Testimony of

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On Behalf of the

American Bankers Association

The Appraisal Subcommittee's Third Public Hearing on Appraisal Bias

American Bankers Association®

The American Bankers Association[1] (ABA) is pleased to be invited to the Appraisal Subcommittee's (ASC) third public hearing on Appraisal Bias. Thank you for the opportunity to speak to each of you on behalf of ABA and our members on the important topic of how lenders use appraisals.

Banks are committed to fairly serving the individuals, families and businesses in their communities and oppose discrimination in any aspect of the lending process, including appraisals. ABA and members have been discussing features of bank policies and procedures that promote the accuracy of an appraisal and support the ability of all residential borrowers to request a Reconsideration of Value (ROV).

Below we offer our responses to multiple questions posed by the ASC staff. Some of the questions and responses are combined to streamline the response.

- **Please describe any efforts the ABA or its member banks have taken to address appraisal bias.**
- **What support does ABA provide for the reconsideration of value process and how do you encourage your members to use it? How successful has that process been in helping banks to identify and address appraisal bias?**

ABA has an Appraisal Working Group for bank members, which meets monthly by Zoom to discuss appraisal-related topics, including peer discussions on how to identify and address appraisal bias. At these meetings, members also share how they have implemented processes that include communications to borrowers about the ROV process.

[1] The American Bankers Association is the voice of the nation's $23.5 trillion banking industry, which is composed of small, regional and large banks that together employ more than 2.1 million people, safeguard $18.6 trillion in deposits and extend $12.3 trillion in loans.

Most, if not all, banks have pre-established complaint monitoring systems with formal procedures for receiving informal and formal consumer complaints. Members report that complaints that include any allegation of appraisal bias are identified and escalated within the complaint monitoring process so these complaints can be addressed by bank staff with appropriate training and so the complaints are clearly logged, tracked, and responded to. This escalation process promotes a consistent process, and it is available for bank regulators to review.

In 2022, a year before the agencies proposed guidance on ROVs, with member input, ABA developed and published a Staff Analysis to help members identify and mitigate fair lending risk in the appraisal process. The Staff Analysis outlines possible approaches banks can consider when updating appraisal policies and procedures that help to identify and address possible bias within the appraisal process. Here are a few examples included in our Staff Analysis:

- Require training on appraisal bias, the Fair Housing Act and the Equal Credit Opportunity Act for bank staff (including mortgage loan originators and appraisal review staff), and third-party providers (such as appraisers and Appraisal Management Companies).
- Develop policies and procedures that identify factors that would trigger a second review if the value in the appraisal is significantly lower than the contract price.
- Use Automated Valuation Models (AVMs) as a supplemental resource to assess a low value of an appraisal.
- Utilize word and phrase searches in the appraisal report’s free-form text fields to identify potentially discriminatory words or language.

- Standardize the process for the borrower to request an ROV and the bank's second review process.
- Use HMDA data to perform appraisal-related statistical analysis on mortgage files.

The Staff Analysis also provides links to quick references, such as articles and publications on bias by Federal Housing Finance Agency (FHFA), Fannie Mae, and Freddie Mac. It specifically highlights reports by Property Appraisal and Valuation Equity Taskforce[2] (PAVE) Action Plan and the National Fair Housing Alliance's report on Identifying Bias and Barriers[3] as good resources for staff review.

Our members also report that the 2023 Interagency Proposed Guidance on Reconsiderations of Value[4] includes useful examples that lenders can consider as they develop their policies and procedures. ABA generally supported this proposed guidance,[5] and we look forward to final guidance that recommends a risk-based approach for banks.

ABA has hosted several webinars on appraisals that address regulatory concerns, including appraisal bias. In addition, ABA and many state bankers associations have hosted conferences that have included panel discussions on

[2] *See* Interagency Task Force on Property Appraisal & Valuation Equity, Action Plan to Advance Property Appraisal and Valuation Equity (Mar. 2022), https://pave.hud.gov/sites/pave.hud.gov/files/documents/PAVEActionPlan.pdf.

[3] *See* National Fair Housing Alliance, et al., Identifying Bias and Barriers, Promoting Equity: An Analysis of the USPAP Standards and Appraiser Qualifications Criteria (Jan. 2022), https://nationalfairhousing.org/wp-content/uploads/2022/01/2022-01-18-NFHA-et-al_Analysis-of-Appraisal-Standardsand-Appraiser-Criteria_FINAL.pdf.

[4] Interagency Guidance on Reconsiderations of Value of Residential Real Estate Valuations, 88 Fed. Reg. 47071 (proposed July 21, 2023), https://www.govinfo.gov/content/pkg/FR-2023-07-21/pdf/2023-12609.pdf.

[5] Am. Bankers Ass'n, Letter to the Agencies on the Joint Guidance on Reconsideration of Value of Residential Real Estate Valuations (Sept. 19, 2023), https://www.aba.com/advocacy/policy-analysis/ltr-rovs.

appraisal bias. ABA staff also participates in external conferences and industry panels that address appraisal bias. Most recently, these have included the Conference on Consumer Finance Law, Appraisal Institute, Association of Appraiser Regulatory Officials, The Appraisal Foundation Valuation Roundtable, and Real Estate Valuation Advocacy Association. ABA recently joined the Office of the Comptroller of the Currency's (OCC) Project REAch[6] ROV workstream to help develop informal best practice guidance on ROVs. Many of our members attend or participate in these various events.

- **What roles and responsibilities do bankers have in addressing appraisal bias? What safeguards or reviews are in place?**
- **What is needed to allow banks to make sound judgements about the determination of bias or discriminatory factors in appraisals?**

Banks are actively trying to ensure that evidence of appraisal bias is detected in the appraisal review. Many banks have instituted searches for problematic words and phrases in appraisal reports. We recommend that the thirteen federal agencies on the PAVE task force, as well as Fannie Mae and Freddie Mac jointly design an online tool that consolidates words and phrases that may indicate bias. This would be a useful tool for all lenders originating mortgage loans. Along with identifying potentially biased statements in appraisal reports, banks are exploring methods to identify factors that should trigger a second review based on a low appraised value. However, the success of these efforts is unclear to date. Many claims of bias involve challenges to the

[6] Office of the Comptroller of Currency, Project REACh: Removing Barriers to Financial Inclusion, https://www.occ.gov/topics/consumers-and-communities/project-reach/project-reach.html (last visited Oct. 24, 2023).

comparables selected by the appraiser, but banks are not in a position to find other comparables; that is within the defined role and responsibility of the appraiser.

Moreover, banks are not well-positioned to identify biased appraisers because they do not see the entire scope of an appraiser’s work. They see only those valuations prepared for the bank’s applications and loans. Even for large banks, their own book of business may not be a large enough sample to detect patterns or trends that may suggest bias by individual appraisers.

ABA believes that appraisers and their state regulators are in the best position to limit bias. Under the current system for regulating appraisers and appraisals, state licensing bodies are the principal entities responsible for protecting against appraisal bias by requiring fair lending training, investigating appraisers accused of bias, and taking appropriate disciplinary actions when warranted. Banks are not well-positioned to detect bias except in cases when an appraiser includes biased remarks in the appraisal report’s narrative section. As noted above, banks are committed to fairness and equal treatment of consumers, and they are interested in exploring workable means to identify potential bias. These efforts, however, do not mean that it is appropriate to impose legal responsibility for hidden bias on banks.

- **Does the ABA have a view on whether the sales comparison approach to value promotes bias in appraisals? Why or why not?**

ABA believes that the sales comparison approach reflects market value in transactions involving residential real estate. Using the sales comparison approach to determine current market value appropriately supports the proper capital allowance used in calculating future expected losses in the portfolio. Of the three appraisal methodologies (i.e., cost approach, sales comparison, and income capitalization), it is the sales comparison approach that is most widely deemed by the industry as the most reliable and objective methodology for residential real estate. There is broad agreement that market forces should determine property values, and comparable sales offer the most reliable and objective evidence of real market price. The sales comparison approach is reliant on objective data points that involve actual sales, location of property, and type of property. In short, we do not believe that the sales comparison approach promotes bias.

We caution that a change to the standard appraisal methodology for residential properties would increase risk and could impact safety and soundness standards and future capital requirements for loans. There is a potential for systemic risk if there is pressure to inflate the value of real estate appraisals. Accurate valuations are critical for depository institutions for the proper amount of capital allocation. Overinflated values could negatively affect the housing market, if we see a further softening in the US economy. In light of these threats, it would be wise to observe the Federal laws that address matters of valuation of residential real estate in the banking system. The Uniform Standards Professional Appraisal Practices[7], Financial Institutional Reform, Recovery, and Enforcement Act[8] and the Dodd Frank Act of 2010[9] all established standards that require prudent valuations as a necessary part of a successful banking system.

[7] *See* The Appraisal Foundation, What is USPAP?, https://www.appraisalfoundation.org/imis/TAF/Standards/Appraisal_Standards/Uniform_Standards_of_Professional_Appraisal_Practice/TAF/USPAP.aspx?hkey=a6420a67-dbfa-41b3-9878-fac35923d2af (last visited Oct. 24, 2023).

[8] *See* 12 C.F.R. pt. 34 (2023).

[9] Pub. L. No. 11-203, https://www.govinfo.gov/app/details/PLAW-111publ203 (2010).

- **Please describe any challenges your member banks have reported in obtaining appraisals for residential properties located in rural markets and on tribal lands and what could be done to address those challenges.**

There is a significant shortage of licensed appraisers across most rural areas, and an appraisal report may take four to six weeks or longer to be delivered in rural markets. Members note there is a shortage of appraisers that serve these rural communities and a limited number of appraisers that will travel to these markets. Due to the uniqueness of these properties, there are often additional issues that stem from the appraiser finding appropriate comparables and using acceptable adjustments in the report that meet secondary market standards. Rural areas experience fewer home sales than more urban areas, and even when rural homes are put on the market, they typically take much longer to sell than in urban areas. This results in fewer comparables for appraisers to take into consideration.

As a general matter, the industry needs more appraisers to better serve all communities. The Appraisal Qualification Board should continue to review and amend the appraiser qualification criteria to attract more appraisers from different backgrounds and market areas to join the profession.

Thank you for inviting us to provide input at this hearing.