



Appraisers chafe at growing regulations

Lenders, independent appraisers and AMCs must work together in new regulatory environment

BY GEORGE DEMOPULOS



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» **AS REGULATIONS** consume the appraisal industry, many are left wondering what will come next. With the fast pace of change, questions loom: What does the future hold for the appraisal industry? What do these new rules and regulations mean, and how will they impact independent appraisers, appraisal management companies and lenders?

Until new regulations are strictly enforced, they won't have much of an impact. In fact, we may have time to figure out the best possible approaches for everyone involved in dealing with potential issues.

For example, we all accept that the Uniform Standards of Professional Appraisal Practice, or USPAP, is a standard of practice. It does not tell anyone how much to charge for an appraisal or how many hours it should take to perform the valuation analysis.

Seasoned professionals set fees and define their own business practices. However, in recent years we have seen a significant increase in regulation of the appraisal industry from state and federal agencies. Therefore, what we see are lenders requiring more and more of appraisers while the appraisers are being paid less.

With new state and federal regulations being promulgated at every turn, all members of the industry agree on one thing: Quality, supported appraisals may not be the end result of the rules and regulations that have been put into place or are being contemplated.

Our industry is in a state of change, where confusion and frustration are rampant. In some cases, a sense of hopelessness is overtaking appraisers. It doesn't have to be that way. The majority of our industry seems to be in agreement that there are substantive things that need to change. Here is a novel idea: Let's get appraisers, AMCs and lenders together to resolve the issues.

New guidelines and regulations have resulted in lenders and appraisers undergoing a level of regulation and scrutiny hitherto unknown in the industry. The unintended result has been an increase in the costs of, and timelines for, appraisals.

Furthermore, the majority of people in our industry admit to not entirely understanding some or all of these new rules. Enforcement seems to be sporadic. One group's understanding may not match that of their peers.

So the question is raised, "Are we keeping up with the changes or are we all falling behind?"

GEOGRAPHIC COMPETENCY

Although it may appear to many in the industry that AMCs have benefited the most from new policies, as many banks and mortgage lenders turned to third-party providers for help meeting provisions of the now sunsetted Home Valuation Code of Conduct, or HVCC, AMCs are, in fact, faced with many unseen struggles due to new compliance rules.

The enforcement of appraisal fee regulation will put a pall on the **FREE MARKET** system that has defined and guaranteed appraiser freedom for years.

An example of an unintended consequence is in the area of geographic competency, which is a requirement of the Uniform Standards of Professional Appraisal Practice, and something to which all certified appraisers must adhere.

Some of our clients are requiring us to use appraisers that are located within 15 to 20 miles of their subject property — whether or not those appraisers are the most qualified and experienced available.

Nationally, AMCs like ours are forced to reach out to new and possibly less experienced appraisers who may be located closer to the subject property, rather than working with an appraiser whose education and expertise make them better suited.

The confusion over the meaning of geographic competency has resulted in some of the most exceptional independent appraisers getting fewer assignments. It may be perfectly reasonable to appraisers in Manhattan to restrict themselves to a half-mile radius, but in outlying areas, independent appraisers have always had competency in a larger radius.

As a result, many of the best independent appraisers are struggling to survive. Should an appraiser living in a rural area be forbidden from appraising a property in a more populated area of that same state if they are geographically competent in that market?

What is clear is that regulation of the appraiser to an arbitrarily defined radius is restricting the ability of the appraiser to generate an income and is creating a potential for poor and unreliable valuations.

STATE REGULATION OF AMCS

Currently, all residential real estate appraisers must be state-licensed and certified nationwide. AMCs will soon be required by the Dodd-Frank Act to be licensed in 18 states of the United States. This will cost thousands of dollars.

For example, for an AMC to be licensed in Minnesota, it costs \$5,000. AMCs will also be charged an annual fee of up to \$50 for each independent appraiser on their panel. Given the nature of large AMCs, this could prove to be quite an expensive yearly fee — more expensive than smaller AMCs will be able to pay. An unintended consequence of this type of regulation will be a reduction in the number of appraisers, mainly the smaller AMCs. Larger, national AMCs will become the “only game in town.”

The National Association of Realtors played a significant role in getting this type of legislation enacted in Dodd-Frank, undoubtedly without realizing its affect on the consumer. National AMCs will soon likely be paying for applications in all 50 states and passing the costs along in the form of higher fees for their services. Who will this hurt? The consumer.

CUSTOMARY AND REASONABLE FEES

The federal government’s Dodd-Frank proposal requiring lenders to pay “customary and reasonable” fees to appraisers is one attempt to even things out and ensure that appraisers are being paid appropriately. AMCs are charging reasonable amounts, and customers are paying the right price for appraisals. What is a usual and customary fee, and who is in charge of setting the amount?

Essentially, it is the amount agreed upon between an AMC and an independent appraiser. It really should depend on the size of the property, the education and expertise level of the appraiser, among other factors. Fees have historically been a matter for negotiation. Remote or complex assignments require a premium, for example. The scope of work might define a greater or lesser fee. In my experience, regulating these fees, which are a part of Dodd-Frank, on a national basis appears unfeasible.

It is an AMC’s responsibility to find the most qualified appraiser at the best price for their customer. It is the appraiser’s responsibility to deliver the highest quality appraisal at the most reasonable and competitive price. Regulating fees takes the responsibility away from both parties. An unintended consequence may be a lower-quality or an over-priced appraisal.

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THE NEXT GENERATION OF APPRAISERS

The number of new practitioners coming into the appraisal profession has dropped significantly in recent years. Many are fearful that this trend will continue. It takes a significant financial investment to get an appraisal license and years to earn one.

First, an individual must undergo rigorous education and testing; then they apprentice with an experienced appraiser who mentors them and takes professional responsibility for their work. More and more seasoned appraisers are refusing to take on trainees due to the unstable state of the economy.

If the most educated and experienced appraisers are not training newcomers, who is training them? Often, unfortunately, this job is being left to the appraisers who have been in the industry for less than 10 years. Key aspects that define a quality appraisal may be missed in this kind of training, and the domino effect over time will be detrimental to the appraisal industry. If the trend continues, we will not be able to meet the needs of the mortgage industry in coming years.

Appraisers and AMCs would rather be doing appraisals. With thoughtful regulation and measured rulemaking, they can partner with others in the industry to get the job done successfully. What is needed is a spirit of cooperation between all members of the industry. With a willingness to work together, we can make the regulations benefit not only state and federal regulatory authorities, but also the industry and consumers.

High-quality AMCs want independent appraisers to succeed, because they need them, and appraisers really do need AMCs, whether they admit it or not. Rather than focusing on proposing more rules and regulations, we all need to find a way to work together so that the future of our industry is not defined by more rules and mandated fees. 💡

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