisal, it is not subject to the same standards and does not require a licensed or certified appraiser. Appendix V describes the basic types of AVMs and the benefits and concerns that have been associated with them.

Industry Participants Cited Differences Among State Licensing Programs

Representatives of various groups we contacted expressed some concerns about differences in the standards that states have set for temporary, reciprocal, and general licenses. The differences noted by these groups focused on the lack of uniformity in the implementation of Title XI

²⁷Fannie Mae officials noted that when an appraisal is required for a mortgage that will be delivered for sale to the GSE, mortgage brokers must use appraisers that are state-licensed or certified in accordance with Title XI.

²⁸An evaluation is generally performed by an individual who does not need a license or certification. For more information on real estate evaluations, see U.S. General Accounting Office, *Bank and Thrift Regulation: Better Guidance Is Needed for Real Estate Evaluations*, GAO/GGD-94-144 (Washington, D.C.: May 23, 1994). In addition, the federal financial institutions regulators issued Interagency Appraisal and Evaluation Guidelines on October 27, 1994.

requirements. According to these groups, the lack of uniformity between states in the implementation of Title XI has created difficulties for lenders and appraisers who operate in multiple states.

Industry participants cited a lack of uniformity in the way states grant temporary and reciprocal licenses. Because credentials from one state may not be recognized by another, appraisers often have to carry multiple state licenses. Title XI requires states to recognize on a temporary basis real estate appraisers who have been certified or licensed by another state if certain conditions are met and encourages states to develop reciprocity agreements that readily authorize appraisers who are licensed by and in good standing with their home state to perform appraisals in other states.²⁹ The Appraisal Subcommittee has issued policy statements on temporary practice and encouraging reciprocity. However, our survey indicated that state regulatory agencies continue to vary widely on these issues. For example, of the 53 states and territories that responded to this question, 40 issued temporary licenses for single assignments, 16 allowed an appraiser only one temporary license at a time, and 15 limited the number of temporary licenses an appraiser could receive annually. Six of the 54 respondents to our survey indicated that visiting appraisers are required to pass a state exam in order to receive a reciprocal license. This practice is not only inconsistent with the spirit of Title XI but also with the Appraisal Subcommittee's guidance recommending that states accept licenses or certification from other states meeting AQB requirements. In addition, a representative from a banking trade group told us that lenders are dissatisfied with state reciprocal licensing requirements, which make it difficult to use the same appraisers in multiple jurisdictions or states. The trade group representative added that some states are more restrictive than others. According to our survey, 23 states and territories require a reciprocity agreement with the state or territory issuing an appraiser's original license before issuing a reciprocal license. The inability to readily obtain a license in another state may be especially problematic during periods of heavy refinancing, when some states may need more appraisers.

Further, the states do not use uniform appraiser classifications or fee requirements. The Appraisal Subcommittee recognizes four licensing categories in its National Registry of Appraisers—licensed, certified general, certified residential, and transitional license. We found that the number of categories for licensed and certified appraisers used by the

²⁹12 U.S.C. § 3351(a),(b) (2000).

states and territories ranged from two to seven and included such non-AQB classifications as residential real property appraiser and limited general appraiser. The states' license fees also varied by the type of license or certification sought and the number of years it covered. Individual states set fees for certifying and licensing appraisers, with annual fees ranging from \$22 to \$450 and initial licensing terms of from 1 to 4 years. For the 55 state agencies with a certified general appraiser classification, we found that 22 states had a 1-year term with fees ranging from \$120 to \$450, 28 states had 2-year terms and fees from \$44 to \$680, and 3 states had 3-year terms with fees from \$150 to \$470. One state had a 4-year term but did not provide information on its fees.³⁰

The results of our analysis of license renewal fee requirements were similar. Specifically, for the certified general appraiser classification, we found that 19 states had a 1-year term with fees ranging from \$105 to \$400, 29 states had 2-year terms with fees from \$100 to \$610, and 6 states had 3-year terms with fees from \$225 to \$470. We also found that these provisions varied depending on the category of license or certification sought. For example, the renewal term for a licensed real property appraiser (residential) ranged between 1 to 4 years across states, while the renewal term for a licensed real property appraiser (general) ranged from 1 to 2 years.

Industry Participants Expressed Concerns about the Costs and Lack of Uniform Approval Processes for Appraiser Education Courses

Several state regulators and education providers expressed concerns about the expenses and lack of uniformity in the processes associated with approving instructors and courses for appraisers' continuing education. A representative of an appraisers' trade group noted that gaining approval for a course and an instructor in one state does not necessarily translate into approval in other states. As a result, the trade group spent around \$30,000 having courses for a July 2000 training conference approved in all jurisdictions. He added that one-fourth of the states require certified checks, notarized documents, or both to initiate the course approval process. These participants believe that the added cost and procedures involved in acquiring approval in each state is overly burdensome.

AQB officials told us that the board has set up a voluntary national system for approving courses and that these concerns had influenced their project.

³⁰The remaining state's program charged a certified general appraiser \$45 in even-numbered years and \$90 in odd-numbered years.

AQB and Appraisal Foundation officials said that their efforts were not intended to usurp the states' authority. According to the AQB, the course approval program was designed to be a convenience for both course providers and state regulators while helping to ensure quality appraisal courses. However, AQB's course and instructor approval programs have met opposition in some quarters. For example, some state officials and other industry participants stated that requiring AQB approval for all USPAP refresher courses and instructors and restricting course materials and examinations to AQB publications—for which AQB charges a royalty fee—represent a conflict of interest. However, AQB officials stated that any educational provider may submit a USPAP course for consideration to be deemed equivalent to the national USPAP courses and added that, to date, four educational providers have submitted courses which have been approved as equivalent to the national USPAP courses. In addition, some education providers have stated that the fees charged by the AQB for its course and instructor approval are excessive. On the other hand, some state and federal financial institution regulators believe that the Appraisal Foundation and its boards possess expertise and resources the states do not have and thus are needed to ensure that the quality of appraiser education and training is not compromised. Appendix VI contains information on the fees charged by the AQB for its course and instructor approval programs.

Similarly, some states and educators have expressed concern that the AQB and Appraisal Subcommittee have encroached upon state authority in setting certain appraisal standards and appraiser qualifications. For example, the regulatory agency and an education provider in one state objected to certain AQB education requirements for certified appraisers, in particular a requirement that education providers be certified through the AQB's instructor certification program. As part of its industry monitoring function, the Appraisal Subcommittee reviewed those standards and determined that the AQB had acted appropriately in adopting them. The Appraisal Subcommittee has also instructed states to rescind approvals of distance education courses for certified real property appraisers if the courses or their providers did not conform to AQB criteria.³¹ The state appraiser regulatory agency and education provider contended that the

³¹Distance education does not require that the student be physically present in the same location as the instructor. Common delivery systems used in distance education involve technology such as video, computer-based training, and the Internet to bridge the instructional gap.

education provider standards exceed the scope of the AQB's responsibility as contemplated by Title XI and that the Appraisal Subcommittee, by recognizing and affirmatively applying those standards, acted beyond its monitoring authority.

In light of those assertions, the Appraisal Subcommittee requested a legal opinion from the Legal Advisory Group of the Federal Financial Institutions Examination Council on (1) the scope of AQB's authority to adopt education-related standards for certified appraisers; (2) the scope of the Appraisal Subcommittee's responsibility in monitoring the AQB; and (3) the Appraisal Subcommittee's authority to oversee state regulators' implementation of AQB standards.³² In a June 2002 opinion, the Legal Advisory Group concluded that the AQB's and Appraisal Subcommittee's actions appeared to be consistent with and authorized by Title XI. Referring to the legislative history of Title XI, the Legal Advisory Group opinion stated that with Title XI Congress intended to create consistent certification standards for appraisals nationwide and that Congress relied on the AQB to set minimum appraiser certification criteria. A copy of this decision can be found in appendix VII.

Industry Participants Cited a Need for Improvement in the Referral Process for Problem Appraisers

Participants in the real estate appraisal industry described the process of referring questionable appraisals or appraisers to state regulatory authorities as needing improvement, saying that few referrals were being made. Title XI instructs federal agencies or federal instrumentalities to report any action of a state-certified or -licensed appraiser that represents a violation of Title XI requirements to the appropriate state agency.³³ According to an Appraisal Subcommittee official, a referral is basically a notice to the state agency that a potential violation exists that warrants investigation.

State regulatory officials also said that they had received few referrals from lenders and bank regulators. The state officials believed this problem was a serious one and felt that institutions engaging appraisers should be responsible for referring appraisers to agencies for investigation and disciplinary action. Our survey of state regulators suggests that lenders and

³²The Legal Advisory Group consists of the general or chief counsels of the FDIC, FRS, OCC, OTS, and NCUA.

³³12 U.S.C. § 3348(c).

federal agencies are referring few problem appraisers. Results of the survey showed that the greatest percentage of complaints came from consumers and other appraisers. Likewise, Appraisal Subcommittee staff reported that based on their state reviews, lenders and bank regulators are not actively making referrals and that when they do, the referrals are often incomplete or unspecific.

Federal financial institution regulators have an official interagency policy encouraging depository institutions to make referrals. But officials from the regulatory agencies told us that the institutions often follow the advice of their legal departments and simply stop using offending appraisers rather than reporting them because of the potential for lawsuits. In addition, one regulatory official stated that regulations on confidentiality and disclosure prevented them from providing information discovered during an examination unless a criminal act had occurred.

However, both HUD and Fannie Mae have made referrals to state regulatory agencies. HUD, for example, has made such referrals, even though it has internal systems in place for disciplining problem appraisers. HUD imposes administrative sanctions—usually removing the problem appraisers from the FHA Register for a specified time—and then notifies the state licensing or certification agency in writing of its action. During calendar year 2002, HUD made 112 referrals to state regulatory agencies. In the referrals, HUD provided the state agency with the appraiser's license or certification number, the reason for removal, and copies of the original appraisal(s) and HUD's review. Officials from Fannie Mae, which made 860 referrals to 45 different state regulatory agencies between August 2001 and August 2002, commented that the agency had revised its referral program to better meet state regulatory agencies' information needs for processing a referral. Fannie Mae officials informed us that they provided a complete copy of each questionable appraisal report and an appraisal review performed by another state-licensed or –certified appraiser in the same state to help identify the appraisal deficiencies for the state's review and investigation. The officials also noted that it was difficult to refer questionable appraisals to the different state agencies due to the lack of consistent processes and procedures for accepting, reviewing, and investigating questionable appraisal reports.

In the case of both HUD and Fannie Mae, neither entity was routinely providing the Appraisal Subcommittee with copies or listings of the referrals made to the states. According to Appraisal Subcommittee officials, information on referrals made to the states would aid them in

their field reviews of the states' responsiveness to complaints about appraisers. According to Fannie Mae officials, they provided the Appraisal Subcommittee with 27 cases (involving 13 different states) in May 2002, along with the states' responses, to demonstrate lack of effective enforcement actions by some of the states. Fannie Mae discontinued sharing information on referrals with the Appraisal Subcommittee due to its perception that the subcommittee did not take action on the specific referrals.

Industry Participants Noted Variations in State Regulatory Agencies' Enforcement of Title XI Requirements

Some industry participants reported a lack of uniformity in processing complaints and taking disciplinary actions against those problem appraisers that were referred to state regulatory authorities and cited this issue as an obstacle to an effective enforcement program. Furthermore, the state agencies told us that while they have enforcement structures in place, some agencies have questioned their ability to mount effective enforcement programs because of funding shortfalls; as noted earlier, many states responding to our survey reported funding inadequacies. In general, the complaint process entails filing a complaint alleging a violation, conducting an investigation, determining whether a violation occurred, and rendering an outcome, including any disciplinary actions. Industry participants' concerns about the enforcement process included differences in state requirements and practices for filing a complaint, the quality and timeliness of investigations, and complaint outcomes.

Several entities reported that states' complaint filing requirements ranged from simple to onerous. For example, some states require simply that complainants submit information on an allegation, while other states accept complaints only on a specific form. Further, some states required that complaint documents be notarized or that complainants provide witnesses and testify against appraisers. Some industry participants also stated that the length of time needed to resolve a complaint was too long—for example, one state required 1 to 2 years—potentially allowing the appraiser to continue what might be fraudulent or questionable practices. Some groups also cited statutes of limitations as a major obstacle in penalizing appraisal violators. For example, statutes in at least three states prohibit both investigations into and punitive actions for unlawful appraisal activities that allegedly took place more than 3 to 5 years earlier. Finally, at least one complainant reported concerns about the expertise of investigators, noting that investigators in the Attorney General's office handling a case of mortgage fraud may not be knowledgeable about the appraisal profession.

In addition to concerns about the complaint process, industry participants reported misgivings about outcomes, including disciplinary actions and feedback. For example, Fannie Mae officials commented that they had been dissatisfied with some state decisions on punitive actions and with the lack of feedback on actions that had actually been taken. The officials added that some states do not penalize appraisers for multiple violations if the appraisers have already been disciplined or do not tell complainants what action was taken. The Fannie Mae officials reported that they have observed a lack of consistent and effective investigation and enforcement by some of the states. As an example, they noted that some states appeared to perform meaningful investigations and took appropriate actions while other states appeared unwilling to investigate similar cases with comparable support and documentation. According to the officials, Fannie Mae is considering discontinuing the practice of sending referrals to several states because, in their view, the state regulatory agencies have failed to act on them. HUD officials echoed this view, saying that states typically do not take action when they are notified that an enforcement action has been taken against an appraiser. In those rare instances when a state does take an action, it often refuses to disclose this information to HUD, citing privacy concerns. However, Appraisal Subcommittee officials told us that in many states, state law might prohibit the disclosure of actions that are not a matter of public record. Another industry participant reported that there is little incentive to make referrals given the fact that there is no assurance that the state will take action.

According to Appraisal Subcommittee officials, a number of states have told them that the referral information that Fannie Mae and HUD have provided to the states is frequently in a format or manner that they cannot readily absorb or use. For example, some of the states indicated that they received over a hundred referrals from Fannie Mae as one group, which overwhelmed the states' ability to review and investigate the referrals in a timely basis. Other states stated that the referrals were for real estate transactions for which the state's statute of limitations had already expired. Fannie Mae officials indicated that their referrals consistently include a copy of the questionable appraisal and an appraisal field review performed by a state-licensed or –certified appraiser in the same state. Fannie Mae recommended that the states adopt the one-unit residential appraisal field review report as sufficient documentation for referred appraisals of one-unit properties.³⁴

³⁴Fannie Mae Form 2000 and Freddie Mac Form 1032, dated December 2002.

We analyzed data states submitted to the Appraisal Subcommittee and found that the number of disciplinary actions taken differed widely. For example, one state reported taking only a single disciplinary action against an appraiser, while two other states accounted for over 25 percent of the 4,360 disciplinary actions reported as of October 31, 2002.³⁵

Industry Participants Indicated No Clear Consensus Regarding the Need for Changes to the Title XI Regulatory Structure

There was no clear consensus among the industry participants that we contacted regarding the need for or impact of possible changes to the existing Title XI regulatory structure. For example, our survey did not indicate a clear consensus among state regulatory agencies on the impact of eliminating various aspects of the current Title XI regulatory oversight structure. However, one state appraiser agency official said that Title XI had achieved its intended purpose of protecting federal interests and that federal involvement in the oversight of the real estate appraisal industry is no longer needed. Another representative of a state appraiser agency stated that Title XI needed to be dramatically amended to correct deficiencies in the current appraisal oversight structure.³⁶

Among the various representatives of trade groups, education providers, and other industry participants that we contacted, there were differing opinions as to what, if any, changes were necessary to Title XI. Likewise, the responses to the survey that we sent to the state appraiser agencies did not indicate a clear consensus regarding states' views of the impact of eliminating some of the central aspects of the Title XI regulatory structure. For example, 22 states and territories (41 percent) said that eliminating the Appraisal Subcommittee would help in regulating appraisers, while 17 (31 percent) responded that eliminating the subcommittee would be a hindrance. The remaining states felt that not having the subcommittee would neither help nor hinder regulation. The states responded more positively to the ASB and AQB, with 31 and 23 states, respectively, indicating that eliminating them would hinder efforts to regulate appraisers.

However, some officials from state appraiser agencies have expressed strong viewpoints regarding the need for changes to Title XI. For example, an official from one of the state appraiser regulatory agencies noted that of

³⁵See appendix IV.

³⁶See appendix I, question 21.

over 30 regulated professions, only the appraisal profession has federal oversight. According to this official, Title XI has resulted in the establishment of state appraiser regulatory agencies in each of the states and the adoption of minimum appraisal standards and appraiser qualification criteria, thus protecting federal interests in regulating the appraisal industry. This official stated that the states are now in a position to oversee the real estate appraisal industry without any federal involvement, much as they do other professions. He suggested that Congress eliminate the Appraisal Foundation and the AQB and make the ASB independent and self-supporting.

An official from another state regulatory agency said that to correct the present system's problems, Congress would need to completely restructure the Title XI structure. He also recommended eliminating the Appraisal Subcommittee and the Appraisal Foundation, replacing them with a new board at the federal level. The new board would represent the appraisal industry more broadly and have strong Congressional accountability. In addition, he recommended that the minimum standards for appraisals and appraiser qualifications be amended only every 5 years, if needed. He also suggested that Congress clearly designate the states as having sole responsibility for administering and enforcing Title XI.

Conclusions

Title XI brought about significant changes in the real estate appraisal industry. According to federal financial institution regulators, real estate appraisals have not been a major factor in the failure of federally insured financial institutions since the passage of Title XI. However, opportunities exist to enhance the effectiveness of the current regulatory system to help ensure that federally related transactions are based on accurate assessments of the value of properties used as collateral for loans.

Developing and applying consistent criteria to assess states' compliance with Title XI requirements could increase the usefulness of the letters that the Appraisal Subcommittee provides to the states based on its field reviews as well as the annual report that the Appraisal Subcommittee provides to Congress on the Title XI program. Further, the Appraisal Subcommittee's field reviews of the states could be enhanced if HUD and the government sponsored enterprises provided the subcommittee with information on referrals made to the states on questionable appraisals and problematic appraisers. Similarly, the Appraisal Subcommittee could help HUD and Fannie Mae ensure that referral information on problem

appraisals is provided to the state appraiser agencies in a format and manner that facilitates appropriate follow-up action by the states.

Achieving Title XI's purpose depends in part on the ability of ASB and AQB to ensure that appraisal standards and qualification criteria for appraisers are reflective of changes in the real estate mortgage industry and marketplace; these entities' ability, in turn, depends in part on the amount of funding provided to them annually by the Appraisal Subcommittee. Achieving Title XI's purpose also depends on actions taken by the states. The lack of funding and resources cited by state appraisal regulatory agencies suggests that some states may be unable to adequately enforce appraiser compliance with the minimum standards envisioned by Title XI. At the same time, the Appraisal Subcommittee—the primary federal entity in the oversight structure created by Title XI—has accumulated an operating surplus of almost \$4 million, generated from the fees levied and collected by the states on behalf of the federal government.

Recommendations

To improve its monitoring of the implementation of Title XI, we recommend that the Chairman of the Appraisal Subcommittee

- develop and apply consistent criteria for determining and reporting states' compliance levels with Title XI requirements;
- explore potential options for funding or otherwise assisting states in carrying out their Title XI activities, particularly the investigation of complaints against appraisers; and
- explore alternatives for providing future grant funding, including drawing on its surplus if necessary, to the Appraisal Foundation and its two boards in support of their Title XI activities.

To improve the process for referring problem appraisals by entities that oversee or use real estate appraisals to the state appraiser agencies for possible enforcement actions, we recommend that the Chairman of the Appraisal Subcommittee work with the Chairmen of Fannie Mae and Freddie Mac and the Secretary of the Department of Housing and Urban Development to help ensure that referrals of problem appraisals (1) are provided to states in a format that is useful to the state appraisal agencies and (2) facilitate the subcommittee's efforts to monitor decisions made by states regarding the supervision of appraiser practices.

Agency Comments

We requested and received written comments on a draft of this report from HUD, Fannie Mae, Freddie Mac, the Appraisal Foundation, and the Appraisal Subcommittee that are presented in appendixes VIII through XII. In addition, we requested comments from FDIC, FRS, OCC, OTS, and NCUA who indicated that their comments had been incorporated into those provided by the Appraisal Subcommittee. The entities provided a variety of written comments. The principal comments and our response are summarized below. Technical comments have been incorporated into the report where appropriate.

HUD concurred with our recommendation that the Chairman of the Appraisal Subcommittee work with HUD, Fannie Mae, and Freddie Mac on referrals of problem appraisals to states for follow-up and appropriate enforcement. However, HUD pointed out that it is already involved in the work of the subcommittee, as a HUD representative serves as a member of the subcommittee. Our draft report noted that the six Appraisal Subcommittee Board members are designated by the heads of the five financial institution regulators and by HUD. Both Fannie Mae and Freddie Mac expressed concern about this recommendation, commenting that they are not regulatory entities. We did not intend to imply that these entities have a regulatory role under Title XI. Rather, we directed the recommendation to the Appraisal Subcommittee, which is responsible for monitoring state activities under Title XI. However, both Fannie Mae and Freddie Mac review the quality of certain appraisals for loans that they purchase and can refer problematic ones to the states for action. Therefore, the two government-sponsored enterprises are in a unique position to provide expertise, information, and lessons of experience to the subcommittee. As Fannie Mae noted in its comments, it has “extensive experience in referring unacceptable appraisals to state agencies” and has observed both a lack of uniformity in state processes and a lack of consistent and effective enforcement actions by state licensing or regulatory boards. We have revised the wording of our recommendation to emphasize the role that HUD, Fannie Mae, and Freddie Mac can play in helping the subcommittee carry out its oversight responsibilities.

Fannie Mae also commented that, based on its experience in referring unacceptable appraisals, issues of format have not impeded the states from taking effective enforcement action. However, as our draft report noted, Appraisal Subcommittee staff involved in field reviews reported that (1) referrals are often incomplete or unspecific and (2) according to state officials, referrals that Fannie Mae and HUD provided to the states

frequently were in a format or manner that they could not readily absorb or use. We recognize that, by itself, providing referrals in a more useful format will not guarantee more, or more consistent, state enforcement actions. Our draft report noted that several factors affect the extent of state enforcement efforts, including state-level funding and staffing shortages and a scarcity of referrals from lenders and bank regulators. However, we continue to believe that improving the referral process could help achieve the objectives of Title XI. As our draft report also noted, Fannie Mae has revised its referral program to better meet state regulatory agencies' information needs. Consequently, we did not change our recommendation.

In our draft report, we noted that we found no transparent criteria in the subcommittee's field review letters for the reporting of states' compliance with Title XI. In its comment letter, the Appraisal Subcommittee agreed that it did not have a formalized rating system that would provide each state with an overall rating. However, the Appraisal Subcommittee noted that it employs "an informal [rating] system (i.e., Tier 1 and Tier 2) based on a state's overall compliance with Title XI." The Appraisal Subcommittee stated that it had previously considered developing a rating system that would allow for comparisons across states and had concluded that such a rating system would not assist its Title XI enforcement efforts. However, the Appraisal Subcommittee stated in its comment letter that it would review this issue again based on our recommendations.

Our draft report expressed a concern of the Appraisal Foundation's two boards (the ASB and AQB): that shortfalls in federal grant funding provided by the Appraisal Subcommittee have limited activities that the two boards believe enhance the quality, timeliness, and usefulness of standards and qualifications. In commenting on our draft report, the Appraisal Foundation clarified that federal grant shortfalls could impede the boards' future ability to ensure that standards and qualifications continue to keep up with changing industry conditions. Similarly, the Appraisal Subcommittee chair commented that in the past the Appraisal Foundation has not used all of the funds provided in the federal grants. Our draft report noted that the foundation has other sources of revenue and that the subcommittee expected future grants to the two boards to decline unless the subcommittee took certain actions. We revised our report to clarify that the two boards view federal grant funding shortfalls as a potential future impediment to their Title XI activities.

Our draft report also characterized the Appraisal Subcommittee's lack of rule-making authority and limited enforcement powers as impediments to

the subcommittee's ability to carry out its Title XI responsibilities. The basis for this characterization was statements made by subcommittee officials. For example, in its April 11, 2002, written responses to GAO questions, the Appraisal Subcommittee stated,

"Federal oversight [over state appraisal authorities] could be more effective ... if the ASC were given rule-making authority, which could be used to establish mandatory state reporting mechanisms. Finally, oversight could be strengthened if the ASC had more administrative options when addressing noncompliant states. ... The ASC should have additional authorities, such as 'cease and desist' authority and monetary penalties."

In commenting on the draft report, the Appraisal Subcommittee agreed that general rule-making authority might facilitate its Title XI enforcement and that its enforcement options are "limited in number." But the subcommittee also stated that the lack of this authority has not been an impediment to achieving compliance. We modified our report to clarify the Appraisal Subcommittee's views and noted that, according to the subcommittee, it has always been able to achieve state compliance within the current Title XI regulatory and enforcement structure. The Appraisal Subcommittee further noted that its policy statements are its formal interpretations of Title XI and stated that these should be given deference, citing a February 2000 GAO decision. In that decision, we determined that the Appraisal Subcommittee reasonably interpreted one provision in Title XI relating to a state's collection and submission of appraiser fees to the subcommittee.

In response to our recommendation that the subcommittee explore options to assist the states in carrying out their Title XI responsibilities, the Appraisal Subcommittee commented that while overall state compliance with Title XI would be improved if states had more funding, it did not see the subcommittee as the answer to that issue. The letter noted that the Appraisal Subcommittee's only method of obtaining additional funds to provide to the states is to increase the national registry fee assessed against each appraiser. We agree that the states are in a better position to identify needs and to address fee and revenue issues to resolve those needs. However, our recommendation addressed exploring options in addition to providing funding to help states carry out their Title XI activities. For example, the Appraisal Subcommittee could encourage several states to pool investigative resources or use other options to help address temporary shortages of trained investigators in one state. Alternatively, the Appraisal Subcommittee could use its field review reports to identify funding gaps as an issue negatively affecting states' ability to comply with Title XI's provisions. Consequently, we did not change our recommendation.

We are sending copies of this report to the Chairman and Ranking Member of the Senate Committee on Banking, Housing, and Urban Affairs; the Chairman and Ranking Minority Member of the House Committee on Financial Services; the Secretary of the Department of Housing and Urban Development; the Chairman of the Board of Governors of the Federal Reserve System; the Chairman of the Federal Deposit Insurance Corporation; the Comptroller of the Currency; the Director of the Office of Thrift Supervision; the Chairman of the National Credit Union Administration; the Chairman and Chief Executive Officer of Fannie Mae; the Chairman and Chief Executive Officer of Freddie Mac; the Chairman of the Appraisal Subcommittee; and the Executive Vice President of the Appraisal Foundation. We will also provide copies to others on request. This report will be available at no charge on our home page at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-8678 or Harry Medina at (415) 904-2000. Key contributors are listed in appendix XIII.

David D. Wood

David G. Wood
Director, Financial Markets
and Community Investments

Survey of State Regulatory Agencies (results included)

The U.S. General Accounting Office, an agency of the Congress, is studying the regulation of real estate appraisers by the states. As part of this study, we are surveying officials of agencies that regulate real estate appraisers in each of the states, territories, and the District of Columbia.

To assist us, we ask that you complete and return this questionnaire to us within the next two weeks. When responding, you may consult with others, if you think it will help you give a more accurate answer. The questionnaire should take an hour or less to complete. The questionnaire asks you to provide information about...

- the agencies that are involved in the regulation of real estate appraisers in your state,
- the relationship between the Appraisal Foundation and your agency,
- the education and training of real estate appraisers in your state, and
- the disciplinary actions your state takes when appraisers are found to have committed violations.

Please return the questionnaire to us in the enclosed pre-addressed business reply envelope. Alternatively, you may fax your completed questionnaire to us to the attention of David Noguera on (415) 904-2111.

If you have any questions or comments about this questionnaire, please call David Noguera on (415) 904-2172 or Harry Medina on (415) 904-2220. In the event that the business reply envelope is misplaced, or your fax fails to get through, please return the questionnaire to:

U.S. General Accounting Office
Attn: David Noguera
301 Howard Street, Suite 1200
San Francisco, CA 94105 - 2252

SURVEY RESULTS

-based on responses from 54 of 55 state agencies, unless otherwise stated¹

1. Please enter the name, title, telephone number and e-mail address of the person completing this questionnaire.

Name

Title

(Area Code) Telephone Number

e-mail address

Oversight of Real Estate Appraisers

Note: Agency includes Board or Commission.

2. Is your agency...? *(Check one.)*
 1. [23] An independent state agency
 2. [30] A state agency that reports to another agency
 3. [1] Other *(Please specify.)*

¹ The one state not included in these results is the US Virgin Islands, which did not complete a survey.

**Appendix I
Survey of State Regulatory Agencies (results
included)**

3. Which, if any, of the entities listed below are part of your organization? *(Check all that apply)*

- 1 [52] State appointed Board or Commission
2 [53] Agency with state employees
3 [] Other *(Please specify.)*

(If you did not check choice 1, go to Question 12.)

Board of Directors or Commission

4. Currently, how many seats are filled on your board or commission? *(Enter number.)* BASED ON 52 RESPONDENTS

___Md. 7___ seats filled

5. Currently, how many seats are **not** filled on your board or commission? *(Enter number. If none, enter "0.")*

___Av. 0.24___ seats not filled

6. How many current members of your board have some experience in the real estate profession? *(Enter number. If none, enter "0.")*

___Md. 5___ members with real estate experience

7. How many members left the board or commission during your most recently completed fiscal year? *(Enter number. If none, enter "0.")*

___Md. 1___ members who left the board or commission

8. Currently, how many board or commission members receive a stipend or per diem payment for their services? *(Enter number. If none, enter "0.")*

___Av. 5.52___ members who receive a stipend or per diem payment

9. How many years is a board or commission member's term? *(Enter number or check box.)*

___Md. 3___ years Or [] It varies

10. Are board or commission members appointed at different times, that is, are their terms staggered? *(Check one.)*

1. [1] No
2. [51] Yes

11. How often does the board or commission meet? *(Check one.)* RESULTS BASED ON 52 RESPONDENTS

- 1 [] Once a week or more
2 [24] Once a month
3 [10] Once every other month
4 [10] Once every three months
5 [8] Other *(Please specify.)*

More Information about your Agency

12. About how many full-time equivalent (FTE) staff does your agency devote to regulating real estate appraisers, including contractors' staff? *(Enter number.)* RESULTS BASED ON 52 RESPONDENTS

___Md. 2 Range: 28.25___ FTEs

13. Does your agency share resources with other state agencies? *(Check one.)*

1. [19] No *(If "no," go to question 15 on the next page.)*
2. [35] Yes

Appendix I
Survey of State Regulatory Agencies (results included)

14. Which, if any, of the resources listed below does your agency share with other state agencies? (Check all that apply.) PERCENTAGES BASED ON Q13 RESPONSES

1. [26] Support staff 48%
2. [27] Office space 50%
3. [21] Investigators 39%
4. [26] Office equipment, such as telephones or copy machines 48%
5. [33] Attorneys 61%
6. [2] Other (Please specify). 4%

15. Currently, how many appraisers are listed with your agency, excluding trainees? (Enter number.)

___Md. 1,291.5 Range: 9,345 ___ appraisers listed

Definition

Federally related transaction refers to any real estate-related financial transaction that (1) a federal financial institutions regulatory agency engages in, contracts for, or regulates; and (2) requires the services of an appraiser.

16. Of those appraisers, about what percentage are eligible to perform federally related transactions (FRTs)? (Enter the percentage.)

___Md. 100% Range: 97 ___% eligible to perform FRTs

17. Listed below are some tasks that might be performed by a state agency that regulates real estate appraisers. Which, if any, of those tasks does your agency perform? (Check all that apply.)

1. [29] Introducing standards for the way appraisals should be conducted in addition to those set by the Appraisal Standards Board (ASB)
2. [37] Introducing qualifications for appraisers in addition to those established by the Appraisal Qualifications Board (AQB)
3. [30] Monitoring or supervising licensed and certified appraisers, for example, conducting unannounced investigations
4. [54] Approving courses for appraisers' education or training
5. [54] Enforcing state regulations concerning appraisals
6. [54] Investigating complaints
7. [12] Other (Please specify.)

**Appendix I
Survey of State Regulatory Agencies (results
included)**

The Appraisal Foundation

18. Listed below are some activities conducted by the Appraisal Foundation (AF), the Appraisal Standards Board (ASB) and the Appraiser Qualifications Board (AQB). How effective or ineffective have each of those activities been at improving the quality of appraisers in your state? *(Check one box in each row.)*

	Very effective	Effective	As effective as ineffective	Ineffective	Very Ineffective
	(1)	(2)	(3)	(4)	(5)
1. Setting standards for the way appraisals should be conducted	6	29	15	4	
2. Establishing the qualifications needed to become an appraiser	4	29	16	4	1
3. Setting requirements for appraisers' continuing education	5	22	16	9	2
4. Approving courses for appraisers' education or training	3	17	17	13	4
5. Determining the qualifications needed by instructors who teach courses to appraisers	3	14	22	9	6
6. Other (Please specify.)			1	1	2

Regulating Appraisers

19. Typically, about how many months does it take your state to adopt the Uniform Standards of Professional Appraisal Practice (USPAP) after the ASB updates it? *(Check one.)*

- 1. [25] Less than a month
- 2. [13] 1 to 3 months
- 3. [7] 4 to 6 months
- 4. [1] 7 to 9 months
- 5. [3] 10 to 12 months
- 6. [5] More than 12 months

20. Is your agency or the state legislature responsible for adopting USPAP? *(Check one.)*
RESULTS BASED ON 50 RESPONDENTS

- 1. [35] Our agency
- 2. [15] The state legislature

**Appendix I
Survey of State Regulatory Agencies (results
included)**

21. Listed below are some suggestions for possible changes in the ways real estate appraisers are regulated. Considering each suggested change separately, please indicate whether that change would help or hinder your state's ability to regulate appraisers. *(Check one box in each row.)*

	Would this change help or hinder your state's ability to regulate appraisers?				
	Help greatly (1)	Help somewhat (2)	Help as much as hinder (3)	Hinder somewhat (4)	Hinder greatly (5)
1. Eliminating the oversight role presently carried out by the Federal Financial Institutions Examination Council (FFIEC)	13	11	15	9	6
2. Eliminating the oversight role presently carried out by the Appraisal Subcommittee (ASC)	13	9	15	12	5
3. Updating the USPAP less frequently	24	14	13	1	2
4. Eliminating the ASB's role in establishing minimum standards for appraisals	4	6	13	18	13
5. Eliminating the AQB's role in setting minimum qualifications for appraisers	10	11	10	13	10
6. Placing representatives of state government on the ASC's board	20	14	12	3	5
7. Placing representatives of state government on the AQB	20	13	12	4	5
8. Placing representatives of state government on the ASB	18	12	15	4	5
9. Opening the meetings of the ASC, AQB and ASB to the public	23	13	15	1	2
10. Other <i>(Please specify.)</i>	7				
a.	2				
b.					

22. Which, if any, of the actions listed below are needed by your agency to improve its ability to regulate appraisers? *(Check all that apply.)*—RESULTS BASED ON 49 RESPONDENTS

1. [33] Increasing the funding needed to conduct investigations
2. [37] Increasing the staff needed to conduct investigations
3. [16] Notifying lenders of appraisers who have violated regulations
4. [26] Hiring more investigators with experience conducting real estate appraisals
5. [22] Increasing the amount of resources needed to support the litigation process
6. [24] Processing complaints in a more timely fashion
7. [9] Other *(Please specify.)*

Appendix I
Survey of State Regulatory Agencies (results
included)

Temporary Licenses and Reciprocity

23. How much is the fee for a **temporary license** to conduct appraisals in your state? *(Check one.)*

1. [3] No fee
2. [13] \$50 or less
3. [14] \$51 to \$100
4. [23] \$101 to \$150
5. [1] More than \$150

24. Which, if any, of the actions listed below are required of applicants for temporary licenses to conduct appraisals in your state? *(Check all that apply.)*

RESULTS BASED ON 53 RESPONDENTS

1. [37] Disclose all criminal convictions
2. [46] Reveal all disciplinary actions taken against them by government entities
3. [52] Agree to abide by all of the rules set by our state for appraisals
4. [43] Agree to cooperate with any investigation initiated by our state

25. Listed below are some limitations that might be attached to a temporary license for an appraiser. Which, if any, of those limitations are attached to a temporary license in your state? *(Check all that apply.)*

1. [41] The temporary license can be used for only one assignment
2. [16] An appraiser can be issued only one temporary license at a time
3. [15] Only a limited number of temporary licenses can be issued to an appraiser within a given year
4. [1] Appraisers holding such licenses must have an appraiser permanently licensed in our state sign off on the appraisal(s)
5. [5] Other *(Please specify.)*

6. [4] None of the above

26. Consider the temporary license issued to an appraiser in your state. What is the maximum period of time such a license would be valid? *(Check one.)*

RESULTS BASED ON 53 RESPONDENTS

1. [] 30 days or less
2. [1] 31 to 60 days
3. [3] 61 to 90 days
4. [] 91 to 120 days
5. [] 121 to 150 days
6. [20] 151 – 180 days
7. [9] More than 180 days
8. [20] Good for the duration of the assignment

Appendix I
Survey of State Regulatory Agencies (results
included)

27. Consider an individual who resides in another state and is issued a temporary license to conduct appraisals in your state. Suppose that individual commits a violation in your state that warrants disciplinary actions.

Which, if any, of the actions listed below would your state take? *(Check all that apply.)*

1. [52] Our state would take disciplinary action
2. [26] Our state would refer the matter to the state in which the individual resides for disciplinary action

28. In your state, about how many business days does it take to issue a temporary license after the application is completed? *(Check one.)*

1. [10] Less than one business day
2. [22] 1 to 2 business days
3. [6] 3 to 4 business days
4. [12] 5 to 6 business days
5. [4] More than 6 business days

29. Is an appraiser's license from another state ever used as the sole basis for granting a license in your state? *(Check one.)*

1. [7] No *(If "no," go to question 31 on the next page.)*
2. [47] Yes

30. Listed below are some conditions that might have to be met for a state to use an appraiser's license from another state as the sole basis for granting a license. Which, if any, of those conditions have to be met in your state? *(Check all that apply.)* 47 STATES ELIGIBLE TO ANSWER THIS QUESTION, ONLY 46 DID

1. [32] The appraiser from another state must agree in writing to follow all the regulations established by our state
2. [] The appraiser's license must be issued by a state that shares geographic borders with our state
3. [23] Our state must have a **reciprocity agreement** with the state that issued the original license, that is, the state from which the license originates must be willing to accept an appraiser's license from our state as the sole basis for granting a license
4. [] The appraiser must state that he or she will be performing continuous appraisals in our state
5. [38] The requirements for the appraiser's current license must meet or exceed those of the AQB
6. [42] The appraiser from another state must pay licensing or certification fees that are comparable to in-state appraisers
7. [8] The appraiser from another state must consent to a background check
8. [19] Other *(Please specify.)*

**Appendix I
Survey of State Regulatory Agencies (results
included)**

Education and Training of Appraisers

31. To which, if any, of the institutions listed below are educational providers required to pay a fee in order to have their courses approved in your state? *(Check all that apply.)*

- 1. [9] Appraiser Qualifications Board (AQB)
- 2. [10] College or University
- 3. [7] American Council on Education
- 4. [9] International Distance Education Certification Center
- 5. [24] Our agency
- 6. [5] Other *(Please specify.)*

7. [17] None of the above

32. Consider the qualifications required by the AQB for appraisers who conduct FRTs involving single-family residential properties. How adequate or inadequate are those qualifications to ensure that appraisers perform those kinds of FRTs competently? *(Check one.)*

- 1. [31] Adequate
- 2. [14] Undecided
- 3. [9] Inadequate

Definition

Distance education refers to education in which there is a separation in time or place between instructor and student.

33. In your opinion, to what extent is distance education currently being used as a part of the training of real estate appraisers? *(Check one.)*

RESULTS BASED ON 53 RESPONDENTS

- 1. [1] To a very great extent
- 2. [1] To a great extent
- 3. [15] To a moderate extent
- 4. [26] To some extent
- 5. [10] To little or no extent

34. Listed below are some difficulties officials might have with using distance education as a part of the training of real estate appraisers. Which, if any, of those difficulties do you have with using distance education as a part of the training of real estate appraisers? *(Check all that apply.)*

RESULTS BASED ON 51 RESPONDENTS

- 1. [16] Have no difficulties using distance education
- 2. [23] Does not offer enough personal contact with instructors
- 3. [8] Accreditation standards are not as high as for classroom-based education
- 4. [17] Other *(Please specify.)*

Agency Revenues, Expenses and Resources

Definition

Revenues are funds collected through fees, fines and penalties.

35. Is your agency funded entirely by revenues, entirely by appropriations from your state, or through a combination of both? *(Check one.)*

RESULTS BASED ON 53 RESPONDENTS

- 1. [35] Entirely by revenues
- 2. [12] Entirely by state appropriations
- 3. [5] By both revenues and state appropriations
- 4. [1] Other *(Please specify.)*

RESULTS FOR Q36 & Q37 ARE BASED ON 46 RESPONDENTS

36. What was the total amount of funds available to your agency in your most recently completed fiscal year? *(Enter amount.)*

\$ Md. 281,000 Range: 17.2 million funds available in your most recently completed fiscal year

37. What were your agency's total expenses in your most recently completed fiscal year? *(Enter amount.)*

\$ Md. 302,000 Range: 13.2 million expenses in your most recently completed fiscal year

**Appendix I
Survey of State Regulatory Agencies (results included)**

38. In your opinion, how sufficient or insufficient is each of the dimensions listed below in enabling your agency to meet its regulatory responsibilities? (Check one box in each row.)

	Sufficient (1)	Undecided (2)	Insufficient (3)
1. Its current staff size	18	9	27
2. Its current resources, other than staff	25	15	14
3. Its current regulatory authority	41	6	7

Automated Valuation Models (AVMs)

39. Of all of your state's real estate transactions in the last calendar year, about what percentage were conducted... (Enter the percentages or check the box.)
RESULTS BASED ON 53 RESPONDENTS

	%
using AVMs?	
using appraisals?	
using evaluations?	
Don't know	93

100%

Complaints Against Appraisers

40. In the last calendar year, about how many complaints against appraisers did your agency receive? (Enter number.)

___Md. 47.5 Range: 430___ complaints

41. Of those complaints, about what percentage were against appraisers who were not listed with your agency? (Enter the percentage.) RESULTS BASED ON 52 RESPONDENTS

___Md. 0.5% Range: 100___% complaints against unlisted appraisers

42. Consider the number of complaints your agency received against appraisers in the last calendar year. About what percentage of those complaints were received from each of the types of institutions or individuals listed below? (Enter the percentages.) RESULTS BASED ON 49 RESPONDENTS

- ___Md. 0% Range: 40% from banking regulators
- ___Md. 5% Range: 85% from banks and thrifts
- ___Md. 10% Range: 55% from Fannie Mae, Freddie Mac or similar institutions
- ___Md. 30% Range: 95% from consumers
- ___Md. 20% Range: 88% from other appraisers
- ___Md. 1% Range: 10% from real estate agents
- ___Md. 6% Range: 50% from mortgage brokers
- ___Md. 10.5% Range: 40% from others
100%

43. Again consider the number of complaints your agency received against appraisers in the last calendar year. Of those complaints, what percentage resulted in...
RESULTS BASED ON 46 RESPONDENTS

	%
referrals to other state agencies for action?	Md. 0 Range: 15
investigations that are still open?	Md. 30 Range: 97
investigations that have been resolved?	Md. 63.5 Range: 99

100%

44. In the last calendar year, was the number of complaints against appraisers in your state greater than, about the same as, or fewer than the number of complaints in calendar year 1999? (Check one.)
RESULTS BASED ON 51 RESPONSES

- 1. [12] Far greater than in calendar year 1999
- 2. [16] Greater than in calendar year 1999
- 3. [11] About the same as in calendar year 1999
- 4. [11] Fewer than in calendar year 1999
- 5. [] Far fewer than in calendar year 1999
- 6. [1] Don't know

**Appendix I
Survey of State Regulatory Agencies (results
included)**

Disciplinary Actions

45. In the last calendar year, was the number of violations of regulations by appraisers in your state greater than, about the same as, or fewer than the number of violations in calendar year 1999? *(Check one.)* RESULTS BASED ON 50 RESPONDENTS

- 1. [7] Far greater than in calendar year 1999
- 2. [18] Greater than in calendar year 1999
- 3. [15] About the same as in calendar year 1999
- 4. [8] Fewer than in calendar year 1999
- 5. [1] Far fewer than in calendar year 1999
- 6. [1] Don't know

46. Which, if any, of the types of actions listed below does your state take when appraisers commit violations? *(Check all that apply.)* RESULTS BASED ON 53 RESPONDENTS

- 1. [50] Require more education 93%
- 2. [46] Issue letters of warning or admonition 85%
- 3. [36] Place appraisers on probation 67%
- 4. [50] Place appraisers on suspension 93%
- 5. [40] Impose monetary fines 74%
- 6. [52] Revoke appraisers' licenses or certifications 96%
- 7. [13] Other *(Please specify.)* 24%

47. In the last calendar year, about how many disciplinary actions did your state take against appraisers found to have committed violations? *(Enter number.)* RESULTS BASED ON 52 RESPONDENTS

___Md. 11.5 Range:245_____ disciplinary actions

48. Does your state report all the disciplinary actions it takes against appraisers to the ASC? *(Check one.)* RESULTS BASED ON 52 RESPONDENTS

- 1. [39] Yes *(If "yes," go to question 54 on the next page.)*
- 2. [13] No

49. Consider the number of disciplinary actions taken by your state against appraisers in the last calendar year. Of those actions, about what percentage were not reported to the ASC? *(Enter the percentage.)* 13 ELIGIBLE TO RESPOND, BUT ONLY 11 DID

___Md. 33 Range: 100 ___% of actions not reported to ASC

50. Now consider those actions taken by your state against appraisers in the last calendar year that were not reported to the ASC. About what percentage were... *(Enter the percentages.)* 13 ELIGIBLE TO RESPOND, BUT ONLY 11 DID

	%
required periods of education?	Md. 70 Range: 80
letters of warning or admonition?	Md. 85 Range: 90
probationary periods?	Md. 70 Range: 60
suspensions?	Md. 0 Range: 39
monetary fines?	Md. 33 Range: 90
revocations of licenses or certifications?	Md. 0 Range: 28
other? <i>(Please specify.)</i>	Md. 75 Range: 50

100%

51. Does your state have a statute that prevents your agency from reporting to the ASC certain types of disciplinary actions taken against appraisers? *(Check one.)*

- 1. [12] No *(If "no," go to question 54 on the next page.)*
- 2. [1] Yes

52. In the space below, please cite the number and name of that statute. *(Enter code, number or name.)* 1 STATE ANSWERED THIS QUESTION

Statute # _____
Name of Statute _____

53. Again consider those actions taken by your state against appraisers in the last calendar year that were not reported to the ASC. Of those actions, about what percentage were not reported because of that law? *(Enter the percentage.)* 1 STATE ANSWERED THIS QUESTION

Md. 5 Range: 0% of actions not reported to ASC because of that law

Appendix I
Survey of State Regulatory Agencies (results included)

ASC and the National Registry

54. Is the ASC's current fee for enrolling in the National Registry too high, about right, or too low? *(Check one.)*
RESULTS BASED ON 53 RESPONDENTS

1. [20] Too high
2. [22] About right
3. [] Too low
4. [11] Don't know

55. Listed below are some ways in which state real estate regulatory agencies might make use of the National Registry. In which, if any, of those ways does your agency make use of the National Registry? *(Check all that apply.)*
RESULTS BASED ON 53 RESPONDENTS

1. [44] To find out if disciplinary actions were taken against an appraiser in other states
2. [44] To verify that applicants from other states are licensed or certified in those states
3. [40] To notify other states and the ASC of appraisers against whom disciplinary actions have been taken in our state
4. [2] Other *(Please specify.)*

5. [3] We do not use the registry

56. If you have any comments about the current appraiser regulatory system, or any other topics mentioned in this questionnaire, please write or type them below or on a separate piece of paper. 22 STATES PROVIDED COMMENTS

Thank you for your cooperation

Scope and Methodology

To describe the specific responsibilities under Title XI of the private, state, and federal entities that oversee the real estate appraisal industry, we reviewed Title XI and its legislative history to identify the specific responsibilities assigned to each entity. We interviewed representatives of private entities and federal officials and surveyed state regulatory agencies to obtain information on how they interpreted their responsibilities under Title XI. In addition, we attended a conference sponsored by an association of state regulatory agencies on the agencies' role in Title XI's oversight structure. Finally, we reviewed the literature, issue papers, and documents by industry participants, experts, and observers on Title XI and the regulatory structure for appraisers.

To describe how the entities carry out their duties under Title XI, we:

- obtained information from the Appraisal Foundation and its two boards, the Appraisal Standards Board and the Appraiser Qualifications Board on Title XI-related activities such as (1) submitting grant proposals to the Appraisal Subcommittee for Title XI-related activities, (2) providing information to the Appraisal Subcommittee on Title XI-related activities, (3) establishing minimum standards for conducting appraisals and qualifications for appraisers, and (4) disseminating information on revisions to these standards and qualifications.
- surveyed the 55 state regulatory agencies for appraisers to gather information on the agencies' organizational structures, specific tasks, staff size, licensing and certification practices and fees, revenues and expenditures, and complaint and enforcement activity. We also analyzed survey results to determine whether any trends existed or significant issues were reported.
- obtained and reviewed federal financial regulators' policies, procedures, regulations, and advisory opinions with respect to oversight of the appraisal industry and information on enforcement activities related to complaints and referrals arising from noncompliance with the Uniform Standards of Professional Appraisal Practice or Title XI.
- obtained and reviewed Appraisal Subcommittee annual reports, state field review reports, and grants to the Appraisal Foundation. We also performed selected analyses of information contained in the Appraisal Subcommittee's National Registry of Appraisers database.

To describe factors that private, state, and federal entities identified as impediments to carrying out their Title XI roles and responsibilities, we interviewed officials representing the various entities. In addition, we analyzed the results of our survey of state regulatory agencies, contacted several state officials about the written comments included in their survey responses, and reviewed correspondence and an agency newsletter we received from state regulatory officials.

To describe and identify other concerns about the effectiveness of the current regulatory structure in achieving the purposes of Title XI, we interviewed officials representing regulatory entities, industry participants, and industry observers. Specifically, we interviewed (1) private and federal entities cited in Title XI; (2) officials from the Department of Housing and Urban Development, Fannie Mae, and Freddie Mac; and (3) groups representing mortgage lenders, appraisers, appraiser education providers, and academic experts on issues related to appraisals. We also reviewed congressional hearings and prior GAO reports on appraisal reform and federal and state regulatory objectives. Finally, we downloaded information on appraisal issues from the Internet, including correspondence, reports, and issue papers prepared by industry participants and observers.

We performed our work from March 2002 through March 2003 in accordance with generally accepted government auditing standards.

List of Agencies and Groups Contacted

Federal Agencies

- Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC)
<http://www.asc.gov/>
- Board of Governors of the Federal Reserve System (FRB)
<http://www.federalreserve.gov/>
- Federal Deposit Insurance Corporation (FDIC)
<http://www.fdic.gov/>
- National Credit Union Administration (NCUA)
<http://www.ncua.gov/>
- Office of the Comptroller of the Currency (OCC)
<http://www.occ.treas.gov/>
- Office of Thrift Supervision (OTS)
<http://www.ots.treas.gov/>
- United States Department of Housing and Urban Development (HUD)
<http://www.hud.gov/>

Government Sponsored Enterprises

- Federal National Mortgage Association (Fannie Mae)
<http://www.fanniemae.com/>
- Federal Home Loan Mortgage Corporation (Freddie Mac)
<http://www.freddie.com/>

Private Organizations

- American Bankers Association (ABA)
<http://www.aba.com/default.htm>
- American Society of Appraisers (ASA)
<http://www.appraisers.org/>
- Appraisal Foundation (AF)
<http://www.appraisalfoundation.org/>
- Appraisal Institute (AI)
<http://www.appraisalinstitute.org/>

- Experian
<http://www.experian.com/consumer/index.html>
- FNC Inc.
<http://www.fncinc.com/>
- International Association of Assessing Officers (IAAO)
<http://www.iaao.org/>
- Lee and Grant Company
<http://www.leeandgrant.com/>
- Mortgage Bankers Association of America (MBA)
<http://www.mbaa.org/>
- National Association of Realtors (NAR)
<http://www.realtor.org/rodesign.nsf/pages/HomePage?OpenDocument>
- Peter S. Barash Associates
- UC Berkeley Fisher Center for Real Estate and Urban Economics
<http://groups.haas.berkeley.edu/realestate/Fisher/fisherinfo.asp>

State Appraiser Regulatory Agencies

- Alabama Real Estate Appraisers Board
<http://reab.state.al.us>
- Alaska Board of Certified Real Estate Appraisers
<http://www.dced.state.ak.us/occ/papr.htm>
- Arizona Board of Appraisal
<http://www.appraisal.state.az.us>
- Arkansas Appraiser Licensing & Certification Board
<http://www.state.ar.us/alcb>
- California Office of Real Estate Appraisers
<http://www.orea.ca.gov>
- Colorado Board of Real Estate Appraisers
<http://www.dora.state.co.us/real-estate/appraiser/appraiser.htm>

Appendix III
List of Agencies and Groups Contacted

- Commonwealth of the Northern Mariana Islands
- Connecticut License Services Division
<http://www.dcp.state.ct.us/licensing/realestate.htm>
- Delaware Council on Real Estate Appraisers
<http://www.state.de.us/research/profreg/reaesapp.htm>
- District of Columbia, Occupational & Professional Licensing Administration
Offline: 12/19/02 <http://www.dkra.org/bplboards.shtm>
- Florida Division of Real Estate
http://www.state.fl.us/dbpr/re/freab_welcome.shtml
- Georgia Real Estate Appraisers Board
<http://www2.state.ga.us/grec/greab/greabmain.html>
- Guam Department of Revenue & Taxation
- Hawaii Real Estate Appraisers Section
http://www.state.hi.us/dcca/pvl/areas_real_estate_appraiser.html
- Idaho State Certified Real Estate Appraisers Board
<http://www2.state.id.us/ibol/rea.htm>
- Illinois Office of Banks and Real Estate, Appraisal Division
<http://www.obre.state.il.us/REALEST/APPRAISAL.HTM>
- Indiana Real Estate Appraiser Licensure & Certification Board
<http://www.in.gov/pla/bandc/appraiser/>
- Iowa Real Estate Appraiser Examining Board
<http://www.state.ia.us/government/com/prof/realappr.htm>
- Iowa Real Estate Appraiser Examining Board
<http://www.state.ia.us/government/com/prof/realappr.htm>
- Kansas Real Estate Appraisal Board
<http://www.ink.org/public/kreab/>

Appendix III
List of Agencies and Groups Contacted

- Kentucky Real Estate Appraisers Board
<http://www.kyappraisersboard.com>
- Louisiana Real Estate Commission
<http://www.lreasbc.state.la.us/>
- Maine Board of Real Estate Appraisers
<http://www.state.me.us/pfr/olr/categories/cat37.htm>
- Maryland Commission of Real Estate Appraisers & Home Inspectors
<http://www.dllr.state.md.us/license/occprof/reappr.html>
- Massachusetts Board of Registration of Real Estate Brokers & Salespeople
<http://www.state.ma.us/reg/boards/ra/default.htm>
- Michigan Board of Real Estate Appraisers
<http://www.michigan.gov/commerciallicensing>
- Minnesota Department of Commerce
<http://www.state.mn.us/cgi-bin/portal/mn/jsp/home.do?agency=Commerce>
- Mississippi Real Estate Appraiser Licensing & Certification Board
<http://www.mrec.state.ms.us/>
- Missouri Real Estate Appraisers Commission
<http://www.ded.state.mo.us/regulatorylicensing/professionalregistration/rea>
- Montana Department of Labor & Industry, Business Standards Division
http://discoveringmontana.com/dli/bsd/license/bsd_boards/rea_board/board_page.htm
- Nebraska Real Estate Appraiser Board
<http://linux1.nrc.state.ne.us/appraiser>
- Nevada Real Estate Division
<http://www.red.state.nv.us>
- New Hampshire Real Estate Appraiser Board
<http://www.state.nh.us/nhreab/>

Appendix III
List of Agencies and Groups Contacted

- New Jersey Board of Real Estate Appraisers
<http://www.state.nj.us/lps/ca/nonmed#real11>
- New Mexico Real Estate Appraisers Board
http://www.rld.state.nm.us/b&c/real_estate_appraisers_board.htm
- New York Division of Licensing Services
<http://www.dos.state.ny.us/lcns/appraise.html>
- North Carolina Appraisal Board
<http://www.ncappraisalboard.org>
- North Dakota Real Estate Appraiser Qualifications & Ethics Board
http://www.governor.state.nd.us/boards/boards-query.asp?Board_ID=92
- Ohio Division of Real Estate
<http://www.com.state.oh.us/odoc/real/appmain.htm>
- Oklahoma Real Estate Appraiser Board Division
<http://www.oid.state.ok.us/agentbrokers/realestate.html>
- Oregon Appraiser Certification & Licensure Board
<http://www.oregonaclb.org>
- Pennsylvania State Board of Certified Real Estate Appraisers
<http://www.dos.state.pa.us/bpoa/cwp/view.asp?a=1104&q=432589>
- Puerto Rico Department of State Board of Examiners Division
no website
- Rhode Island Division of Commercial Licensing & Regulation
http://www.dbr.state.ri.us/real_estate.html
- South Carolina Professional & Occupational Licensing Real Estate Appraisers Board
<http://www.llr.state.sc.us/POL/RealEstateAppraisers/>
- South Dakota Appraiser Certification Program
<http://www.state.sd.us/dcr/appraisers/appraiser.html>
- Tennessee Real Estate Appraiser Commission
<http://www.state.tn.us/commerce/treac>

Appendix III
List of Agencies and Groups Contacted

-
- Texas Appraiser Licensing & Certification Board
<http://www.talcb.state.tx.us/>
 - US Virgin Islands Department of Licensing & Consumer Affairs
 - Utah Division of Real Estate
<http://www.commerce.utah.gov/dre>
 - Vermont Board of Real Estate Appraisers
<http://vtprofessionals.org/opr1/appraisers/>
 - Virginia Real Estate Appraiser Board
http://www.state.va.us/dpor/apr_main.htm
 - Washington Department of Licensing, Real Estate Appraisers
<http://www.wa.gov/dol/bpd/appfront.htm>
 - West Virginia Real Estate Appraiser Licensing and Certification Board
<http://www.state.wv.us/appraise>
 - Wisconsin Department of Regulation & Licensing
<http://www.drl.state.wi.us>
 - Wyoming Certified Real Estate Appraiser Board
<http://realestate.state.wy.us>

Private Consultants

- Lewis Allen, Consultant, Automated Valuation Models
- Walt Humphrey, IFAC, Humphrey and Associates, Inc.

National Registry Database of the Appraisal Subcommittee

Title XI requires the Appraisal Subcommittee to maintain a national registry of state-licensed and -certified appraisers eligible to perform appraisals in connection with federally related transactions. The National Registry database, created in 1992 and revised and updated in 1997,¹ provides names and qualifications of appraisers in each state and statistics on, among other things, active and inactive licenses, types of licenses, and disciplinary actions. The database contains both public and nonpublic information—for example, some data on disciplinary actions are restricted to authorized representatives of state regulatory agencies. Users can access the database from the Internet and may download the entire public portion at no charge.

According to the Appraisal Subcommittee's 2001 annual report, the registry is designed to allow users to determine (1) whether an appraiser is eligible to perform appraisals in connection with federally related transactions and (2) whether the appraiser's credentials have ever been suspended, revoked, or surrendered. The registry helps in facilitating temporary reciprocity by allowing states to determine an appraiser's licensing status and assists state agencies in enforcing laws governing appraisers. In addition, financial institutions can receive updates via the Internet on revocations, suspensions, surrenders, and expirations of licenses.

Information contained in the database comes from the states, which periodically submit files to the Appraisal Subcommittee for inclusion in the registry, with most states submitting data monthly. The registry reports on four classes of appraisers—licensed, certified general, certified residential, and transitional. According to an Appraisal Subcommittee official, the database also serves as an archive, as no records are ever deleted. Our research showed that nearly one-half of the appraisers included in the database were classified as inactive because of retirements, death, departure from the profession, or other reasons. Some appraisers were

¹According to an Appraisal Subcommittee official, results from their on-site state review conducted in the mid-1990s found that the number of appraisers many states reported to the Appraisal Subcommittee did not correspond to the number of appraisers in the state's records. In response, the Appraisal Subcommittee made two changes to the National Registry database to ensure that states were submitting the names of and collecting fees on behalf of all eligible appraisers. First, the Appraisal Subcommittee required states to submit records for all real property appraisers and determined whether any fees were outstanding. Second, the Appraisal Subcommittee redesigned the database to calculate the fees owed by each state, including for creating and mailing invoices. According to the official, revenues for the registry increased significantly as a result of the changes.

**Appendix IV
National Registry Database of the Appraisal
Subcommittee**

listed as both active and inactive, since they had given up one type of license and obtained another kind.

As of October 31, 2002, the database reported nearly 89,000 appraisers eligible to perform appraisals for federally related transactions. The number of appraisers reported by state appraisal regulatory agencies ranged from 10 in the Northern Mariana Islands to nearly 9,500 in California (table 3). Certified general and certified residential appraisers accounted for nearly 76 percent of the licensed appraisers.

Table 3: Active Appraiser Licenses, by State and Type

	Type of license				All
	Licensed	Certified general	Certified residential	Transitional license	
Issuing states and U.S. territories	N	N	N	N	Number
Alabama	113	420	510	a	1,043
Alaska	a	70	82	a	152
Arizona	424	568	626	a	1,618
Arkansas	113	343	314	a	770
California	2,124	3,395	3,936	a	9,455
Colorado	737	1,092	971	a	2,800
Connecticut	31	505	583	a	1,119
Delaware	61	169	214	a	444
District of Columbia	327	212	a	a	539
Florida	105	1,944	2,824	a	4,873
Georgia	1,034	1,430	894	a	3,358
Guam	9	10	3	a	22
Hawaii	22	131	150	a	303
Idaho	191	221	133	a	545
Illinois	2,342	1,037	1,768	a	5,147
Indiana	829	528	728	a	2,085
Iowa	a	528	485	a	1,013
Kansas	261	419	328	a	1,008
Kentucky	90	448	698	a	1,236
Louisiana	a	340	556	a	896
Maine	103	268	214	a	585

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National Registry Database of the Appraisal
Subcommittee**

(Continued From Previous Page)

	Type of license				All
	Licensed	Certified general	Certified residential	Transitional license	
Issuing states and U.S. territories	N	N	N	N	Number
Maryland	820	724	780	a	2,324
Massachusetts	524	675	726	a	1,925
Michigan	2,074	987	73	a	3,134
Minnesota	148	790	835	a	1,773
Mississippi	344	451	406	a	1,201
Missouri	247	616	994	a	1,857
Montana	42	225	140	a	407
Nebraska	120	344	110	a	574
New Hampshire	115	288	296	a	699
New Jersey	674	987	648	a	2,309
New Mexico	62	249	221	a	532
Nevada	160	319	263	a	742
New York	388	1,440	1,811	a	3,639
North Carolina	169	678	1,435	a	2,282
North Dakota	59	117	a	a	176
Northern Mariana Islands	a	9	1	a	10
Ohio	1,684	863	543	a	3,090
Oklahoma	564	389	361	a	1,314
Oregon	686	471	151	a	1,308
Pennsylvania	a	1,150	1,777	a	2,927
Puerto Rico	9	148	40	a	197
Rhode Island	69	143	183	a	395
South Carolina	434	560	626	a	1,620
South Dakota	66	137	16	a	219
Tennessee	203	553	747	a	1,503
Texas	375	2,161	1,787	36	4,359
Utah	99	325	563	a	987
Vermont	49	116	101	a	266
Virgin Islands	a	11	9	a	20
Virginia	787	855	871	a	2,513
Washington	391	845	1,201	a	2,437
West Virginia	169	161	190	a	520
Wisconsin	556	606	872	a	2,034

**Appendix IV
National Registry Database of the Appraisal
Subcommittee**

(Continued From Previous Page)

	Type of license				All
	Licensed	Certified general	Certified residential	Transitional license	
Issuing states and U.S. territories	N	N	N	N	Number
Wyoming	a	213	91	a	304
All	21,003	32,684	34,885	36	88,608

Source: GAO Analysis of Appraisal Subcommittee National Registry of Appraisers Database as of 10/31/02.

^aNot applicable.

As previously noted, the database contains information on disciplinary actions taken and reported by state regulators (table 4). Of the 4,360 disciplinary actions reported for active and inactive licensees in the database as of October 31, 2002, the category "other" accounted for the greatest number –1,088 (25 percent) followed by "fines" with 788 instances (18 percent).² The number of disciplinary actions taken by state appraiser regulatory agencies ranged from a single action to as many as 668. Specifically, Vermont reported taking a single action, while California, Oklahoma, and Virginia accounted for nearly 34 percent (1,473 actions) of the actions reported. Table 4 identifies the number and type of disciplinary actions taken against active licensees in each state.

²According to an Appraisal Subcommittee official, "other" disciplinary actions can include warning letters, monetary penalties, probations, and educational requirements. In general, only the Appraisal Subcommittee and state regulatory agency have access to the details of disciplinary actions classified as other.

**Appendix IV
National Registry Database of the Appraisal
Subcommittee**

Table 4: Disciplinary Actions, by State (Active and Inactive Licensees)

Issuing states and U.S. territories	Type of disciplinary action										All	No. of actions
	Other	Warnings	Additional education	Fine	Probation	Down-grade	Suspension	Revocation	Voluntary surrender	Official reprimand		
	N	N	N	N	N	N	N	N	N	N	N	
Alabama	15	a	a	2	a	3	12	3	3	a	38	
Alaska	a	a	a	1	2	a	1	a	1	a	5	
Arizona	119	a	a	a	35	1	19	15	12	a	201	
Arkansas	a	7	6	4	12	a	3	5	a	a	37	
California	5	108	3	105	6	2	87	83	45	a	444	
Colorado	a	2	3	29	18	a	7	6	3	a	68	
Connecticut	4	a	4	5	a	a	1	1	a	1	16	
Delaware	a	a	2	a	2	a	a	a	a	a	4	
Florida	a	3	9	80	31	1	8	26	a	1	159	
Georgia	87	3	a	26	a	1	34	56	23	a	230	
Hawaii	a	1	a	a	a	a	a	1	a	a	2	
Idaho	a	4	8	13	9	a	2	a	2	a	38	
Illinois	4	116	a	21	8	2	12	36	7	a	206	
Indiana	a	a	a	a	3	a	4	1	a	2	10	
Iowa	2	1	62	10	a	a	3	7	3	1	89	
Kansas	1	9	24	25	12	a	5	9	a	a	85	
Kentucky	a	2	11	59	1	a	14	3	2	a	92	
Louisiana	a	14	a	2	a	a	4	a	a	a	20	
Maine	2	a	1	13	2	a	a	1	1	3	23	
Maryland	1	a	2	4	a	a	8	2	a	a	17	
Massachusetts	a	a	1	a	8	a	a	2	3	a	14	
Michigan	a	a	a	17	16	a	6	5	1	a	45	
Minnesota	13	a	a	14	a	a	28	4	a	a	59	
Mississippi	132	a	29	a	4	a	5	1	48	a	219	
Missouri	1	1	a	a	27	a	3	7	5	a	44	
Montana	a	a	a	a	5	a	a	a	1	a	6	
Nebraska	a	a	9	a	4	a	a	a	7	a	20	
Nevada	a	a	27	20	a	8	6	8	a	a	69	
New Hampshire	a	a	a	a	a	a	2	1	1	a	4	

**Appendix IV
National Registry Database of the Appraisal
Subcommittee**

(Continued From Previous Page)

Issuing states and U.S. territories	Type of disciplinary action										All	No. of actions
	Other	Warnings	Additional education	Fine	Probation	Down- grade	Suspension	Revocation	Voluntary surrender	Official reprimand		
	N	N	N	N	N	N	N	N	N	N	N	
New Jersey	a	a	a	6	4	2	9	1	2	4	28	
New Mexico	a	4	5	1	a	a	a	1	a	a	11	
New York	a	a	a	a	a	a	a	2	1	a	3	
North Carolina	1	a	45	a	a	a	38	3	5	43	135	
North Dakota	a	a	7	a	a	2	1	2	1	a	13	
Ohio	a	26	11	a	a	a	17	1	a	a	55	
Oklahoma	371	a	2	a	a	a	1	293	a	1	668	
Oregon	1	5	3	158	a	a	15	5	7	4	198	
Pennsylvania	a	a	49	40	4	a	5	3	3	3	107	
Rhode Island	a	a	a	a	a	a	4	4	a	a	8	
South Carolina	a	a	a	33	16	7	4	5	a	a	65	
South Dakota	4	a	a	a	a	a	3	a	a	11	18	
Tennessee	24	46	69	13	3	3	1	5	5	a	169	
Texas	1	3	42	12	5	a	4	6	1	a	74	
Utah	4	a	7	28	7	1	a	2	13	a	62	
Vermont	a	a	1	a	a	a	a	a	a	a	1	
Virginia	295	6	a	43	a	a	6	11	a	a	361	
Washington	a	34	a	3	19	a	9	15	3	a	83	
West Virginia	a	a	a	a	a	a	5	a	a	a	5	
Wisconsin	1	a	20	1	a	a	a	2	1	3	28	
Wyoming	a	a	a	a	a	a	2	a	2	a	4	
All	1,088	395	462	788	263	33	398	644	212	77	4,360	

Source: GAO Analysis of Appraisal Subcommittee National Registry of Appraisers database as of 10/31/2002.

^aNot applicable.

Evolution and Use of Automated Valuation Models

Automated valuation model (AVM) is a broad term used to describe a range of computerized econometric models that are designed to provide estimates of residential real estate property values. AVMs may use regression, adaptive estimation, neural networking, expert reasoning, and artificial intelligence to estimate the market value of a residence. The earliest users of computer-assisted property valuations appear to have been government assessors who needed to value large volumes of property for tax purposes. However, early efforts to develop computer-assisted appraisal models were hampered by the lack of large data sets and the costs of computing.

Since the early 1990s, AVMs have become commercially viable, for several reasons. First, computerized real property data sets have become available at the metropolitan and state levels. Second, the cost of computers has declined. Third, the Internet has improved distribution capabilities and further increased the availability of needed data. Finally, the growth of the secondary mortgage market has helped fuel the demand for AVMs as a faster and more economical alternative to traditional appraisals. According to Standard & Poor's, AVMs were expected to play a role in 10 percent of all new loan originations in the residential mortgage market in 2002 and will be put to a variety of uses, from acting as checking appraised values to being the sole determinant of a property's value.

Three Types of AVM Models Are Currently Used

There are many different types of AVMs available. However, three types of AVM models are most commonly used: hedonic, repeat sales, and hybrids.

- **Hedonic models** use a sales comparison (or market) approach, which is the most commonly used approach for appraising single-family houses. Estimates are based in part on recent sales of comparable homes in the local market. These models require information about specific characteristics, including the living area and lot sizes, age of the property, and other physical attributes, to determine value. Recent market sales of comparable homes in the local market are used to estimate the price of the subject property. In effect, hedonic models use a sales comparison (or market) approach, which is the most common used approach for most appraisals of single-family houses for lending purposes.
- **Repeat sales models** calculate and apply geographic-specific indexes to update a property's last known sales price. Price trends are constructed at the zip code and county levels using matched-pair

analysis. Indexes are generally developed with several price tiers within each zip code and assume that the subject property behaves much like other properties in the zip code and price tier. Unlike the hedonic model, the repeat sales model does not require information on property characteristic, only the prices and sale dates for properties within a specific geographic area.

- **Hybrid models** are typically a combination of hedonic and repeat sales models, although all hybrids do not give the same weight given to each. Another form of hybrid models combines an AVM with involvement or input from the appraiser. For example, an appraiser may use the results of an AVM as a tool to develop a standard appraisal.

Data Sources for AVMs Vary in Completeness and Reliability

Regardless of the model used, the quality of the underlying data determines the AVM's accuracy and usefulness. The data that are the core of any model's results must be accurate, current, and complete. Data sources for AVMs include public records, multiple listing services, and traditional real estate records. Sources of public data include tax records and information kept by county recorders, but both these sources have limitations. Tax assessment data are often part of the database mix, but AVMs do not rely solely on the assessed value of a home. For example, Freddie Mac uses tax assessments along with other factors to determine property values in its models. It has found that the tax assessment alone is not sufficient to provide accurate value estimation. Information at the county level is not available for properties that are located in "nondisclosure states."¹ Further, counties use different methods of collecting data, so that the information available in some counties is more complete and consistent than it is in others.

Multiple listing service data are considered by some to be the best available for determining trends in specific geographic markets and changes in the overall market. But this data can also be as fragmented and nonstandardized as county data. According to one of the AVM developer and vendor that we contacted, his company is increasingly relying on data from appraisers because they are usually more accurate and in-depth than publicly available data. In addition, he stated that some AVM developers

¹Nondisclosure states are those states in which the price and terms of real estate transactions, such as the amount paid for the property, are not subject to public disclosure.

and vendors might be physically collecting their own data, especially in areas where public data are sparse.

Because of the problems obtaining reliable data and the fact that properties are not physically inspected, AVMs are generally not considered a viable replacement for traditional appraisals. AVMs work best in markets that have an abundance of recent sales data and homogenous neighborhoods. In rural areas, they may be less useful, either because of a shortage of comparable sales or because rural properties are often unique. Without a physical appraisal, AVMs may not take into account excess depreciation, wear and tear, and upgrades that are not contained in the public records. In addition, the proprietary nature of commercial AVMs has raised concerns about the “black box” technology these models use. AVM vendors are not required to make their AVM methodologies available to the public. As a result, some groups have raised concerns that AVM models may be including factors that could unintentionally introduce bias into their analysis.

AVMs Have Both Advantages and Disadvantages

AVMs offer a number of advantages over traditional appraisals. First, AVMs are generally much faster and cheaper to use in estimating the value of a property. For example, traditional appraisals for single-family residences typically cost several hundred dollars and can take days or even weeks, depending on market conditions and the availability of the appraiser. AVMs, however, cost less than \$100 and take just a few minutes. Second, proponents of AVMs argue that this technology delivers more objective and consistent appraisal values than human appraisers, who often value properties differently and may be subject to pressure from lenders to assess a property at a specific value. Third, AVMs can be used to validate traditional appraisals, especially in valuing high-risk loans.

As has been pointed out, AVMs also have a number of disadvantages. Because data may not be available or may not be complete and reliable, the models are sometimes unworkable. The lack of a physical inspection could mean that some important factors are not taken into account. And AVM technology is proprietary, so that vendors do not have to disclose their methodologies to the public. Despite these disadvantages, AVMs provide a fast, inexpensive means of valuing properties in active markets.

Guidance and Regulations on Using AVMs Are Relatively New

As of January 2003, federal financial institutions regulators have not issued specific regulations or policies governing a federally insured depository institution's use of AVMs. According to representatives of the federal financial institutions regulators, federally insured depository institutions are free to use AVMs for transactions not considered to be federally related transactions, such as mortgage loans falling below the \$250,000 threshold for appraisals. The regulators stated that their examiners are being introduced to AVMs through various training programs.

The Appraisal Standards Board has issued an advisory opinion, stating that the output of an AVM by itself does not constitute an appraisal.² However, the advisory opinion states that appraisers can use AVMs as a tool in developing an appraisal, appraisal review, or appraisal consulting opinions and conclusions. The opinion lists five critical questions that an appraiser must answer before deciding to use an AVM:

- Does the appraiser have a basic understanding of how the AVM works?
- Can the appraiser use the AVM properly?
- Are the AVM and the date it is used appropriate?
- Is the AVM output credible?
- Is the AVM output sufficiently reliable for use in the assignment?

The advisory opinion also identifies the steps appraisers should take to ensure that the output of an AVM is communicated in a way that is not misleading.

Fannie Mae and Freddie Mac, the two government-sponsored enterprises (GSE) that control a significant portion of the secondary market for conventional single-family mortgage loans, include AVMs within their automated loan underwriting systems. According to representatives of the two GSEs, their automated loan underwriting systems use various factors to determine the appraiser-related services that need to be performed. In some cases, the two GSEs allow lenders to use an AVM rather than

²Appraisal Standards Board, *Use of Automated Valuation Model* (Advisory Opinion 18)(July 9, 1997).

Appendix V
Evolution and Use of Automated Valuation
Models

requiring an appraisal because the automated loan underwriting system has sufficient information. Both Fannie Mae and Freddie Mac reportedly use their proprietary AVMs as part of their quality control systems and their own risk and portfolio management. Freddie Mac has also made its proprietary stand-alone AVM available to other public and private entities.

The Appraiser Qualifications Board's Process and Fees for Approving Appraiser Education Courses and Certifying Instructors

Some providers of education courses for appraisers have expressed concerns about the fees the Appraiser Qualifications Board (AQB) charges to approve courses and certify instructors. This appendix contains information on (1) the AQB's course approval program, (2) the AQB's instructor certification program, (3) options the AQB has offered education providers for approving distance education courses, and (4) fees charged by other entities offering similar course approval and instructor certification programs.

AQB's Course Approval Program

According to the AQB, it established its course approval program at the request of state regulators and education providers associated with the real estate appraisal industry. AQB officials told us that many state regulators had notified the AQB that Uniform Standards of Professional Appraisal Practice (USPAP) courses were deficient and that appraisers were facing disciplinary action as a result of not fully understanding the standards. Participation in the course approval program is entirely voluntary for course providers, and the AQB encourages but does not require states to accept approved courses for appraiser education requirements. Moreover, a state may set its own requirements, which all education providers operating in the state—even those offering AQB-approved courses—must meet.

Education providers that choose to participate in the AQB's course approval program must submit course materials and policies for review by a member of the AQB Review Panel. Appraisal Foundation officials told us that AQB review panelists are college professors from Virginia Commonwealth University, the University of Hawaii, and Texas A&M University with experience in real estate appraising. According to the AQB, the chief reviewer also performs a summary review to assure objectivity and quality control. The chief reviewer then recommends whether the AQB should approve the course. According to Appraisal Foundation officials, education providers may be asked to fix identified deficiencies prior to receiving approval for the course. Approval is valid for 3 years, except for courses involving the USPAP, which must be approved annually.

The AQB offers education providers content review services for all courses—qualifying courses for trainees as well as continuing education courses for practicing appraisers—including distance education courses. Courses that are approved for qualifying education will automatically be approved for continuing education. Distance education providers must have their delivery methods certified by the International Distance

Education Certification Center (IDECC). AQB officials noted that IDECC certification is essential, since distance education courses are held to a different standard than traditional classroom setting courses because students do not have direct in-person interaction with instructors.

The AQB's fees for approving courses vary based on the length and type of course. For example, the initial fee for approving a 15 to 29 hour qualifying education course is \$1,200, while the fee for a course of 30 or more hours is \$1,400. The renewal fee is \$125. For continuing education courses, AQB charges \$800 to approve a 2 to 8 hour course, \$900 to approve a 9 to 16 hour course, and \$1,000 to approve a course of more than 16 hours. The renewal fee for these courses is \$100. AQB charges distance education providers the same fees, but distance education providers must also pay service fees to IDECC. IDECC charges \$750 to review the first course and \$400 to review each additional course. Distance education courses with IDECC certification are approved for 3 years, with a recertification fee of \$270.

AQB's USPAP Instructor Certification Program

AQB's USPAP instructor certification program was implemented in February 2002 as part of the revisions to the *Real Property Appraiser Qualification Criteria*. According to the AQB, the instructor certification program, like the approval process for USPAP courses, was adopted in an effort to improve the overall quality of USPAP training. Although participation in the program is voluntary, as of January 1, 2003, only AQB-certified USPAP instructors were permitted to teach the national USPAP courses.¹ The AQB certifies instructors at the national level, but some states have their own requirements that instructors must also meet.

The prerequisites for AQB's USPAP instructor certification program include at least 7 years of appraisal experience in any discipline and at least 35 classroom hours of appraisal teaching experience within the last 5 years. Individuals who complete the USPAP instructor certification courses and pass the examination must take a USPAP update course and examination every 2 years in order to remain certified.

Appraisal Foundation officials reported that past and present Appraisal Standards Board members develop, maintain, and teach the USPAP

¹The AQB's minimum qualification criteria for those seeking to become appraisers require the course or its equivalent. AQB has also established a continuing education requirement for appraisers of 7 hours of similar training every 2 years.

Appendix VI
The Appraiser Qualifications Board's Process
and Fees for Approving Appraiser Education
Courses and Certifying Instructors

instructor certification program course with guidance from the AQB and the Education Council of Appraisal Foundation Sponsors (ECAFS).² For example, an Appraisal Foundation official told us that members of the ASB had developed the course content and that the AQB had contracted with a psychometrician experienced in the science of examinations to develop the examination structure. The AQB also contracts with a firm specializing in psychometrics—Gainesville Independent Testing Services, LLC—to review the examinations after every course. Gainesville scores each student's exam and summarizes its strengths and weaknesses. Students who fail the course receive both their results and a summary of their strengths and weaknesses for each component of the examination.

The AQB instructor certification program includes a 2 1/2 day course, followed by a half-day 120 multiple-choice question examination. The course and exam cost \$425. Individuals who participate in the program and fail the examination may exercise one of the following options within 12 months:

- retake the 2 1/2 day instructor certification course and examination for \$225, or
- retake the examination only for \$95.

If an individual retaking the examination only fails to pass it the second time and still desires to become certified, he or she must retake both the course and the examination for \$225.

Some education providers are concerned that AQB's mandatory USPAP instructor certification program is intended simply to generate revenue for the Appraisal Foundation. According to the Appraisal Foundation, the program yielded approximately \$165,000 in revenues for calendar year 2002, while expenses for the program were almost \$230,000, resulting in a deficit of \$63,000. The AQB Instructor Certification Program is unique to the AQB, and the AQB has not approved any alternative methods of certification for individuals who teach the National USPAP courses at the national level.

²ECAFS is an advisory committee to the Appraisal Foundation made up of representatives from the Appraisal Foundation sponsoring organizations.

Options Provided by AQB for Approving Distance Education Courses

State regulatory agencies also offer course approval programs for education providers offering training for appraisers. In some states, this approval is mandatory even if the state participates in AQB's approval program. For distance education, the AQB offers four options, including:

- having an accredited college or university present the course, in which case the AQB would approve both the content and delivery method;
- submitting the course to the American Council on Education (ACE) College Credit Recommendation Service for content and delivery method approval;
- submitting the course to IDECC to have the delivery method approved and then submitting the course to the AQB to have the content approved; and
- submitting the course to IDECC to have the delivery method approved and then submitting the course to the state regulatory agency for appraisers (in the state where the course will be offered) for additional approval.

Relative Costs of AQB Course Approval and Instructor Certification Programs

To compare the AQB's fees with those of other entities offering similar services, we obtained information from the ACE College Credit Approval Service, the Accrediting Council for Continuing Education and Training, the National Association for Practical Nurse Education and Service Inc., the Distance Education and Training Council, and the International Distance Education Certification Center. The course approval programs these entities offer vary in scope but in general provide services similar to those of the AQB. For example, the National Association for Practical Nurse Education and Service offers an approval program for continuing and vocational education courses. The Accrediting Council for Continuing Education provides both course approval services for continuing education and accreditation services for entire institutions.

Directly comparing the fees charged by these organizations is difficult because they do not all offer exactly the same services; moreover, in some cases the fees are not the only cost to the education provider. Fees for services from the National Association for Practical Nurse Education and Service can range from \$60 for a one-time course offering by an association member to \$600 for more than 60 repeat course offerings by a nonmember.

Appendix VI
The Appraiser Qualifications Board's Process
and Fees for Approving Appraiser Education
Courses and Certifying Instructors

Fees for accreditation services by the Accrediting Council for Continuing Education and Training are a minimum of \$6,300, which includes a preapplication evaluation, an application for initial accreditation, a mandatory accreditation workshop for education provider representatives, and a site visit. Table 5 provides an overview of the fees charged for course approval services.

Table 5: Approval Service Fees, by Service Provider as of February 2003

Type of approval service	Service provider					
	AQB	ACE ^a	ACCET ^b	NAPES	DETC ^c	IDECC
Qualifying education course	\$1,200-\$1,400	\$700	n/a	n/a	n/a	n/a
Continuing education course	\$800-\$1,000	n/a	\$6,300	\$60-\$600	n/a	n/a
Distance education course content	\$800-\$1,000	\$700	\$6,300	n/a	\$300	n/a
Distance education delivery method	n/a	\$700	\$6,300	n/a	\$300	\$225-\$750

Source: GAO analysis of data obtained from the service providers.

n/a = not available or applicable.

Note: ACCET= Accrediting Council for Continuing Education and Training; NAPES= National Association for Practical Nurse Education and Service Inc.; DETC = Distance Education and Training Council; IDECC = International Distance Education Certification Center.

^aFees do not include variable costs, which the education provider pays (for example, on-site review, data entry, and staff travel, hotel, and per diem).

^bFees for the accreditation of an institution and the current courses it offers.

^cApplication fee for accreditation of a distance education institution. Other fees may apply for services such as on-site visits, subject specialist review, and annual fees.

No other entity offers a program similar to AQB's USPAP instructor certification program, although the Appraisal Institute—an international membership association of professional real estate appraisers—has a program with similar examination requirements. Among a number of other requirements, individuals seeking to be certified to teach Appraisal Institute courses must successfully complete its *Instructor Leadership and Development Conference* and subsequent examination requirements. The fee for taking the Appraisal Institute's last *Instructor Leadership and Development Conference*—held in February to March 2002—was \$350. In contrast, the AQB charges \$425 for USPAP instructor certification.

State Fees for Course and Instructor Approval

In addition to the fees charged by the AQB for its course and instructor approval programs, education providers in certain states may also have to pay fees to state appraiser regulatory agencies for course approval and instructor certification. Information obtained from the Internet sites of 47 of the 55 state regulatory agencies and, in some cases, directly from the state regulatory agency indicated that fees ranged significantly between individual states. For example, fees charged by individual states ranged from:

- zero to \$500 for course approval of qualifying education courses,
- zero to \$250 for course approval of continuing education courses,
- zero to \$500 for approval of distance education courses, and
- zero to \$300 for instructor certification.³

Eight of the states did not charge a fee for course approval and instructor certification.

³One state charged a single certification fee of \$1,000 to education providers for all instructors.

Federal Financial Institutions Examination Council's Legal Advisory Group Opinion

Federal Financial Institutions Examination Council
Legal Advisory Group



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June 11, 2002

Mr. Jesse G. Snyder, Chairman
Appraisal Subcommittee
Federal Financial Institutions Examination Council
2000 K Street, N.W. - Suite 310
Washington, D.C. 20006

Dear Mr. Snyder:

The Legal Advisory Group ("LAG") of the Federal Financial Institutions Examination Council ("FFIEC") has been requested to provide a legal opinion regarding: (1) the scope of authority of the Appraisal Foundation's Appraiser Qualification Board ("AQB") to adopt education-related standards for certified real estate appraisers; (2) the scope of the responsibility of the Appraisal Subcommittee of the FFIEC ("ASC") to monitor the AQB; and (3) the ASC's authority to oversee state appraiser regulatory agency implementation of those AQB standards, pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), as amended ("Title XI").¹ The LAG consists of the General Counsel of the Federal Deposit Insurance Corporation, the General Counsel of the Board of Governors of the Federal Reserve System, the Chief Counsel of the Office of the Comptroller of the Currency, the Chief Counsel of the Office of Thrift Supervision and the General Counsel of the National Credit Union Administration, the constituent agencies of the FFIEC.

Because of challenges by an appraisal education provider, we were asked for a legal opinion on these specific issues:

- Does Title XI authorize the AQB to adopt minimum education requirements for certified real estate appraisers, including those relating to continuing education and distance education?
- Is the ASC's interpretation of its duties to monitor and review AQB activities appropriate and consistent with Title XI and other applicable law?
- Was the ASC acting improperly or in any manner inconsistent with Title XI or other law when it instructed States to rescind their approvals of continuing education courses for certified real property appraisers that did not conform to AQB criteria?

¹ Pub. L. No. 101-73, 103 Stat. 183 (1989) (codified as amended at 12 U.S.C. §§ 3331-3352).

Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, National Credit Union Administration, Office of the Comptroller of the Currency, Office of Thrift Supervision

Regulatory Framework

The certification of real estate appraisers is subject to a unique regulatory framework created by Title XI. The appraisal regulatory structure includes State or U.S. territory appraiser certifying and licensing agencies ("state agencies"), a private corporation, and federal agencies. Under Title XI, the states, through the state agencies, are responsible for certifying and licensing real estate appraisers to participate in federally related transactions and for supervising their appraisal-related activities.² Under Title XI, the state agencies must adopt criteria for real estate appraiser certification that currently meet the minimum criteria established by the AQB of the Appraisal Foundation, a private non-profit organization.³ Title XI charges the ASC with oversight of the real estate appraiser regulatory framework through monitoring (i) the requirements of the states for certifying and licensing appraisers and (ii) the activities and operations of the Appraisal Foundation, including the AQB.⁴

Issues and Discussion

Issue 1: Does Title XI authorize the AQB to adopt minimum education requirements for certified real estate appraisers, including those relating to continuing education and distance education?

Section 1116(a) of Title XI defines a "State certified real estate appraiser" as an "individual who has satisfied the requirements for State certification in a State or territory whose criteria for certification currently meets the minimum criteria for certification issued by the [AQB]."⁵ The statute requires states to adopt criteria for appraiser certification that are at least as stringent as the AQB's minimum certification criteria. The states, of course, can adopt appraiser certification requirements that are stricter than those of the AQB.⁶ Accordingly, to qualify as a state certified real estate appraiser under Title XI, an individual must at least satisfy the minimum criteria for

² Title XI defines the term "federally related transaction" as "any real estate-related financial transaction which-- (A) a federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates; and (B) requires the services of an appraiser." 12 U.S.C. § 3350(4). The federal financial institutions regulatory agencies have issued regulations identifying which transactions require the services of a certified or licensed appraiser. *See, e.g.*, 12 C.F.R. § 323.3.

³ *See* 12 U.S.C. § 3345(a). FIRREA does not provide minimum requirements for the licensing of real estate appraisers by state agencies. *See* 12 U.S.C. § 3345(c).

⁴ *See* 12 U.S.C. §§ 3332(a), 3347.

⁵ 12 U.S.C. § 3345(a).

⁶ The statute also requires the individual to pass a suitable examination administered by the state that is consistent with and equivalent to the Uniform State Certification Examination issued or endorsed by the AQB. 12 U.S.C. § 3345(b).

**Appendix VII
Federal Financial Institutions Examination
Council's Legal Advisory Group Opinion**

certification issued by the AQB.⁷ Therefore, the terms of Title XI clearly authorize the AQB to establish minimum criteria for state certification of real estate appraisers.

Although Title XI does not specifically address “education” or “continuing education” as criteria for appraiser certification, the structure, purpose, and legislative history of the statute indicate that education requirements for appraisers are within the scope of minimum certification criteria that Congress authorized the AQB to establish. By not limiting the scope of the criteria, the statute appears to vest the AQB with broad discretion in determining what minimum criteria are appropriate for appraiser certification. Including education requirements among the minimum criteria is a reasonable measure to help ensure that certified appraisers perform their duties properly as Congress intended. Such requirements are consistent with the statutory mandate that appraisers must pass an examination that is consistent with and equivalent to the Uniform State Certification Examination issued or endorsed by the AQB, as both measures are calculated to result in a uniform body of knowledge possessed by certified appraisers nationwide.⁸ In addition, the education requirements complement the AQB’s minimum experience criteria for appraiser certification.⁹

The legislative history indicates that Congress intended Title XI to help solve the appraisal-related problems that had contributed to the widespread insolvency of financial institutions and deposit fund losses by, in part, creating appraisal certification standards that were consistent nationwide.¹⁰ Rather than dictating particular criteria in the statute, Congress looked to the Appraisal Foundation and its AQB as the source of the minimum appraiser certification criteria. The Conference Committee Report on FIRREA provides that “State certified appraisers must meet the requirements for certification issued by the Appraisal Foundation, including a passing grade on a uniform examination.”¹¹

At the time of the passage of Title XI, the AQB had established both education and continuing education requirements. The AQB’s appraiser certification criteria in existence at the time of these Congressional reports included a requirement that an appraiser successfully complete a specified number of classroom hours of AQB-approved courses in subjects related to real estate

⁷ See *id.*

⁸ *Id.*

⁹ Section 1116(e) states that the ASC “shall not set qualifications or experience requirements for the states in licensing real estate appraisers, including a de minimus standard.” 12 U.S.C. § 3345(e) (emphasis added). This provision clarifies that, although Congress intended the AQB to establish the minimum requirements for the certification of appraisers, Congress intended the authority to establish the minimum requirements for the licensing of appraisers to remain with the states, and did not intend to ASC to set those standards. Title XI and the implementing regulations make distinctions between appraisers that are certified and those that are only licensed. This provision also indicates that Congress considered requirements other than experience to be suitable criteria for appraisers.

¹⁰ H. Rep. No. 101-54, 101st Cong., 1st Sess., pt.1, at 481 (1989).

¹¹ H.R. Conf. Rep. No. 101-222, 101st Cong., 1st Sess., at 455 (1989).

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appraisal from a nationally recognized appraisal organization, college, or university. The AQB's criteria also included a limit on the term of certification (i.e., two to four years) and continuing education requirements as part of the criteria for certification renewals. The AQB's continuing education requirements included a specified number of hours of instruction in courses or seminars approved by the AQB.

The legislative history confirms that Congress was aware of the AQB's education and continuing education requirements for appraisers at the time of passage and intended the AQB to maintain and expand on its minimum criteria after the statute's enactment, including its education and continuing education requirements. In its report on FIRREA, the House Committee on Banking, Finance and Urban Affairs ("House Committee") stated, "[t]he Committee has knowledge of and approves the qualification standards established by the Appraisal Foundation for those individuals who seek to become certified appraisers."¹² The following statements from the Senate Committee's report on FIRREA also confirm that Congress knew of the Appraisal Foundation's certification qualifications, including its education-related requirements, and approved them:

The Committee, in addressing the problem, decided to build upon work already being done by responsible elements of the appraisal industry. The non-profit Appraisal Foundation, established in 1987, represents the major elements of the U.S. appraisal industry . . . Under its auspices . . . an independent qualifications board has recommended minimum requirements for education, experience, continuing education, a code of ethics and tests for use in certifying appraisers.

* * *

[Appraisal] rules would, at a minimum, have to meet generally accepted real estate appraisal and certification standards as evidenced by those promulgated by the Appraisal Foundation.¹³

The recognition in section 1116(a) of Title XI that a state's standards for appraiser certification must "currently" meet the AQB's minimum criteria for certification indicates that Congress expected that the AQB periodically would revise its criteria.¹⁴ Section 1116(a) represents a marked departure from the approach found in precursor legislation to FIRREA, including the Real Estate Appraisal Reform Act of 1988.¹⁵ This bill provided for the formation of an Interagency Appraisal Committee, in part, to prescribe permanent appraiser certification requirements that conformed to the Appraisal Foundation's appraiser certification criteria.¹⁶ Given the decision by Congress to eschew

¹² H.R. Rep. No. 101-54, pt. 1, at 481.

¹³ S. Rep. No. 19, 101st Cong., 1st Sess., at 35-36 (1989).

¹⁴ 12 U.S.C. § 3345(a).

¹⁵ H.R. 3675, 100th Cong. (1988).

¹⁶ See *id.* at §§ 500-01; H. Rep. No. 100-1001, 100th Cong., 2nd Sess., pt. 1, at 33, 42 (1989).

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"permanent" certification requirements for state agencies in favor of requirements that "currently" meet the AQB's minimum criteria, it appears that Congress foresaw that the AQB's minimum criteria would change over time and planned for such change accordingly. The decision to define a "State certified real estate appraiser" as an individual certified by a state with certification requirements that "currently" meet the AQB's minimum criteria, therefore, indicates that Congress intended to provide for the on-going development and refinement of the AQB's criteria, which were less than one year old at the time of FIRREA's enactment.

The AQB's authority to establish minimum education criteria for appraiser certification reasonably encompasses the methods of appraiser education, including "distance education." At the time FIRREA was enacted, the AQB's minimum education criteria contemplated only classroom education. Since the passage of FIRREA, the AQB has amended its minimum criteria to address the needs of appraisers for alternative methods to meet their education requirements. In 1991, the AQB recognized that correspondence courses could be a valid method for certified appraisers to meet their continuing education requirements, but concluded that additional criteria were needed to ensure that the quality of the courses would be consistent with the traditional classroom education criteria and consistent nationwide. The AQB further amended its criteria in 1997 to expand the concept of correspondent education to include computer-based education courses. It included "distance education" as a valid method for appraisers to meet their education and continuing education requirements. The AQB defined "distance education" to include "any educational process based on geographical separation between instructor and learner (e.g., CD-ROM, on-line learning, correspondence courses, video teleconferencing, etc.)." As earlier with the authorization of correspondence courses, the AQB promulgated additional criteria for distance education courses to ensure that the quality of the distance courses would be on par with the classroom courses and consistent nationwide.

Therefore, the terms, structure, and legislative history of Title XI all support the conclusion that Title XI authorizes the AQB to adopt minimum education requirements for certified real estate appraisers, including those relating to continuing education and distance education.

Issue 2: Is the ASC's interpretation of its duties to monitor and review AQB activities appropriate and consistent with Title XI and other applicable laws?

Section 1103(b) of Title XI expressly requires the ASC to "monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation."¹⁷ Title XI does not specify how the ASC is to perform this oversight or prescribe limits on its oversight function. Therefore, the statute appears to vest the ASC with broad discretion in determining how to monitor and review the Appraisal Foundation, including the AQB. Under the ASC's interpretation of its oversight responsibilities, it monitors and reviews the AQB's activities in the following manner: (1) ASC staff attends AQB and other Appraisal Foundation meetings and work sessions; (2) the ASC

¹⁷ 12 U.S.C. § 3332(b).

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staff and sometimes the ASC, as a body, review and comment on AQB proposals; (3) through the grant process, the ASC reviews prospective and existing AQB projects and reimburses the Appraisal Foundation for expenses relating to the AQB's Title XI-related activities;¹⁸ (4) the ASC retains a certified public accounting firm to review the Appraisal Foundation's financial operations annually; and (5) ASC staff maintains regular, informal professional communications with AQB members and Appraisal Foundation staff.

Consistent with this interpretation, the ASC generally reviews and comments on the AQB's proposals related to minimum criteria for appraiser certification and informally discusses the proposals with the AQB. In light of the AQB's broad authority to establish minimum appraiser certification criteria, discussed above, the ASC generally monitors whether the AQB's proposals are reasonable, not arbitrary or capricious, and otherwise consistent with law. The ASC reviewed the AQB's proposals related to minimum education and continuing education criteria, including distance education requirements, and determined that the AQB was not acting in a manner that was unreasonable, arbitrary, or capricious, or otherwise inconsistent with law.

The ASC's approach to overseeing the AQB appears to be consistent with the Title XI provisions. Title XI does not authorize the ASC to establish the minimum criteria for state certification of appraisers and, therefore, it should not substitute its judgment for that of the AQB in establishing the criteria. Although Title XI does mandate that the ASC "monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation" and the AQB,¹⁹ Congress did not provide the ASC with the authority or the power to direct or overrule the operations or structure of these private entities. The only enforcement power that Title XI provides to the ASC relates to the state agencies rather than to the Appraisal Foundation or the AQB—i.e., the extreme measure of refusing to recognize any appraiser certifications and licenses issued by a state agency if one of three refusal standards are met.²⁰ Therefore, it appears that, to the extent it considered this point, Congress intended that the ASC informally influence the policies and practices of the Appraisal Foundation and the AQB when necessary to uphold the purposes and provisions of Title XI. As discussed above, the ASC already has established and implemented steps to provide effective informal oversight of the Appraisal Foundation and AQB.

Issue 3: Did the ASC act improperly or in any manner inconsistent with Title XI or other law when it instructed states to rescind their approvals of distance education courses for certified real property appraisers that did not conform to AQB criteria?

¹⁸ Section 1109(b)(4) of Title XI requires the ASC "to make grants in such amounts as it deems appropriate to the Appraisal Foundation, to help defray those costs of the foundation relating to the activities of its Appraisal Standards and Appraiser Qualifications Boards." 12 U.S.C. § 3338(b)(4).

¹⁹ 12 U.S.C. § 3332(b).

²⁰ 12 U.S.C. § 3347(b).

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Pursuant to section 1103(a) of Title XI, one of the ASC's primary functions is to "monitor the requirements established by States for the certification ... of individuals who are qualified to perform appraisals in connection with federally related transactions."²¹ From time to time the ASC, through effective monitoring of state agencies, has identified state agencies that approved distance courses that did not conform to AQB criteria. The ASC has represented that, in almost all cases, these approvals occurred because the staffs of the state agencies were unaware of the AQB's requirements. The ASC generally has responded to this situation by writing the state agency to instruct it to rescind its approval of the nonconforming distance courses and to remind the state agency that it must comply with AQB course approval criteria. The issue presented is whether the ASC has acted in accordance with Title XI in doing so.²²

As noted above, the AQB's distance education requirements were established in 1997 and incorporated the correspondence course approval criteria already in place. The AQB further conditioned approval of distance education courses on their being: (1) offered by an accredited college or university; (2) accepted for college credit through the American Council on Education's College Credit Recommendation Service (formerly the ACE/PONSI program); or (3) approved through the AQB Course Approval Program ("CAP").²³ The AQB amended its distance education course criteria in 2001 to allow state agencies alternatively to approve the content of distance courses and for the International Distance Education Certification Center to approve course-delivery methodology.

Section 1118 establishes a statutory framework that charges the ASC with the responsibility for ensuring that the state agencies comply with their responsibilities under Title XI, including by complying with the AQB criteria. However, Title XI provides the ASC with only limited enforcement powers. As noted above, the ASC's only enforcement power under Title XI is to refuse to recognize any appraiser certifications and licenses issued by a state agency that the ASC has deemed to have met one of the three refusal standards established in section 1118(b).²⁴ Section

²¹ 12 U.S.C. § 3332(a).

²² Lee & Grant Company ("L&G"), a provider of appraisal education courses, has challenged the ASC's statutory authority to instruct state agencies that they must rescind their approval of distance courses that do not comply with AQB criteria. L&G argues that section 1118 of FIRREA, while providing for ASC oversight of state agencies, does not grant the ASC the authority to provide state agencies with orders or ultimatums to comply with AQB criteria.

²³ The ASC has represented that the CAP was established at the request of State agencies and providers of appraisal education. Under this voluntary program, the AQB contracts with education experts to review submitted courses. The first internet-based distance education courses were approved by the AQB under the distance education course criteria in 1998. As previously noted, the AQB's minimum criteria for continuing education at the time of Title XI's passage, included the requirement that the courses or seminars attended by appraisers be approved by the AQB.

²⁴ Section 1118, in relevant part, reads as follows:

(b) Disapproval by Appraisal Subcommittee. The Federal financial institutions, regulatory agencies, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Resolution Trust Corporation shall accept certifications and licenses awarded by a State appraiser certifying the licensing agency unless the Appraisal Subcommittee issues a written finding that - (1) the State agency fails to recognize and enforce the standards,

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1118 requires that, before refusing to recognize a state's certifications and licenses, the ASC must provide the state with written notice of its intention not to recognize these certifications and licenses, and an "ample" opportunity to provide rebuttal information and to correct the conditions causing the refusal.²⁵

The legislative history of FIRREA suggests that Congress did not intend to leave the ASC powerless in remedying violations of Title XI that did not meet the standards in section 1118(b). The House Committee, in a discussion of the ASC's role in monitoring state agencies in its report on FIRREA, noted that a goal in providing the ASC with monitoring responsibilities was a "nationwide system of state certified ... appraisers."²⁶ To meet this Congressional expectation of uniformity among the appraisal certification requirements employed by the states, the ASC regularly reviews the policies, practices, and procedures of the state agencies and provides them with written assessments of their compliance with Title XI. In its correspondence with the state agencies, the ASC highlights specific areas where the practices of a state agency do not comply with the requirements of Title XI, and notes the remedial actions the state agency must take to restore its status as Title XI-compliant.

As noted above, when the ASC has found that state certification programs do not conform to the AQB continuing education criteria, the ASC has provided a written notice to the relevant state agency instructing the agency of the need to conform its program to the criteria. Such notice has included, when relevant, instruction to the state agency to rescind its approval of certain distance education courses that do not comply with the AQB's minimum criteria. These instructions are not unlawful, provided they represent a finding that the relevant state's certification or licensing policies, practices, or procedures are not consistent with the requirements of Title XI.²⁷ However, the ASC ultimately may enforce these instructions only by following the procedures established in section 1118 for refusal of state certifications and licenses, which require the ASC to provide the non-compliant state agency with written notice that a refusal standard has been met and an opportunity to provide rebuttal information or to correct the condition.

requirements, and procedures prescribed pursuant to this chapter; (2) the State agency is not granted authority by the State which is adequate to permit the agency to carry out its functions under this chapter; or (3) decisions concerning appraisal standards, appraiser qualifications and supervision of appraiser practices are not made in a manner that carries out the purposes of this chapter. 12 USC § 3347(b).

²⁵ 12 USC § 3347(c); see 12 C.F.R. 1102.20-1102.35.

²⁶ H. Rep. No. 101-54, pt. 1, at 482.


²⁷ Although the ASC, in some instances, has informed state agencies that it "must" take certain actions without qualifying this instruction with the phrase "in order to comply with Title XI," such a directive by the ASC does not constitute an improper act. The ASC's instruction to the state agencies may constitute threats by the ASC to utilize its enforcement power, but not an attempt by the ASC to utilize powers that were not granted by Congress.

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For the foregoing reasons, the ASC's actions with respect to its correspondence with state agencies concerning compliance with Title XI and the AQB's minimum certification criteria appear to be consistent with Title XI and its legislative history.

Sincerely,

Legal Advisory Group
Federal Financial Institutions Examination Council

 for Legal Advisory
By: William F. Kroener, III Group, FFIEC
Chairman

Comments from the Appraisal Subcommittee



Appraisal Subcommittee *Federal Financial Institutions Examination Council*

April 23, 2003

David G. Wood, Director
Financial Markets and Community Investments
General Accounting Office
Washington, DC 20548

Dear Mr. Wood:

Thank you for the opportunity to review your draft report titled, *Regulatory Programs – Opportunities to Enhance Oversight of the Real Estate Appraisal Industry* (GAO-03-404). In general, we find that the report presents an appropriate synopsis of the appraiser/appraisal regulatory environment as envisioned by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, (“Title XI”) and implemented by various Federal, State, and private entities. We were pleased to note that, based on information reported to you, real estate appraisals have not been a major factor in the failure of depository institutions since the passage of Title XI. As you know, this was Congress’ primary focus in passing Title XI.

Following are our comments regarding specific items of the report:

- Page 17 – You comment that in reviewing the Appraisal Subcommittee’s (“ASC”) field review reports, you found few or no formal and transparent criteria for determining and reporting States’ compliance levels; that reports were sometimes inconclusive about whether the State was in compliance; and that the rationale for determining compliance was not given. You state that it would be beneficial for the ASC to develop and apply consistent criteria to assess States’ compliance with Title XI.

ASC staff follow the ASC’s *Field Review Manual for State Appraiser Licensing and Certification Regulatory Programs* when conducting field reviews. This manual helps insure consistent review and policy application from State to State. While you are correct that we do not have a formalized rating system under which we apply an overall rating to each State (“how one state measures against other states”), we do employ an informal rating system (*i.e.*, Tier 1 and Tier 2) based on a State’s overall compliance with Title XI. We review each State’s compliance and consider each State on an individual basis, not in comparison with other States. Generally speaking, compliance with Title XI is not an all or nothing situation. We review a State’s compliance with Title XI provisions and consider a number of factors in evaluating the State’s overall level of compliance (*e.g.*, whether a weakness was part of a pattern and practice or an isolated incident; whether the State was aware of the Title XI provision; whether the State exhibits willingness to address the weakness; and, whether the weakness had been noted in previous reviews of that State). We work with each State to address any identified weaknesses and to bring the State into compliance with Title XI.

In the past, the ASC considered developing a rating system that would provide a measure of one State against another, and concluded that such a rating system would not assist our Title XI enforcement efforts. However, based on your recommendations, we will review this issue again.

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- Pages 18-20 – You report that the Appraisal Standards Board (“ASB”) and Appraiser Qualifications Board (“AQB”) commented that the ASC’s failure to fund all Appraisal Foundation grant requests has limited activities the two boards believe enhance the quality, timeliness, and usefulness of standards and qualifications.

We do not believe this to be an accurate representation.

- During several years, the Foundation did not use all of the funds authorized in the ASC grant. For example, in 1998, the Foundation used only \$582,000 of \$666,000 authorized; in 1999, the Foundation used only \$646,000 of \$800,000; and in 2000, the Foundation used only \$697,000 of \$750,000;
 - Title XI does not state that we must provide funding for “all” of the Foundation’s Title XI-related expenses. Title XI authorizes the ASC to provide grants to “help defray” the Foundation’s Title XI-related expenses;
 - Over the years, several Foundation grant requests included funding for non-Title XI-related activities. The ASC lacks legal authority under Title XI to fund those activities;
 - The Foundation has funding sources other than the ASC grant; and
 - We are unaware of any initiative that the ASB or AQB has failed to pursue because of grant funding limitations. For example, the Foundation has not requested funding for the “body of knowledge” project mentioned in your report.
- Page 38 – Your third bullet contains a recommendation that the ASC draw on its surplus to provide grants, if necessary, to the Foundation and its boards.

The ASC has discussed projected ASC budgets for the next ten years, including projected grant requests. This initial assessment of ASC financial resources indicated that funding Foundation grant requests might prove problematic in the future as funds from annual net income decline. The ASC is evaluating methods of funding future Foundation grant requests. Using part of existing reserves is one of several available options. However, it is not a long-term solution.

- Existing ASC reserves serve two purposes: providing working capital necessary for the ASC to operate; and providing reserves against unanticipated expenses or uncertain future income. The ASC is evaluating the appropriate amount of reserves to ensure that we can carry out our mission given these uncertainties; and
 - Using ASC reserves to fund Foundation grant requests would be a short-term solution to a long-term need. Depending on the amount of future Foundation grant requests, ASC reserves in excess of those needed to maintain financial viability and responsibility could be exhausted within a short time. Any evaluation of Foundation grant funding needs to consider the long-term financial resources of the ASC. In developing our long-term funding plans and establishing an appropriate reserve level, the ASC will continue its current policy to evaluate and approve Foundation grant requests that fund activities that promote the purpose and intent of Title XI.
- Pages 22-23 – You report that a lack of rulemaking authority and limited enforcement powers hinder ASC efforts to ensure compliance with Title XI.

We agree that general rulemaking authority might facilitate our Title XI enforcement. However, the lack of additional authority has not been an impediment to achieving compliance. We have adopted ten Policy Statements that provide guidance regarding Title XI compliance. ASC Policy Statements are grounded in Title XI provisions and legally are the ASC's formal interpretations of Title XI. As such, the Policy Statements should be given deference in a court of law.

In February 2000, GAO issued a decision (File B-279866.3) that is pertinent to the legal effect of our Policy Statements. In that situation, the ASC and a State disagreed over an interpretation of Title XI and an ASC Policy Statement regarding National Registry fees. GAO concluded that, "ASC's interpretation of section 1109 of FIRREA reflects a reasonable exercise of its discretion in administering section 1109 of FIRREA." GAO based its determination on a U.S. Supreme Court decision stating, "If Congress has explicitly left a gap for the agency administering the statute to fill, there is in effect a delegation of authority to the agency to adopt a regulation or a policy to elucidate the statute. So long as the interpretation comports with the statutory objectives and is not arbitrary or capricious, the administering agency's reasonable policy choices are entitled to deference." [Citations omitted.] Having found such a gap, GAO decided that, "As the entity responsible for administering this legislation, ASC's interpretation of the statute is entitled to great weight and should ordinarily be followed unless there are strong indications from the legislative history or otherwise that its interpretation is arbitrary or inconsistent with the statutory purpose."

You report that the ASC noted that its Policy Statements are nonbinding recommendations. As discussed above, the Policy Statements are grounded in Title XI provisions and are the ASC's formal interpretations of that statute. Moreover, some Title XI provisions require the ASC to make binding statements. For example, § 1122(a)(2) of Title XI, 12 U.S.C. 3351(a)(2), provides that, "A State appraiser certifying or licensing agency shall not impose excessive fees or burdensome requirements, as determined by the Appraisal Subcommittee, for temporary practice under this subsection." ASC Policy Statement 5, which was adopted after public notice and comment pursuant to 5 U.S.C. 552, specifically identifies situations that are "excessive fees or burdensome requirements." Failure by a State to conform to Policy Statement 5 would constitute a direct violation of § 1122(a)(2) of Title XI.

Regarding enforcement powers, while we agree that the ASC's options are limited in number, we have been unable to identify other powers that would effectively improve our enforcement authority. In fact, during your exit conference with the ASC, it was stated that we had always been able to achieve State compliance within the supervisory and enforcement structure that currently exists.

- Page 30-32 – In this section, among other issues, you report that one State and one education provider asserted that both the AQB and the ASC exceeded their authorities regarding education criteria.

As noted in your report, the ASC obtained a formal legal opinion from the Federal Financial Institutions Examination Council's Legal Advisory Group ("LAG") regarding this issue. The ASC requested such an opinion to address the State's and education provider's persistent objections to changes in the AQB's criteria for appraiser certification and the ASC's actions to enforce those criteria. LAG concluded that the AQB and ASC actions appeared to be consistent

with, and authorized by, Title XI. The opinion stated that Title XI gives the AQB wide authority in setting education, experience, and examination criteria for certified appraisers, and that it was not within the ASC's authority to substitute its judgment for that of the AQB in establishing its criteria. The ASC's responsibility was to monitor the AQB decisions to ensure that they were reasonable, and not arbitrary, capricious, or otherwise inconsistent with law.

We emphasize that both the LAG opinion, regarding certified appraisers, and the GAO decision, regarding certified and licensed appraisers, discussed the same considerations (*i.e.*, reasonable, arbitrary, capricious, and consistent with law) and determined that the ASC's actions met those standards when interpreting and enforcing Title XI.

- Page 38 – In your second bullet, you recommend that the ASC explore options for funding or otherwise assisting States in carrying out their Title XI activities.

While we believe that overall State compliance with Title XI would be improved if States had more funding, we do not see the ASC as the answer to that issue. As noted in your report, the ASC's general counsel does not find statutory authority for the ASC to provide funding to the States. Legal issues aside, however, the ASC's only method of obtaining funds to provide funding to States would be to increase the National Registry fee assessed each appraiser. That seems to be an unnecessary and inappropriate action given that each State already has authority to increase the fees that it charges appraisers. Each State is much better positioned to identify its needs and to address fee/income issues to resolve those needs. As you learned during the study, if State appraiser regulatory agencies were allowed to use the fees they collect from appraisers, most States would have adequate funding. Instead, many States send those fees to the general revenue fund and provide only a portion for the State's Title XI-related activities.

Once again, we appreciate the opportunity to review your draft report and provide comments.

Sincerely,



Steven D. Fritts
Chairman

Comments from the Appraisal Foundation



THE APPRAISAL FOUNDATION

*Authorized by Congress as the Source of Appraisal
Standards and Appraiser Qualifications*

April 17, 2003

Mr. David G. Wood
Director
Financial Markets and Community Investment
U.S. General Accounting Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Wood:

Thank you for allowing The Appraisal Foundation to provide comments on your report entitled "Opportunities to Enhance Oversight of the Real Estate Appraisal Industry."

While some concerns are expressed in your report by industry participants and state regulators, it is important to reiterate the point that the focus of the Foundation's role in the real estate appraiser regulatory system is to set *minimum* thresholds. This ensures a baseline of competence for appraisers and greater public trust in the profession. At the same time, by establishing minimum thresholds that can be exceeded, the appropriate latitude can be exercised by the 56 states and territories regulating real estate appraisers.

Examples of this concept include:

Appraisal Standards

The Foundation, through its Appraisal Standards Board, establishes the generally recognized performance standards of the profession, the *Uniform Standards of Professional Appraisal Practice (USPAP)*. Federal agencies and state appraiser regulators have the latitude to issue supplemental standards.

Appraiser Qualifications

The Foundation, through its Appraiser Qualifications Board, establishes the minimum education, experience and examination criteria used for the state licensing and certification of real estate appraisers. Federal agencies and state appraiser regulators may establish requirements that exceed any or all of these criteria.

USPAP Instructor Certification

The AQB Certified USPAP Instructor Program was implemented because the vast majority of states do not review and approve the credentials of instructors of USPAP. Our two-day course and comprehensive examination ensure that USPAP instructors have demonstrated their knowledge level of the subject matter. If they so choose, states can establish additional criteria for USPAP instructors to operate in their state.

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Appendix IX
Comments from the Appraisal Foundation

Mr. David G. Wood
U.S General Accounting Office
April 17, 2003
Page two

AQB Course Approval Program

The AQB Course Approval Program was developed to assist states and appraisal educational providers with the course approval process. The program is *voluntary* for both the states and educational providers. We view this program not as an administrative burden, but rather as a tool that may be used by regulators and educators if they so choose.

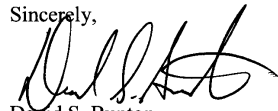
National USPAP Courses

The *National USPAP Courses* were developed to establish a minimum threshold in USPAP course content. Other course providers may develop USPAP courses that can be taken for state credit, as long as the courses meet this minimum threshold. Since January 1, 2003, four USPAP courses have been determined to be equivalent to the *National USPAP Courses* through the AQB Course Approval Program.

The above examples demonstrate our ongoing efforts to develop a baseline of minimum competency in all aspects of appraising. We are not encroaching into the arenas of others, but are rather simply taking action to fill an existing void. Promoting professionalism in appraising has been a goal of The Appraisal Foundation since before the enactment of Title XI of FIRREA.

We appreciate the opportunity to provide you with these comments and look forward to reviewing your final report.

Sincerely,



David S. Bunton
Executive Vice President

Comments from Fannie Mae



Arne Christenson
Senior Vice President
Regulatory Policy

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April 22, 2003

Mr. David G. Wood
Director, Financial Markets and Community Investments
United States General Accounting Office
Washington, DC 20548

Dear Mr. Wood:

Fannie Mae submits these comments to the draft you provided us of the General Accounting Office's report titled "Opportunities to Enhance Oversight of the Real Estate Appraisal Industry."

Background

Fannie Mae strongly supported the enactment of Title XI of FIRREA and the steps taken to implement the intent of the Appraisal Reform Amendments — specifically, the acknowledgement of the Uniform Standards of Professional Appraisal Practice (USPAP) as the minimum uniform appraisal standards as well as the establishment of minimum qualification criteria for appraisers. We believed that the implementation of the regulatory scheme through federal and state regulations could increase appraisal quality. Fannie Mae also viewed the implementation of Title XI as an important step in the evolution of professionalism within the appraisal community.

Fannie Mae considers an accurate property valuation to be one of the key elements that assure prudent underwriting of a mortgage loan. The appraised value is part of the lender's calculation of the loan-to-value ratio, and thereby assists the lender in determining its exposure to loss in the unfortunate event of default and foreclosure. Therefore, we believe that accurate valuations are an essential element in originating a mortgage for subsequent delivery to any investor in the secondary mortgage market.

When an appraisal is required for a mortgage that a lender delivers to Fannie Mae, we require our lenders (and any third-party originators they rely on) to use appraisers that are state-licensed or -certified in accordance with Title XI. In addition, we require our lenders (and any third-party originators they rely on) to be aware of, and in full compliance with, state laws for licensing and certification of real estate appraisers.

Fannie Mae holds its lenders solely and fully responsible for the selection of appraisers and for the quality of the appraisal. Fannie Mae requires its lenders to take appropriate steps to ensure that an appraiser is qualified to perform appraisals for the particular types of property that the lender intends to refer to that appraiser. The appraiser must be experienced in appraising the types of properties for which the lender intends to use his or her services, and have access to the necessary data sources. The requirement to use appraisers that are state-licensed or –certified is viewed as a minimum standard.

Our appraisal report forms recognize the USPAP as the minimum appraisal standards of the industry. Fannie Mae has supplemental appraisal requirements, which exceed the minimum requirements of the USPAP. Our appraisal report forms are designed in a way to allow an appraiser to be able to be in full compliance with Fannie Mae’s requirements if he or she addresses all the specific information on the form, presenting the applicable data accurately and completely. Fannie Mae guides the extent or scope of the appraisal process and implements its appraisal policy through its appraisal report forms.

Observations

Our experience with the implementation of the appraisal regulatory scheme has identified several deficiencies:

- First, we have observed a significant lack of uniformity among the states in the quality of their processes and procedures for accepting, reviewing and investigating unacceptable appraisal reports. Although Fannie Mae assumes no supervisory responsibility or oversight authority over appraisers, from time to time we refer unacceptable appraisal reports to the appropriate state appraiser licensing or regulatory boards for investigation and action based on the appraisal field review reports that we obtain as part of our standard quality assurance process.

Our objectives in referring appraisal reports are to (a) emphasize our continuing efforts to maintain the quality of appraisals, (b) protect our interests and improve the quality of mortgages delivered to Fannie Mae by identifying appraisers who have performed appraisals of a sufficiently poor quality to impair our security interests, and (c) help the industry enhance the quality of appraisals by identifying and referring individual appraisers who appear to be unethical and/or incompetent to the state appraiser licensing or regulatory boards for review and, if appropriate, enforcement under their professional standards.

- Second, we have observed a lack of consistent and effective enforcement actions by the state appraiser licensing or regulatory boards.
- Third, we have also observed a lack of consistent and effective oversight of the state’s activities by the Appraisal Subcommittee.

Recommendations

The report makes two types of recommendations.

First, it recommends that the Chairman of the Appraisal Subcommittee take various actions, as follows:

- develop and apply consistent criteria for determining and reporting states' compliance levels with Title XI requirements;
- explore potential options for funding or otherwise assisting states in carrying out their Title XI activities, particularly the investigation of complaints against appraisers. We suggest that you add to this a reference to identifying best practices and approaches by the states; and
- draw on its surplus to provide grants, if necessary, to the Appraisal Foundation and its two boards in support of their Title XI activities.

We suggest that you add to this list a recommendation by the Appraisal Subcommittee to the states that they accept the One-Unit Residential Appraisal Field Review Report (Fannie Mae Form 2000 and Freddie Mac Form 1032, dated 12/2002) as sufficient documentation for referred appraisals. This form provides all the information a state agency is likely to need to conduct an effective investigation. This is because in development of this form, we considered comments we had received from many state appraiser licensing or regulatory boards about the type of information that would help them in their investigations, and the finalized form reflects those comments. (See Announcement 02-09 dated 7/31/02, especially second paragraph, and Announcement 02-13 dated 12/17/02.)

Second, the report recommends that the Chairman of the Appraisal Subcommittee work with the Chairmen of Fannie Mae and Freddie Mac, plus the Secretary of HUD, to "ensure that referrals of problem appraisers are provided in a format that is useful to the state appraisal agencies and that suitable follow-up is taken to ensure that the states have taken appropriate enforcement actions." We have two concerns about this recommendation:

- First and most importantly, in the scheme of Title XI, it is not the responsibility of Fannie Mae to ensure that the states take appropriate enforcement action in response to referrals of problem appraisals. This recommendation assumes a regulatory role that we do not have.

Appendix X
Comments from Fannie Mae

- Second, based on our extensive experience in referring unacceptable appraisals to state agencies, we believe that issues of format have not impeded the states from taking effective action. Therefore, it would not be productive to focus on matters of format as a strategy for improving the quality of state enforcement action. Further, insofar as the process might be improved by improvement of format, acceptance of the One-Unit Residential Appraisal Field Review Report, as we suggested above, would serve that objective.

Sincerely,



Arne L. Christenson
Senior Vice President for Regulatory Policy

Comments from Freddie Mac



Freddie
Mac

Clarke Dryden Camper

Vice President, Congressional Relations
(202) 434-8620 • Fax (202) 434-8626

401 9th Street NW, Suite 600 • Washington, DC • 20004

April 23, 2003

David G. Wood
Director, Financial Markets and Community Investments
U.S. General Accounting Office
Washington, DC 20548

Dear Mr. Wood:

The Federal Home Loan Mortgage Corporation (“Freddie Mac”) appreciates this opportunity to review and comment on GAO’s draft report, *Regulatory Programs: Opportunities to Enhance Oversight of the Real Estate Appraisal Industry* (GAO-03-404) (“the draft report”).

Freddie Mac is a shareholder-owned and publicly traded business corporation created by Congress to support homeownership and rental housing. We operate as a secondary market purchaser of and investor in mortgages originated by lenders throughout the country. Freddie Mac relies upon real estate appraisers to provide sound valuations of properties, and, as the draft report notes, we set appraisal standards for mortgages we purchase.

However, on pages 6-7 of the draft report Freddie Mac and Fannie Mae are described as “quasi-federal entities that have roles with respect to oversight of the real estate appraisal industry,” and on page 55 both companies are described as “quasi-federal agencies.” These characterizations are incorrect. Neither company is an agency of the United States government, nor do we have any regulatory oversight role with respect to the appraisal industry. Our standards for the use and content of appraisals in mortgages we purchase are those of mortgage investors, not governmental entities with regulatory powers.

Accordingly, the recommendation that the Appraisal Subcommittee work with Freddie Mac and Fannie Mae “to ensure that referrals of problem appraisals are provided in a format that is useful to the state appraisal agencies and that suitable follow-up is taken to ensure that the states have taken appropriate enforcement actions” (page 38) would place both companies in an inappropriate role. Freddie Mac and Fannie Mae lack the legal authority and the ability to “ensure” either outcome.

In addition, it also is unclear how the Appraisal Subcommittee can effectively achieve these outcomes. Because the states have the authority to set their own formatting requirements for referrals, they, not the Appraisal Subcommittee, are in the best position to ensure compliance with them. The only action the Appraisal Subcommittee can take against a state that fails to take enforcement actions is decertification. However, as the

Appendix XI
Comments from Freddie Mac

Freddie Mac's comments on GAO draft report on appraisal oversight
April 23, 2003
Page 2

draft report itself observes, the Appraisal Subcommittee has not used this tool because it would inflict significant harm on the state's real estate market.

An alternative approach that may be worthwhile to consider is for the Appraisal Subcommittee to work collaboratively with all stakeholders on this issue – state and federal regulators, mortgage lenders, appraisers, and consumer groups – to increase the effectiveness of the referral and enforcement processes.

Thank you again for the opportunity to comment on the draft report. Please contact us if we can be of further assistance.

Sincerely,


Clarke Camper

Comments from Department of Housing and Urban Development



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-8000

April 15, 2003

OFFICE OF THE ASSISTANT SECRETARY
FOR HOUSING-FEDERAL HOUSING COMMISSIONER

Mr. David G. Wood
Director
Financial Markets and Community Investments
General Accounting Office
Washington, DC 20548

Dear Mr. Wood:

The Department has reviewed the draft report entitled, **Regulatory Programs- Opportunities to Enhance Oversight of the Real Estate Appraisal Industry** (GAO-03-404) and is submitting the comments below. At the outset, we wish to express our agreement with the overall conclusion of the report. Specifically, we concur with your recommendation that better coordination between the state appraisal oversight agencies, the Appraisal Subcommittee, and HUD is needed. Staff request one change to a recommendation and other minor changes to the report. The changes are listed below:

Page 38 – Recommendations

To improve the process for referring problem appraisals by entities that oversee or use real estate appraisals to the state appraiser agencies for possible enforcement actions, you recommend that the Chairman of the Appraisal Subcommittee work with the Chairman of Fannie Mae, the Chairman of Freddie Mac and the Secretary of the Department of Housing and Urban Development to ensure that referrals or problem appraisals are provided in a format that is useful to the state appraisal agencies and that suitable follow-up is taken to ensure that the states have taken appropriate enforcement actions.

Proposed Recommendation

FHA Requested Change: FHA requests that the recommendation be written to exclude the Secretary of Housing and Urban Development or to acknowledge that HUD is already involved in the work of the Appraisal Subcommittee. As you are aware, a HUD representative serves as one of 6 members of the Appraisal Subcommittee. Consequently, HUD is well positioned to work to enact any recommendation proposed by the Appraisal Subcommittee.

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Miscellaneous Edits and Corrections

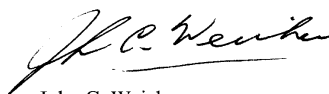
Page 4 -- In the first line, "praisal" should be "Appraisal."

Page 15- - In the last paragraph, the ASC has seven staff members, not six.

Page 70 – First line of second full paragraph "AQB" should be "ASB."

Once again, we appreciate the opportunity to review your draft report and provide comments. We look forward to working with GAO in the future and welcome the feedback and guidance we receive from your agency and staff.

Sincerely,



John C. Weicher
Assistant Secretary for Housing-
Federal Housing Commissioner

GAO Contacts and Acknowledgments

GAO Contacts

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Harry Medina (415) 904-2000

Acknowledgments

In addition to those named above, Susan Baker, Emily Chalmers, Erika Cruz, Edda Emmanuelli-Perez, Joel Grossman, Tracy Guerrero, Jennifer Lai, Alexandra Martin-Arseneau, Marc Molino, David Noguera, Jerome Sandau, and Paul Thompson made key contributions to this report.

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