

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of

Louisiana Real Estate Appraisers Board,
Respondent

Docket No. 9374

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I. INTRODUCTION

This is a price-fixing case. The Louisiana Real Estate Appraisers Board (the “Board”)—a non-sovereign political entity comprised of private real estate appraisers—adopted and enforced a rule that directly restrained price competition for appraisal services provided to appraisal management companies (“AMCs”). AMCs serve as agents for lenders in arranging and paying for appraisals of mortgaged properties in real estate transactions. The evidence will show that the Board violated Section 5 of the Federal Trade Commission Act by: (1) issuing Rule 31101, which on its face prevents AMCs from negotiating, at arms-length, fees paid to appraisers, and (2) implementing and enforcing Rule 31101 to compel AMCs to match or exceed appraisal fees listed in a Board-commissioned survey.

Notably, the Commission has already ruled that the state action defense is not applicable here because the Board is controlled by active market participants, and the State of Louisiana did not supervise its activities.¹ Thus, from an antitrust perspective, the Board is a private, non-state actor. As such, the Board is no different from any trade association charged with price-fixing. Like any trade association or other non-state actor, the Board cannot thwart the national policy in favor of competition by regulating (or fixing) the fees paid to its members.

Yet thwarting competition is exactly what the Board has done. Evidence at trial will show that appraisers in Louisiana pushed the Board (controlled by fellow appraisers) to require AMCs to pay higher fees for appraisal services. In response, the Board promulgated Rule 31101 requiring AMCs to pay appraisers a so-called “customary and reasonable” rate, as established through one of three prescribed methods—none of which allows for price competition through

¹ *In the Matter of La. Real Estate Appraisers Bd.*, No. 9374, Op. and Order of the Comm’n (Apr. 10, 2018) https://www.ftc.gov/system/files/documents/cases/d09374_opinion_and_order_of_the_commission_04102018_redacted_public_version.pdf (“*SJ Decision*”).

bona fide negotiations between AMCs and appraisers. Notwithstanding these nominal alternatives, documents and testimony will demonstrate that, in response to appraiser-initiated complaints about low fees, the Board enforced Rule 31101 in a manner that identified a de facto price floor based on median fees listed in a Board-commissioned survey. The survey's median fees served as the yardstick by which the Board evaluated and enforced compliance with Rule 31101.

The Board acknowledges that its actions worked as intended: “the enforcement of a rule requiring ‘customary and reasonable’ fees affected price competition and limited AMCs’ ability to negotiate with individual appraisers.”² This displacement of price competition is per se unlawful. Although not necessary to a finding of liability, Complaint Counsel also will establish a prima facie case of competitive harm under each of the three rule of reason standards.

The Board cannot dispute that it engaged in the challenged conduct. Instead, the Board thinks it can justify its price-fixing under the guise of “good faith” compliance with the package of legislation and regulations known collectively as “Dodd-Frank.”³ After the national financial crisis of 2008, Congress determined that inflated residential real estate appraisals contributed to the boom and bust of the housing market and defaults on outstanding mortgages. To ensure that appraisals are conducted free of inappropriate influence or coercion aimed at inflating valuations, Dodd-Frank requires that appraisers receive “customary and reasonable fees.”

But nothing in Dodd-Frank or in its implementing regulations requires or even encourages the fixing of customary and reasonable fees at a specific level. Nor does Dodd-Frank mandate a particular method of compliance. Quite to the contrary, Dodd-Frank explicitly

² *La. Real Estate Appraisers Bd. v. FTC*, No. 20-1018, Pet. for Writ of Cert. at 10 (Jan. 22, 2021).

³ See Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat 1376 (2010).

provides that compliance with its requirements does not justify any exception to the antitrust laws. Further, commentary to the regulations notes that appraisal fees should be the product of arms-length negotiations. As such, the evidence will demonstrate that the Board's price-fixing conduct constitutes a misuse of the Board's own discretion to favor appraisers' business interests. The Board simply has no reasonable basis to contend that Rule 31101's displacement of market-based determinations of fees was necessitated by the regulatory imperatives of Dodd-Frank.

To remedy the Board's anticompetitive conduct, Complaint Counsel seeks an order that restores and safeguards competition, including by rescinding Rule 31101 and enjoining the Board from raising, fixing, or maintaining the price of residential appraisal services in Louisiana.

II. INDUSTRY OVERVIEW

A. Real Estate Appraisal

An appraisal is a component of a real estate transaction. It is an opinion of the value of real estate at a given time, based on market research and analysis. Mortgage lenders generally insist on reviewing an appraisal before originating a mortgage loan in order to assess their exposure if the borrower defaults and to calculate a loan-to-value ratio, a risk metric that affects the terms of the loan.

To secure an appraisal, some lenders contract with an independent AMC. The AMC retains a licensed appraiser, quality-checks the appraisal report, and delivers the report to the lender.⁴ In this scenario, the appraiser's direct customer is the AMC, and the AMC's direct customer is the mortgage lender. The fee for a typical appraisal in the United States between

⁴ U.S. Gov't Accountability Off., GAO-11-653, Residential Appraisals: Opportunities to Enhance Oversight of an Evolving Industry at 22 (July 2011).

2010 and 2011 was approximately \$300 to \$450.⁵ The size and complexity of the property, the scope of work, and the location of the property all affect appraisal fees.⁶ In Louisiana, appraisal fees are also affected by the intervention of the Board through the promulgation and enforcement of an anticompetitive rule.

B. Regulatory Framework

1. The Dodd-Frank Regulatory Regime

Congress enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank”) in 2010, in response to the financial crisis of 2007-08. After the Great Recession, Congress determined that inaccurate and artificially inflated real estate appraisals had contributed to the housing market crash and defaults on outstanding mortgages. Lenders had used a variety of techniques to elicit preferred valuations to support excessive mortgages: some revealed the purchase price of the real estate to the appraiser; some tied appraiser compensation to successful loan closings using kick-backs, commissions, or bonuses; some offered more work to appraisers who valued the real estate more generously.⁷ Dodd-Frank and its implementing regulations introduced a number of reforms to address these and other issues affecting real estate markets.

a. Appraisal Independence

To combat inappropriate influence and coercion in appraisal services, Dodd-Frank amended the Truth in Lending Act of 1968 (“TILA”) to prohibit “any act or practice that violates appraisal independence,” described in TILA Section 129E (codified at 15 U.S.C. § 1639e). This section describes examples of inappropriate influence, such as when

⁵ *Id.*

⁶ *Id.*

⁷ H.R. Rep. No. 111-94, “Mortgage Reform and Anti-Predatory Lending Act” at 56 (2009).

. . . a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person, appraisal management company, firm, or other entity conducting or involved in an appraisal . . . for the purpose of causing the appraised value assigned, under the appraisal, to the property to be based on any factor other than the independent judgment of the appraiser. . . (15 U.S.C. 1639e (b) (1)).

Rather than coerce, extort, or bribe an appraiser, the law instructs lenders or their agents (AMCs) to compensate appraisers at a rate that is “customary and reasonable for appraisal services performed in the market area of the property being appraised.” Pub. L. 111-203, 124 Stat 1376, Section 1472, *codified at* 15 U.S.C. § 1639e (i) (2010).

To implement the appraisal independence requirements of Section 129E, the Board of Governors of the Federal Reserve System (“Federal Reserve”), acting on behalf of the federal banking agencies, issued an interim rule and requested public comment. Federal Reserve System; Interim Final Rule; Request for Public Comment, 75 Fed. Reg. 66,554 (Oct. 28, 2010). The Federal Reserve Board’s commentary on the customary and reasonable fee provision, published with the Interim Final Rule, stated that the requirement means “that the marketplace should be the primary determiner of the value of appraisal services, and hence the customary and reasonable rate of compensation” for appraisers. *Id.* at 66,569. Further, the Federal Reserve Board instructed that this requirement “is not intended to prohibit a creditor and an appraiser from negotiating a rate for an assignment in good faith.” *Id.*

The Interim Final Rule set forth two “presumptions of compliance” that lenders and AMCs *may* use to demonstrate to federal banking agencies that they are paying customary and reasonable fees. A fee is *presumed* to be customary and reasonable if it is:

- An amount that is “reasonably related to recent rates paid for comparable appraisal services performed in the geographic market of the property,” as informed by six identified factors: (i) the type of property; (ii) the scope of work; (iii) the time in which the appraisal must be performed; (iv) the

appraiser’s qualifications; (v) the appraiser’s experience and professional record; and (vi) the appraiser’s work quality;

- alternatively, a lender or its agent may pay a fee based on “objective third-party information,” including fee schedules, studies, and independent surveys of recent appraisal fees (excluding fees paid by AMCs).

12 C.F.R. § 226.42 (f). These are *not* the only permissible methods for lenders and AMCs to comply with the Dodd-Frank customary and reasonable fee requirement. If the lender or AMC arrives at an appraisal fee in another way, compliance is determined based on all relevant facts and circumstances, without a presumption of either compliance or violation.⁸

b. Federal Requirements for State Regulation of AMCs

In addition to amending TILA, Dodd-Frank also amended Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (“Title XI” of “FIRREA”) to require the federal financial regulatory agencies to establish, by rule, minimum requirements for state registration and supervision of AMCs.⁹ In June 2015, the federal financial regulatory agencies promulgated the Minimum Requirements for Appraisal Management Companies Final Rule (“AMC Requirements Rule”).¹⁰ The AMC Requirements Rule provides, *inter alia*, that “[e]ach State electing to register AMCs” under Title XI must “[i]mpose requirements on AMCs . . . to: . . . (5) [e]stablish and comply with processes and controls reasonably designed to ensure that the AMC conducts its appraisal management services in accordance with the requirements of section 129E(a) through (i) of the Truth in Lending Act . . . and regulations thereunder [the

⁸ 75 C.F.R. 66,572 (October 28, 2010).

⁹ Pub. L. 111-203, 124 Stat. 1376, Section 1124, *codified at* 12 U.S.C. § 3353 (2010).

¹⁰ This inter-agency group is called the Appraisal Subcommittee. It includes officials from federal financial regulatory agencies (FRB, Office of the Comptroller of the Currency, FDIC, National Credit Union Association, CFPB, FHFA, and Department of Housing and Urban Development). Since 1989, the Appraisal Subcommittee has been responsible for monitoring state programs for the regulation of appraisers. Dodd-Frank expanded the ASC’s functions to include, beginning in 2018, responsibility for monitoring AMC-supervision programs established by States.

appraiser independence provisions].” 12 C.F.R. § 225.193(b) (5) (2015).¹¹ These rules do not require States to impose standards for customary and reasonable fee requirements beyond what federal law provides, or to set customary and reasonable fees at any particular level.¹²

Congress also did not require States to delegate regulation of customary and reasonable fee requirements or pricing authority to active market participants. Nothing in Dodd-Frank contemplates the regulation of appraisal fees by *appraisers* acting in concert, or any similar displacement of the antitrust laws. Indeed, Dodd-Frank specifically includes an “antitrust savings clause”: “Nothing in this Act . . . shall be construed to modify, impair, or supersede the operation of any of the antitrust laws.” 12 U.S.C. § 5303 (2010).

2. Louisiana Real Estate Appraisal Statutes

Louisiana granted the Board authority to regulate real estate appraisers and AMCs, including the power to issue licenses, set standards, issue rules and regulations, and conduct disciplinary proceedings to suspend or revoke licenses or to censure or fine licensees. La. R.S. §§ 37:3395 and 37:3415.19. The Louisiana Real Estate Appraisers Law, § 37:3391 *et seq.*, specifies the composition of the multi-member governing board. Each member is appointed by the Louisiana Governor and confirmed by the Senate. Since August 1, 2014, the Board has consisted of ten members, eight of whom are real estate appraisers and two of whom are selected from a list submitted by the Louisiana Bankers Association. La. R.S. § 37:3394(B)(1). The eight appraiser members must be certified real estate appraisers who the Board has licensed for at least

¹¹ This citation refers to the Federal Reserve Board’s regulation. Each of the other bank regulatory agencies promulgated identically worded regulations. *See* 12 C.F.R. Pt. 34 (2015) (Department of Treasury); 12 C.F.R. Pt. 323 and 390 (2015) (FDIC); 12 C.F.R. Pt. 1026 (2015) (CFPB); and 12 C.F.R. Pt. 1222 (2015) (FHFA).

¹² “**So long as a State imposes this requirement on AMCs, they will be compliant with this minimum requirement of the AMC Rule.** Whether a State chooses to expand its authority to enforce [against AMCs] TILA provisions on customary and reasonable fees is entirely up to the State.” CX3269 (Comment Letter, James R. Park, Executive Director, Appraisal Subcommittee (Apr. 28, 2017) (emphasis in original)).

five years. *Id.* §§ 37:3394(B)(1)(c). One of those eight must work for or represent a Louisiana-licensed AMC. *Id.* § 37:3394(B)(1)(b). The Board acts by majority vote.

The Louisiana Real Estate Appraisers Law also provides that a real estate appraisal must be performed by a person who holds a Board-issued appraiser license. La. R.S. § 37:3393(G). To obtain a license, an appraiser must have a specified level of education and experience and have successfully completed a state-administered examination. A licensed appraiser also must follow the Uniform Standards of Professional Appraisal Practice, issued by an industry non-profit organization. Those standards cover the steps appraisers must take to evaluate the property, and mandate certain information in the appraisal report. They also set forth rules of ethical conduct and require the appraiser to “be familiar with the specific type of property, the local market, and geographic area.”¹³

In 2009, Louisiana enacted the Appraisal Management Company Act (“AMC Act”), La. R.S. § 37:3415.1 et seq. (2009). Among other requirements, the AMC Act provides that an AMC must be licensed by the Board in order to conduct business in Louisiana. La. R.S. § 37:3415.3 (2009, revised 2012). In 2012, Louisiana amended the AMC Act to require AMCs to “compensate appraisers at a rate that is customary and reasonable for appraisals being performed in the market area of the property being appraised, consistent with the presumptions of compliance under federal law.” La. R.S. § 37:3415.15 (2012).¹⁴ The State of Louisiana delegated to the Board the power to issue regulations to enforce that provision.

¹³ U.S. Gov’t Accountability Off., GAO-11-653, Residential Appraisals: Opportunities to Enhance Oversight of an Evolving Industry at 15 (July 2011).

¹⁴ The law was amended in 2016 to read, “An appraisal management company shall compensate appraisers at a rate that is customary and reasonable for appraisals being performed in the market area of the property being appraised, consistent with the requirements of 15 U.S.C. 1639(e) and the final federal rules as provided for in the applicable provisions of 12 CFR Parts 34, 225, 226, 323, 1026, and 1222.”

3. Appraiser Regulation In Other States

States other than Louisiana currently are implementing Dodd-Frank *without* resorting to unsupervised price regulation of appraisal fees by active market participants. For example, some states simply require an AMC to certify that, consistent with the AMC Requirements Rule, it has established and complied with processes and controls reasonably designed to ensure that it compensates appraisers at a rate that is customary and reasonable. *See, e.g.*, Mont. Code Ann. § 37-54-501(2)(i); N.H. Rev. Stat. Ann. 310-B:12-b (II)(j) and Code Admin. R. Rab 308.01 (d) (13). Some states place regulatory authority in the hands of persons who are not market participants, such as a state employee or a board with a minority of market participants. *See, e.g.*, Ariz. Rev. Stat. § 32-3605; Cal. Bus. & Prof. Code §§ 11310 and 11320.5; D.C. Code § 31-2361.02; Mich. Comp. Laws § 339.2667.

III. THE BOARD'S UNLAWFUL REGULATION OF REAL ESTATE APPRAISAL FEES

A. The Board Adopted Rule 31101 Regulating Appraisal Fees

In 2013, the Board approved Rule 31101,¹⁵ attached hereto as Attachment A. Rule 31101 directs that an AMC must compensate appraisers at a rate that is “customary and reasonable for appraisal services in the market area of the property being appraised.” Further, Rule 31101 directs AMCs to determine this rate by one of three specified methods: (i) using “objective third-party information,” such as a survey of fees recently paid by lenders (the “Survey Method”); (ii) following a fee schedule established by the Board (“the Board Schedule Method”); or (iii) basing fees on “recent rates paid” in the relevant geographic market, and for each assignment adjusting this base rate using six specified factors (the “Six-Factor Method”).

¹⁵ La. Admin. Code tit. 46, Pt. LXVII, § 31101.

By its express terms, Rule 31101 precludes an AMC and an appraiser from determining appraisal fees through arms-length, market-based negotiations.

B. Rule 31101 is More Restrictive of Competition than Federal Law

The Board claims that the requirements of Rule 31101 are identical to the requirements of federal law (TILA and Title XI of FIRREA). This is incorrect. As a factual matter, there are at least three important differences between the state and federal regulatory regimes that render Rule 31101 significantly more restrictive of competition.¹⁶

First, under federal law, States that elect to regulate AMCs are not required to regulate the fees paid by AMCs to appraisers; they only must require AMCs to “[e]stablish and comply with *processes* and *controls* reasonably designed to” achieve compliance with TILA’s customary and reasonable fee requirement. *See supra* Section II.B.1.b. (discussing AMC Requirements Rule). In contrast, Rule 31101 regulates directly the fees paid by AMCs to appraisers.

Second, the federal regime allows an AMC to establish a *presumption* of compliance with the TILA customary and reasonable fee requirement by employing the Survey Method or the Six-Factor Method; it does not foreclose other means of achieving and demonstrating compliance, including through all relevant facts and circumstances. *See supra* Section II.B.1.a. In contrast, Rule 31101 designates as an absolute requirement the use of one of three specified pricing methods: the Survey Method, the Board Schedule Method, or the Six-Factor Method. *See supra* Section III.A. Thus, the federal regime, consistent with the Federal Reserve’s guidance, will generally accept appraisal fees set through a competitive process as customary and

¹⁶ Even if this assertion were correct, as discussed below, this happenstance would neither exempt the Board’s conduct from antitrust scrutiny nor negate a finding that the Board’s conduct results in anticompetitive effects.

reasonable, while Rule 31101 precludes AMCs and appraisers from setting fees through a competitive process.

Third, the federal regime contemplates that *if* a State chooses to police customary and reasonable appraisal fees it will do so through State actors, such as committees empowered by the legislature, state employees, or a board of market participants that satisfies the requirements of the state action doctrine. In contrast, Rule 31101 places enforcement discretion in the hands of market participants without supervision.

C. The Board Commissioned and Published an Annual Survey of Appraisal Fees

Contemporaneously with approving Rule 31101, the Board commissioned the Southeastern Louisiana University Business Research Center to conduct an online survey of lenders and appraisers (the “SLU Survey”). The survey asked respondents to identify “typical” appraisal fees paid by lenders (not AMCs) to appraisers for residential appraisals during 2012. In May 2013, the Board posted on its website a report summarizing the survey results and sent each licensed AMC a copy. The report identified median fees for each of five types of appraisals in each of nine geographic regions. The Board updated the fee survey and the fee report three times (for appraisals performed in 2013, 2014, and 2015-2016).

The evidence at trial will show that, for several reasons, the median appraisal fee paid by lenders as reported in the SLU Survey will often be higher than the competitive rate that could be negotiated between an AMC and an appraiser. First, by definition, the median fee will be higher than the actual fee paid in as many as half of the reported transactions. Second, the SLU Survey relied upon unaudited fee information provided by appraisers (many fewer lenders responded to the survey). Whether consciously or subconsciously, appraisers have an incentive to report higher past fees in the survey in order to receive elevated fees in the future.

D. The Board’s Alliance with Appraisers and Hostility Towards AMCs

Contemporaneous documents and testimony will show that the Board worked closely with trade associations when it developed and implemented its regulatory program, including the Appraisal Institute and the state-based Louisiana Real Estate Appraisers Coalition (the “Appraisers Coalition”). Both consist of and advocate on behalf of appraisers.

For example, an official of the Appraisal Institute advised the Board that the agency should make it difficult for an AMC to prove that it complied with Rule 31101 by means of the Six-Factor Method.¹⁷ This would force AMCs to base their fees on a survey. Additionally, the first person to champion a Board-sponsored survey was the founder and president of the Appraisers Coalition, Joseph Mier. Mr. Mier initiated discussions with Southeast Louisiana University Business Center concerning a survey, with the Board later taking over the project. After the first SLU Survey report issued, Mr. Mier frequently identified to the Board specific AMCs that offered appraisal fees lower than the median fees reported in the SLU Survey, urging the Board to investigate those AMCs for non-compliance with Rule 31101.¹⁸ The Board in turn disclosed confidential information about its investigations to Mr. Mier.¹⁹

In contrast to its close ties to appraisers, the Board has exhibited long-standing hostility toward AMCs. The Board has opined that Dodd-Frank led to an “exponential growth” in the “power” of AMCs, and that the free market “went out the window.”²⁰ To the Board, this justified

¹⁷ CX0144 (May 2, 2012 email, DiBiasio to Unangst *et al.*).

¹⁸ *See, e.g.*, CX0521 (July 8, 2015 email, Mier to VanDuyvendijk); *see also* CX3041 (Feb. 8, 2015 email, Mier to Board Chairman Hall *et al.*) (“If you get a request from any AMC that is not indicating an R&C fee for a full appraisal \$425 or more can you do me a favor and forward that to me? . . . I am trying to help our industry and I am seeing AMC’s increase their fees to R&C so we are making headway and cannot stop now but. . . . I need your help to keep it going.”).

¹⁹ *See, e.g.*, CX0659 (Sept. 23, 2013 email, Unangst to Bolton *et al.*) (forwarding Sept. 20, 2013 email, Mier to Unangst).

²⁰ CX0023-016 (Apr. 25, 2016 email, Boudreaux to Unangst *et al.*, containing attachment titled “Legislative Update for the Louisiana Real Estate Appraiser”).

its efforts to displace market-based negotiations and boost fees for appraisers. The Board's Executive Director has called AMCs "miscreants,"²¹ and told a Board investigator that large AMCs engage in "plunder and pillage."²²

E. The Board's Campaign to Enforce Rule 31101 Against AMCs

The Board's hostility towards AMCs has not been limited to colorful internal communications. Drawing upon its authority to revoke AMC licenses and impose fines of up to \$50,000,²³ the Board has coerced AMCs to pay appraisal fees at or near the medians reported in the SLU Survey. It has achieved this market distortion by aggressively investigating AMCs suspected of paying lower fees and by resolving its investigations only when the AMCs agree to pay the fees it deems sufficiently high.

The Board characterizes its investigations as a "complaint-driven" program to enforce "customary and reasonable" fees. But these complaints invariably come from appraisers accusing AMCs of offering *low* fees, not from any party accusing AMCs of offering unusually high compensation that could impair the appraiser's independence. Thus, the Board effectively enforces a price floor, forcing AMCs to pay higher fees to appraisers.

In doing so, the Board has ignored the basic purpose of the Dodd-Frank appraisal independence requirements. The rules designed to ensure appraisal independence, including customary and reasonable appraisal fees, address the concern that the lender (or AMC) may pay "increased compensation"²⁴ to induce appraisers "to provide [higher] values that will allow loans

²¹ CX0659 (Sept. 23, 2013 email, Unangst to Bolton *et al.*) (forwarding Sept. 20, 2013 email, Mier to Unangst).

²² CX0003 (June 22, 2012 email, Unangst to Bolton).

²³ La. R.S. § 37:3415.19 (2010).

²⁴ U.S. Gov't Accountability Off., GAO-11-653, Residential Appraisals: Opportunities to Enhance Oversight of an Evolving Industry at 31 (July 2011).

to close.”²⁵ In other words, Dodd-Frank was meant in part to stop lenders (and AMCs) from bribing appraisers with high fees in return for skewed appraisals that would generate transactions. The Board’s crusade against AMCs’ efforts to negotiate lower fees does nothing to advance this federal policy.

The evidence will show that the Board succeeded in inducing AMCs to adhere to the SLU survey. The Board challenged each AMC it targeted for investigation to justify its fees with reference to either the SLU Survey or the Six Factors identified in Rule 31101.²⁶ But the evidence will show that in practice, the Board only accepted an AMC’s justification if its fees were at or near the SLU Survey level. Indeed, Board Executive Director Bruce Unganst has stated that a fee purportedly calculated by the Six-Factor Method must have been incorrectly calculated if the fee is not equivalent to the SLU Survey fee.²⁷

Even if the Board entertained an AMC’s attempt to justify its fees by reference to the Six-Factor Method, the evidence will show that the Board’s actions made such justification impossible. First, the Board has declined to provide AMCs with guidance on how the Six-Factor Method might be satisfied.

Second, just as Scott DiBiasio of the Appraisal Institute predicted, the Rule’s recordkeeping requirement—applicable when an AMC uses the Six Factor Method—is so burdensome that an AMC cannot effectively comply. The Board then has grounds to charge the AMC with a recordkeeping violation. As the evidence will demonstrate, the message from the Board to AMCs has been “we know a violation when we see it.”²⁸ From the AMCs’ perspective,

²⁵ *Id.* at 29.

²⁶ The Rule offers a third option for compliance: AMCs may comply with a Board-created price schedule. The Board denies that it has created one.

²⁷ CX3236-001 (Dec. 17, 2015 email, Unganst to Schiffman (REVAA)).

²⁸ *See id.*

the only practical option is to pay fees at or near the level of the SLU Survey. The Board further ensured this outcome by pressuring AMCs charged with a violation to commit to paying appraisal fees consistent with the SLU Survey to settle such charges, and by publicizing the contents of those settlements so other AMCs would know what course of action the Board would approve.

At trial, the Court will hear how the Board's Rule 31101 enforcement actions caused AMCs to use the SLU Survey Method to determine appraisal fees. Some adopted the survey after the Board issued a formal complaint and commenced an adjudicative proceeding. Others agreed to abide by the SLU Survey Method in order to resolve the Board investigations prior to a complaint, and some adopted it preemptively to avoid coming into the Board's crosshairs.

Appraisers, too, aided this campaign by demanding that AMCs pay fees equal to the SLU Survey's medians. For example, Roland Hall, the Board's Chairman wrote a letter to an AMC, stating that he would report the AMC to "our state appraisers board contact" [sic] because the fee offered "does not meet Customary and Reasonable fee(s) for the state of Louisiana. . . See attached Louisiana Residential Real Estate Appraisal Fees 2014 Study."²⁹

1. CoesterVMS Adopted the SLU Survey to Resolve a Board Investigation

In October 2013, the Board opened an investigation of CoesterVMS ("Coester") after an appraiser complained that the AMC had offered low fees. In early 2015, the Board issued a complaint alleging that Coester had paid fees to appraisers that were not customary and reasonable. On May 28, 2015, the Board and Coester signed a consent agreement settling the charges. The agreement stated that Coester would pay according to "the Louisiana fee schedule,"

²⁹ CX0038 (Nov. 11, 2015 email, Hall to Memenga (Guaranteed Rate Inc.) *et al.*).

meaning the SLU Survey, for twelve months.³⁰ Coester also agreed to pay to the Board administrative costs of \$5,000.³¹

2. iMortgage Adopted the SLU Survey After the Board Found Liability

In mid-2014, the Board launched an investigation of iMortgage Services, after an appraiser complained that iMortgage had offered low fees. The Board removed from consideration the transactions in which iMortgage paid appraisal fees at or above the level of the SLU report. The Board determined that in nine instances iMortgage paid a fee that was below the corresponding fee reported in the SLU Survey. The Board then charged iMortgage with nine violations of Rule 31101.

iMortgage claimed that it had used two different methods to determine appraisal fees: for one client, it used the client's own fee study; and in other cases, it used the Six-Factor Method, adjusting its own historical fees by the six factors. After a hearing, the Board concluded that iMortgage violated Rule 31101 in all nine instances. The Board censured iMortgage, levied a \$10,000 fine, ordered it to pay administrative costs, and suspended iMortgage's license until it filed an acceptable compliance plan.

iMortgage submitted a compliance plan on February 26, 2016, in which it proposed to determine fees by applying the Six-Factor Method and described in detail the steps it would take.³² The Board rejected the plan. In a revised compliance plan submitted on March 15, 2016,

³⁰ CX3245-003 (May 28, 2015 Executed Coester Stipulations and Order).

³¹ *Id.*

³² CX0370-001 (Feb. 26, 2016 email, Kelker to Unangst *et al.*) (attaching compliance plan). iMortgage proposed to follow the Six-Factor Method for all but one of its clients, which had its own specifications for paying appraisal fees.

iMortgage consented to follow the most recent SLU Survey.³³ The Board accepted iMortgage's revised plan one week later.

3. Several AMCs Adopted the SLU Survey Prior to Formal Proceedings

The Board was able to compel AMCs to comply with the SLU Survey even where it did not determine liability or impose a formal compliance plan. For example, the Board discontinued investigations of two AMCs (Accurate Group and LRES) when the AMCs agreed to pay fees consistent with the SLU Survey reports. The evidence will show that the Board's actions prompted several other AMCs to switch from negotiating appraisal fees to using the SLU Survey Method in order to avoid becoming the target of a Board investigation.

IV. LEGAL ANALYSIS

The Complaint alleges that the Board violated Section 5 of the FTC Act, 15 U.S.C. § 45, by promulgating and enforcing Rule 31101. In determining whether conduct violates Section 5 it is appropriate to rely upon Sherman Act jurisprudence. *Cal. Dental Ass'n v. FTC*, 526 U.S. 756, 762 n.3 (1999). Thus, Complaint Counsel establishes a violation by proving (1) the existence of a contract, combination, or conspiracy among two or more separate entities (*i.e.*, concerted action), that (2) unreasonably restrains trade, and (3) affects interstate or foreign commerce. *Id.* at 768; *Realcomp II, Ltd. v. FTC*, 635 F.3d 815, 824 (6th Cir. 2011).³⁴

A. Members of the Board Have Competing Economic Interests and Acted in Concert

An entity, including a state-created board, is capable of conspiring with itself if the members of its governing board are market participants with distinct and potentially competing

³³ CX0308 (Mar. 15, 2016 letter, Kelker to Unangst).

³⁴ Section 5 reaches beyond Section 1, and does not necessarily require proof of concerted action. *FTC v. Sperry & Hutchinson Co.*, 405 U.S. 233, 239 (1972); *E.I. du Pont de Nemours & Co. v. FTC*, 729 F.2d 128, 136 (2d Cir. 1984).

economic interests. *See In re N.C. Bd. of Dental Exam'rs*, 152 FTC 75, 2011 FTC LEXIS 137 at *163 (FTC July 14, 2011) (“*N.C. Dental Initial Decision*”) (“[B]oth the courts and the Commission have held that ‘when an organization is controlled by a group of competitors, the organization is viewed as a combination of its members . . .’”), *aff'd*, *In re N.C. Bd. of Dental Exam'rs*, 2011 FTC LEXIS 290 at *38-39, 2011-2 Trade Cas. (CCH) P77,705 (Comm’n Op. and Order, Dec. 7, 2011) (“*N.C. Dental Comm’n Op.*”) (“[T]he ALJ correctly found that [Dental] Board members were capable of conspiring because they are actual or potential competitors. As required by [state law], dentist Board members continued to operate separate dental practices while serving on the Board, giving them distinct and potentially competing economic interests.”).³⁵ Here, a majority of the Board members are active Louisiana appraisers with distinct and potentially competing economic interests, as the Commission has already determined. *See SJ Decision* at 19.

An entity controlled by competitors engages in concerted action when it adopts rules that govern the conduct of its members’ separate businesses. *Am. Needle, Inc. v. Nat’l Football League*, 560 U.S. 183, 195 (2010). For example, in *Mass. Board* the Commission concluded that a state board’s “discussion, votes and promulgation” of regulations governing advertising by members constituted concerted action. *Mass. Bd. of Registration in Optometry*, 110 FTC 549, 1988 WL 1025476 at *48 (Comm’n Op. and Order, June 13, 1988). In *N.C. Dental*, the Commission concluded that agents of the Board of Dental Examiners “were acting pursuant to the Board’s agreement and plan” when they sent cease-and-desist letters to non-dentist teeth whiteners. *See N.C. Dental Comm’n Op.* at *49.

³⁵ *See also N. Tex. Specialty Physicians v. FTC*, 528 F.3d 346, 356 (5th Cir. 2008) (“When an organization is controlled by a group of competitors, it is considered to be a conspiracy of its members.”).

Here, the evidence will show that the Board adopted Rule 31101 by unanimous vote, and that the Board likewise unanimously approved the settlement agreements with iMortgage and Coester. These actions restrain competitive activity of appraisers and AMCs. Further, agents of the Board initiated investigations of AMCs and obtained compliance with Rule 31101 pursuant to the Board's agreement and plan to regulate the fees paid to appraisers by AMCs. Thus, both the promulgation and enforcement of Rule 31101 satisfy the concerted action requirement.

B. Complaint Counsel Will Establish a *Prima Facie* Case That the Board Harmed Competition

Complaint Counsel will establish a *prima facie* case of competitive harm using each of the methods approved by Supreme Court and Commission precedent. *First*, class unreasonableness: Price regulation by private actors falls within a class of restraints that is per se unlawful (conclusively presumed to be anticompetitive³⁶), and/or inherently suspect (presumed to be anticompetitive, but subject to limited rebuttal). *Second*, market power: Expert testimony and other evidence will show that the Board has market power in a relevant market consisting of the sale of residential appraiser services to AMCs in Louisiana. *Third*, direct evidence: The evidence will show that the Board's actions resulted in actual harm to customers (AMCs) in the form of higher fees for appraisal services.

1. The Board's conduct is per se illegal or inherently suspect

The legal analysis here starts with one of the most basic tenets of antitrust jurisprudence: "Price is the central nervous system of the economy, and an agreement that interferes with the

³⁶ See *Arizona v. Maricopa Cnty. Med. Soc.*, 457 U.S. 332, 344-45, 351 (1982); *N. Tex. Specialty Physicians v. FTC*, 528 F.3d 346, 360 (5th Cir. 2008) ("Procompetitive justifications will not be considered if a practice, such as price-fixing, is a per se violation."); *Gelboim v. Bank of Am. Corp.*, 823 F.3d 759, 771 (2d Cir. 2015) ("Horizontal price-fixing conspiracies among competitors are unlawful *per se*, that is, without further inquiry."); *N.C. Dental Comm'n Op.* at *27 (certain agreements are so plainly anticompetitive that they are conclusively presumed illegal without further examination).

setting of price by free market forces is illegal on its face.” *Nat’l Soc’y of Prof’l Eng’rs v. United States*, 435 U.S. 679, 692 (1978) (citations and quotation marks omitted).³⁷ The Supreme Court has repeatedly held that price regulation practiced by market participants is a form of price fixing and is per se unlawful. *FTC v. Ticor Title Ins. Co.*, 504 U.S. 621, 639 (1992) (equating price regulation with per se unlawful price fixing); *524 Liquor v. Duffy*, 479 U.S. 335, 342-43 (1987) (same); *Cal. Retail Liquor Dealers Ass’n v. Midcal Aluminum, Inc.*, 445 U.S. 97, 103 (1980) (same); *Goldfarb v. Va. State Bar*, 421 U.S. 773, 781-82 (1975) (same); *Schwegmann Bros. v. Calvert Distillers Corp.*, 341 U.S. 384, 386 (1951) (same); *Ky. Household Goods Carriers Ass’n, Inc. v. FTC*, 199 F. App’x 410, 411 (6th Cir. 2006) (same).

The Board cannot avoid per se condemnation simply because its rule dictated for AMCs a range of prices rather than a single, specific price for each transaction. A *minimum* price regime permits the seller a *range* of pricing above the agreed-upon minimum, but still is per se unlawful. *Midcal*, 445 U.S. at 103; *Goldfarb*, 421 U.S. at 781-82. “To be illegal, prices need not be inflexibly set at any one point . . . ‘They are fixed because they are agreed upon.’” *Atchison, Topeka & Santa Fe Ry. Co. v. Aircoach Transp. Ass’n*, 253 F.2d 877, 886 (D.C. Cir. 1958) (quoting *United States v. Socony-Vacuum Oil Co.*, 310 U.S. 150, 222 (1940)).³⁸

Antitrust condemns price regulation *not* because such regulation is too “specific” and denies the consumer all “choice,” but because price regulation necessarily and always undercuts the competitive process. *NYNEX Corp. v. Discon, Inc.*, 525 U.S. 128, 135 (1998) (antitrust law

³⁷ *Accord FTC v. Ticor Title Ins. Co.*, 504 U.S. 621, 639 (1992) (“No antitrust offense is more pernicious than price fixing.”); *United States v. Socony-Vacuum Oil Co.*, 310 U.S. 150, 221 (1940) (“Any combination which tampers with price structures is engaged in an unlawful activity.”); ABA Section of Antitrust Law, 1 Antitrust Law Developments at 86 (8th ed. 2017) (The courts “have declared unlawful per se agreements among competitors to raise, lower, stabilize, or otherwise set or determine fees.”).

³⁸ An agreement to fix list prices permits the seller a range of discretion on transaction prices, but still is per se unlawful. *In re High Fructose Corn Syrup Antitrust Litig.*, 295 F.3d 651, 656 (7th Cir. 2012).

protects against harm “to the competitive process, *i.e.*, to competition itself”); *FTC v. Indiana Fed’n of Dentists*, 476 U.S. 447, 461-62 (1986) (condemning restraint that is likely to “disrupt the proper functioning of the price-setting mechanism of the market”).³⁹ Price regulation “cripple[s] the freedom of traders” and “restrain[s] their ability to sell in accordance with their own judgment.” *State Oil Co. v. Khan*, 522 U.S. 3, 11 (1997) (quoting *Kiefer-Stewart Co. v. Joseph E. Seagram & Sons, Inc.*, 340 U.S. 211, 213 (1951)).⁴⁰ Thus, case law instructs that any naked horizontal restraint on the “competitive freedom” of a buyer or seller “to select his own prices” is per se unlawful. *Catalano v. Target Sales, Inc.*, 446 U.S. 643, 649 (1980).⁴¹

Given these well-settled antitrust principles, none of the pricing formulas specified by the Board in Rule 31101 can pass muster under the case law.

- A requirement that appraisal fees conform to a compensation schedule—whether that schedule is established by the Board or by third parties—is the classic price fixing scheme condemned in *Ticor*, 504 U.S. at 627, 640, and *In re Ky. Household Goods Carriers*, 139 FTC 404, 488 (Comm’n Op. and Order, June 30, 2005).
- A requirement that appraisal fees conform to a survey purporting to show the median market price from an earlier period, with adjustments, is per se unlawful. *See Sugar*

³⁹ See also *Tal v. Hogan*, 453 F.3d 1244, 1258 (10th Cir. 2006) (“The primary concern of the antitrust laws is the corruption of the competitive process”); *Geneva Pharm. Tech. Corp. v. Barr Labs. Inc.*, 386 F.3d 485, 489 (2d Cir. 2004) (“The antitrust laws . . . safeguard consumers by protecting the competitive process.”); *SCFC ILC, Inc. v. Visa USA, Inc.*, 36 F.3d 958, 963 (10th Cir. 1994) (“[T]he [Sherman] Act’s basic objective [] [is] the protection of a competitive process”) (internal quotations omitted); *Clamp-All Corp. v. Cast Iron Soil Pipe Inst.*, 851 F.2d 478, 486 (1st Cir. 1988) (antitrust law “assesses both harms and benefits in light of the [Sherman] Act’s basic objective, the protection of a competitive process”); *Grappone, Inc. v. Subaru of New England Inc.*, 858 F.2d 792, 794 (1st Cir. 1988) (Breyer, J.) (“[T]he antitrust laws exist to protect the competitive process itself.”); *Morrison v. Murray Biscuit Co.*, 797 F.2d 1430, 1437 (7th Cir. 1986) (Posner, J.) (“The purpose of antitrust law, at least as articulated in the modern cases, is to protect the competitive process”).

⁴⁰ *Accord City of Columbia v. Omni Outdoor Advert.*, 499 U.S. 365, 388 (1991) (“The antitrust laws reflect a basic national policy favoring free markets over regulated markets. In essence, the Sherman Act prohibits private unsupervised regulation of the prices and output of goods in the marketplace.”) (Stevens, J. dissenting); *Goldfarb v. Va. State Bar*, 355 F. Supp. 491, 493 (E.D. Va. 1973) (Price regulation “is contrary to the spirit of competition which sustains a free enterprise system in that it prevents competitors from using their own judgment in determining the value of their own services.”), *aff’d in part, rev’d in part, Goldfarb v. Virginia State Bar*, 497 F.2d 1 (4th Cir. 1974), *rev’d*, 421 U.S. 773 (1975).

⁴¹ *Accord United States v. Container Corp.*, 393 U.S. 333, 337 (1969) (“[I]nterference with the setting of price by free market forces is unlawful per se”); *Major League Baseball Props., Inc. v. Salvino, Inc.*, 542 F.3d 290, 336 n.3 (2d Cir. 2008) (Sotomayor, J., concurring) (“The antitrust laws seek to ensure that the determination of prices is by free competition alone. . . .”).

Inst. v. United States, 297 U.S. 553, 599-600 (1936) (agreement among sellers to adhere to previously announced prices judged per se unlawful, even though specific prices were not themselves fixed by a direct agreement); *Costco v. Maleng*, 522 F.3d 874, 895-96 (9th Cir. 2008) (same); *Miller v. Hedlund*, 813 F.2d 1344, 1349 (9th Cir. 1987) (same).⁴²

- A requirement that appraisal fees be determined on the basis of a set of “factors” is also per se illegal. *See Goldfarb*, 421 U.S. at 776, 782-83 (requirement that lawyer’s fee for title examination services be based on a percentage of the purchase price of real estate judged per se unlawful); *FTC v. Cement Inst.*, 333 U.S. 683, 690-93, 720 (1948) (agreement among competing sellers of cement to use basing point pricing system judged per se unlawful); *Major League Baseball Props.*, 542 F.3d at 336 n.3 (Sotomayor, J., concurring) (agreed-upon pricing formula constitutes price fixing); *In re Wheat Rail Freight Antitrust Litig.*, 579 F. Supp. 517, 538 (N.D. Ill. 1984) (agreement among railroads on the manner in which prices are calculated is per se unlawful).⁴³

Each and all of the Rule 31101 standards interfere with the setting of prices by free market forces.

Not only is Rule 31101 illegal on its face, the Board’s campaign to enforce Rule 31101 is also a per se offense. As the evidence will show, the Board—competing appraisers acting in concert—punished two AMCs (Coester and iMortgage) because the Board did not approve of the appraisal fees they paid. This is unlawful. *See United States v. Gen. Motors Corp.*, 384 U.S. 127, 145 (1966); *Denny’s Marina v. Renfro Prods.*, 8 F.3d 1217, 1221 (7th Cir. 1993). Then these same competing appraisers negotiated jointly with each AMC and exacted an agreement to pay higher fees for future transactions. This too is unlawful. *FTC v. Superior Ct. Trial Lawyers*

⁴² In addition, the evidence will show that the SLU Survey does not accurately reflect the median prices in the market.

⁴³ *See also* Phillip E. Areeda & Herbert Hovenkamp, *Antitrust Law: An Analysis of Antitrust Principles and Their Application* ¶ 2022a (4th and 5th Editions 2013-2020) (“The per se rule generally governs not only explicit price fixing but also agreements . . . [prescribing] formulas to be used for determining the price.”); ABA Section on Antitrust Law, *1 Antitrust Law Developments* at 89 (8th ed. 2017) (“Courts have held per se unlawful agreements among competitors to establish uniform costs and markups, impose mandatory surcharges, specify price differentials between grades of a product, adopt common classifications of customers entitled to discounts, and standardize the percentage of functional discounts.”).

Ass'n, 493 U.S. 411, 434-35 (1990); *N. Tex. Specialty Physicians v. FTC*, 528 F.3d 346, 363, 370 (5th Cir. 2008).

Even if the Court concludes that the Board's price regulation is not per se unlawful, it should hold that Complaint Counsel has established a prima facie case of competitive harm. Here, "the conduct at issue is inherently suspect owing to its likely tendency to suppress competition. Such conduct ordinarily encompasses behavior that past judicial experience and current economic learning have shown to warrant summary condemnation." *In re Polygram Holding, Inc.*, 136 FTC 310, 344-45 (Comm'n Op. and Order, July 24, 2003), *aff'd Polygram Holding, Inc. v. FTC*, 416 F.3d 29 (D.C. Cir. 2005).⁴⁴ Thus, the Court should rule that the challenged conduct is presumed to be anticompetitive, and that the Board can defeat liability only by demonstrating cognizable and plausible procompetitive efficiencies. *See N. Tex. Specialty Physicians*, 528 F.3d at 362 (restraint on price competition adopted by parties to a joint venture judged inherently suspect); *Polygram*, 416 F.3d at 35-36. Here, the Board cannot demonstrate such efficiencies because the kind of fee-setting the Board engaged in unambiguously reduces competition.

Federal and state regulations in this industry neither preclude the application of the inherently suspect standard, nor mandate the application of a full rule of reason. The Board's antitrust exemption arguments founded in state action have been fully considered and rejected. *See SJ Decision* at 15-20. And as explained below, the Board's "regulatory compliance" defense fails. *See infra* Section IV.D. Thus, neither affirmative defense exempts the Board's conduct from antitrust review. Further "[i]f an activity is nonexempt, the antitrust laws apply with

⁴⁴ *Accord In re N. Tex. Specialty Physicians*, 140 FTC 715, 733-36 (Comm'n Op. and Order, Nov. 29, 2005), *aff'd in part by N. Tex. Specialty Physicians v. FTC*, 528 F.3d 346 (5th Cir. 2008), *order rescinded in part by In re N. Tex. Specialty Physicians*, No. 9312, 2008 WL 4235322 (Comm'n Op., Sept. 12, 2008); *In re Realcomp II Ltd.*, 2007 WL 6936319 at *18-19 (Comm'n Op. and Order, Oct. 30, 2009), *aff'd*, 635 F.3d 815 (6th Cir. 2011).

undiminished force, whether or not the activity is regulated. . . . The ‘advantages’ flowing from the challenged activity and purportedly fostered by the regulatory scheme become as irrelevant as they would be in the absence of any regulation whatsoever.” *Int’l Tel. & Tel. Corp. v. Gen. Tel. & Elecs. Corp.*, 518 F.2d 913, 935-36 (9th Cir. 1975) *disapproved on other grounds by California v. Am. Stores Co.*, 495 U.S. 271, 277-285 (1990)).⁴⁵

2. The Board (i) has market power in a well-defined market for real estate appraisals, and (ii) adopted rules that tend to harm competition.

Under the full rule of reason, a plaintiff establishes a prima facie case of competitive injury by showing that the defendant has market power in a relevant market, and that the challenged restraint tends to harm competition. *In re Realcomp II, Ltd.*, 2007 WL 6936319 at *18-19 (Comm’n Op. and Order, Oct. 30, 2009), *aff’d*, 635 F.3d 815 (6th Cir. 2011).

The evidence will show that the relevant antitrust market in this case is residential real estate appraiser services sold to AMCs in Louisiana. A relevant product (or service) market contains only those “products that have reasonable interchangeability for the purposes for which they are produced—price, use and qualities considered.” *United States v. E.I. du Pont de Nemours & Co.*, 351 U.S. 377, 404 (1956). The relevant geographic market is the region “in which the seller operates, and to which the purchaser can practicably turn for supplies.” *Tampa Elec. Co. v. Nashville Coal Co.*, 365 U.S. 320, 327 (1961).

⁴⁵ *Accord United States v. McKesson & Robbins, Inc.*, 351 U.S. 305, 310-11 (1956) (“The District Court was plainly in error in attempting to create a new category of agreements which are outside the exemption of . . . [the statutory antitrust exemption] but which should nevertheless be spared from application of the per se rule.”); *Georgia v. Pa. R.R. Co.*, 324 U.S. 439, 462-63 (1945) (agreement among regulated railroads to fix prices stated a claim for price fixing under Section 1, even though the Interstate Commerce Commission reviewed and approved the rates as reasonable); *In re Wheat Rail Freight Antitrust Litig.*, 579 F. Supp. 517, 540 (N.D. Ill. 1984) (price fixing among regulated railroads not expressly exempt by regulatory scheme is per se illegal).

Witnesses with direct knowledge of the real estate industry will attest that AMCs have no close or acceptable substitutes for the services of a state-licensed appraiser, and that appraisers can price discriminate between AMCs and other purchasers of appraisal services (*i.e.*, lenders). In addition, this Court may rely upon the widely accepted hypothetical market test (the “HMT”) to define the relevant market. Complaint Counsel’s economic expert, F. David Osinski, Ph.D., will explain that a hypothetical monopolist of residential appraiser services in Louisiana can raise prices to AMCs without losing a substantial volume of business.⁴⁶ *See* U.S. Dep’t of Justice & FTC, Horizontal Merger Guidelines, § 4.2.2 (Market Definition) (Aug. 19, 2010) (example 15, describing that, where “[c]ustomers in the United States must use products approved by U.S. regulators . . . [t]he relevant product market consists of products approved by U.S. regulators [and] [t]he geographic market is defined around U.S. customers”). Dr. Osinski will testify that, under the HMT, residential real estate appraisal services sold to AMCs constitute a discrete relevant market for antitrust purposes.

Expert and record evidence will further demonstrate that the Board has market power in this market by virtue of its ability to regulate and discipline state-licensed AMCs and appraisers, and to exclude non-licensed competitors. *See, e.g., E.I. du Pont*, 351 U.S. at 391 (“Monopoly power is the power to control prices or exclude competition.”); *Am. Soc. of Mech. Eng’rs, Inc. v. Hydrolevel Corp.*, 456 U.S. 556, 570-71 (1982) (finding that standard setting organization had market power based on power to exclude). Indeed, the analysis here is the same as in previous cases in which the Commission has held that state regulatory agencies possessed market power. *N.C. Dental Comm’n Op.* at *84 (state dental board possessed market power on account of its

⁴⁶ Notably, the Board has withdrawn its economic expert and will offer no expert testimony to rebut Dr. Osinski’s analyses or conclusions.

“power to enforce” the state licensing statute and its “authority to regulate and discipline dentists in North Carolina”); *Mass. Bd. of Registration in Optometry*, 110 FTC 549, 1988 WL 1025476 at *32 (Comm’n Op. and Order, June 13, 1988) (state optometry board possessed market power on account of its ability to regulate the business of optometry and “to impose sanctions on any optometrist who fails to obey its rules and regulations”).⁴⁷

3. Direct evidence of consumer harm to AMCs

As this Court recently held, Complaint Counsel also may establish a prima facie case of competitive injury by showing that some consumers have paid, or will pay, higher prices as a result of a challenged restraint. *1-800 Contacts, Inc.*, 2017 FTC LEXIS 125, 339 (FTC October 27, 2017).⁴⁸ Here, the evidence will show that the Board’s promulgation and enforcement of Rule 31101 caused actual harm to AMCs by inducing them to pay higher fees to appraisers.

a. Extensive evidence demonstrates that Rule 31101 harmed AMCs

Complaint Counsel’s economic expert, Dr. Osinski, will testify that he confirmed Rule 31101’s pricing effect using standard econometric methods. Dr. Osinski examined appraisal fees paid by AMCs in Louisiana before and after the promulgation and enforcement of Rule 31101,

⁴⁷ The Board implicitly acknowledges that it has power over price. The Board contends that appraisal fees would be “too low” in the absence of Rule 31101, but that the Board has succeeded in raising the fees paid to appraisers. As Justice Stevens put it, “[t]he logic of this argument rests on the assumption that the agreement will tend to maintain the price level; if it had no such effect, it would not serve its intended purpose.” *Nat’l Soc. of Prof’l Eng’rs v. United States*, 435 U.S. 679, 693 (1978).

⁴⁸ *Accord Gelboim v. Bank of Am. Corp.*, 823 F.3d 759, 765 (2d Cir. 2016) (“[A] consumer who pays a higher price on account of horizontal price-fixing suffers antitrust injury.”); *Conwood Co., L.P. v. U.S. Tobacco Co.*, 290 F.3d 768, 788-89 (6th Cir. 2002); *Law v. NCAA*, 134 F.3d 1010, 1019-20 (10th Cir. 1998); *In the Matter of Superior Ct. Trial Lawyers Ass’n*, 107 FTC 510, 573, 1986 WL 722159 at *38 (Comm’n Op. and Order, June 23, 1986), *aff’d* 493 U.S. 411 (1990).

appropriately controlling for various factors. Dr. Osinski will explain that the fee data supports the conclusion that the Board's actions likely resulted in higher appraisal fees in Louisiana.⁴⁹

Testimony from market participants and contemporaneous documents will corroborate Dr. Osinski's conclusion that fees paid to appraisers went up due to adoption and enforcement of Rule 31101. This evidence will show that the Board's enforcement actions required AMCs to set rates consistent with the median fees reported in the SLU Survey. As a result, the fees those AMCs paid appraisers increased. In addition, appraisers frequently referred to the Board's enforcement activities and demanded fees specifically in line with the SLU Survey to extract higher fees than were offered by AMCs.⁵⁰ As noted by the Board's Executive Director, the SLU Survey and concomitant enforcement actions achieved their intended result: "[a]n overall increase in fees paid to La. Appraisers [was] reported."⁵¹

- b. Rule 31101's anticompetitive impact on fees paid by AMCs is not excused, even if it was contemplated by the regulatory scheme

The Board cannot justify its restraints by claiming that the Board extinguished only "non-legal competition" and compelled AMCs to pay only "reasonable fees." This argument is without merit. The assertion that the Board was attempting to implement a regulatory mandate is irrelevant in light of the Commission's summary decision that, if the Board restrained price

⁴⁹ The fact that the Board's enforcement campaign has not yet induced *all* AMCs to raise fees to the level of the SLU Survey is not a valid antitrust defense. *See FTC v. Staples*, 190 F. Supp. 3d 100, 126 (D.D.C. 2016) ("Antitrust laws exist to protect competition, even for a targeted group that represents a relatively small part of an overall market."); *In re 1-800 Contacts, Inc.*, 2017 FTC LEXIS 125, 339 (FTC October 27, 2017) (Evidence showed that "at least some consumers have paid, or will pay, prices that are higher than would otherwise be, absent the Challenged Agreements."); *see also* U.S. Dep't of Justice & FTC, Horizontal Merger Guidelines, § 3 (Aug. 19, 2010) ("When price discrimination is feasible, adverse competitive effects on targeted customers can arise, even if such effects will not arise for other customers.").

⁵⁰ CX0043 (July 24, 2015 email, Cobb to VanDuyvendijk) ("On this order, when I reminded them this wasn't a C&R fee, they increased fee to \$425.00 . . . It was when I mentioned C&R fees and the Coester AMC discipline that they changed their tune."); CX0278 (Dec. 14, 2015 email, Mier to Pleski (Valocity Appraisal Management Services)); CX0295 (Mar. 11, 2015 email, Bryant to Traviesco (Landsafe) *et al.*).

⁵¹ CX3013-001 (Jan. 6, 2014 email, Unangst to Holloway).

competition, then the state action doctrine does not shield the Board from antitrust liability. *See SJ Decision* at 20. Here, as in *N.C. Dental*, a state regulatory board cannot transmute a failed state action defense into a competitive justification under the rule of reason. As stated in by the Commission in *N.C. Dental* :

Given that the Supreme Court has already established a defense for Sherman Act claims based on the actions of state officials and that Respondent’s proposed “enforcement of state law” defense has the potential to seriously undermine the state action doctrine, we see no reason to recognize Respondent’s proposed new defense.

N.C. Dental Comm’n Op. at *71-72.

It is well established that defendants do not escape antitrust liability by claiming that they eliminated a form of competition that contravenes a non-antitrust statute. For example, in *Indiana Federation of Dentists*, a group of dentists agreed to withhold x-rays from insurance companies. The proffered justification was that an insurance company’s review of dental x-rays would constitute the unauthorized practice of dentistry under state law. The Supreme Court dismissed this argument: “That a particular practice may be unlawful is not, in itself, a sufficient justification for collusion among competitors to prevent it.” 476 U.S. 447, 465 (1986). In *Fashion Originators’ Guild*, clothing designers agreed to withhold product from retailers that also sold “pirated” goods. The Court held that even if the sale of the excluded products by retailers was tortious, “that situation would not justify petitioners in combining together to regulate and restrain interstate commerce in violation of federal law.” 312 U.S. 457, 468 (1941); *see also N.C. Dental Initial Decision* at *231 (“regardless of whether the conduct of the Board is aimed at preventing unauthorized dentistry and is consistent with the Dental Practice Act . . . the conduct is anticompetitive collusion among private actors . . . subject to Sherman Act condemnation”) (internal citations and quotations removed).

Finally, the Court must reject the Board’s claim that it has fixed appraisal fees at a level that, in light of Dodd-Frank, should be deemed reasonable. Supreme Court case law expressly rejects this argument. “If any proposition is firmly settled in the law of antitrust, it is the rule that the reasonableness of the particular price agreed upon by defendants does not constitute a defense to a price-fixing charge.” *Atl. Richfield Co. v. USA Petroleum Co.*, 495 U.S. 328, 353 (1990).⁵²

C. The Board Lacks Any Cognizable and Plausible Efficiency Defense

If Complaint Counsel establishes that the Board has engaged in per se unlawful (naked) price fixing, then the Court need not consider any efficiency defense asserted by the Board. *In re Ky. Household Goods Carriers*, 139 FTC 404, 488 (Comm’n Op. and Order, June 30, 2005).⁵³ Alternatively, if Complaint Counsel establishes a *prima facie* case of anticompetitive effects under the rule of reason, then the burden shifts to the Board to prove that this harm is outweighed by cognizable, countervailing efficiency benefits. *In re 1-800 Contacts, Inc.*, 2017 FTC LEXIS 125, 367 (FTC Oct. 27, 2017) (citing *Realcomp II Ltd. v. FTC*, 635 F.3d 815, 825, 834 (6th Cir. 2011); *Polygram Holding, Inc. v. FTC*, 416 F.3d 29, 36 (D.C. Cir. 2005)). “A proffered justification may be rejected as noncognizable where, as a matter of law, the justification is ‘incompatible with the goal of antitrust law to further competition.’” *1-800 Contacts, Inc.*, 2017

⁵² *Accord Catalano v. Target Sales, Inc.*, 446 U.S. 643, 647 (1980) (“It has long been settled that an agreement to fix prices is unlawful *per se*. It is no excuse that the prices fixed are themselves reasonable.”); *United States v. Trenton Potteries Co.*, 273 U.S. 392, 397-98 (1927); *United States v. Trans-Mo. Freight Assn.*, 166 U.S. 290, 340-41 (1897).

⁵³ “[T]he presence of regulation, by itself, does not dictate the antitrust standard; antitrust actions involving regulated industries have been repeatedly tried under a per se standard.” *United States v. Baltimore & O. R. R.*, 538 F. Supp. 200, 210 (D.D.C. 1982) (citing cases); see also Phillip E. Areeda & Herbert Hovenkamp, *Antitrust Law: An Analysis of Antitrust Principles and Their Application* ¶ 2004a (4th and 5th Editions 2013-2020) (“As a general matter, price fixing is tolerated only in the case of the joint venture producing significant, output-increasing efficiencies, and where the price fixing itself can be shown to be essential to these social gains.”).

FTC LEXIS at 367 (quoting *In re PolyGram Holding, Inc.*, 136 FTC 310, 345 (Comm'n Op. and Order, July 24, 2003)). The Board has advanced no cognizable efficiency benefits here.

The Board may contend that forcing AMCs to pay higher appraisal fees resulted in appraisers providing more reliable real estate appraisals. This assertion is factually and legally deficient. First, there is no evidence to support the claim that Rule 31101 has led to improvements in the quality of appraisals. Second, if the Board were actually concerned about the quality of appraisals, it has tools to address this issue. The Board can deny an appraiser license to unqualified persons. The Board can suspend or revoke the license of an appraiser who provides unreliable or low-quality appraisals. There is no logic or evidence supporting the claim that raising appraisal fees above the competitive level is an effective means of improving appraisal quality.

Moreover, this precise claim, that price competition leads to undesirable levels of quality, was rejected as a matter of law by the Supreme Court. In *Nat'l Soc'y of Prof'l Eng'rs v. United States*, 435 U.S. 679 (1978), the Court reviewed a trade association ethics rule that prohibited engineers from engaging in competitive bidding. The association asserted that “awarding engineering contracts to the lowest bidder, regardless of quality, would be dangerous to the public health, safety, and welfare.” 435 U.S. at 685. The Court held that such a defense was not cognizable under the Sherman Act:

The Sherman Act reflects a legislative judgment that ultimately competition will produce not only lower prices, but also better goods and services. “The heart of our national economic policy long has been faith in the value of competition.” *Standard Oil Co. v. FTC*, 340 U.S. 231, 248. The assumption that competition is the best method of allocating resources in a free market recognizes that all elements of a bargain—quality, service, safety, and durability—and not just the immediate cost, are favorably affected by the free opportunity to select among alternative offers. Even assuming occasional exceptions to the presumed consequences of competition, the statutory policy precludes inquiry into the question whether competition is good or bad.

435 U.S. at 695-96; *see also* *FTC v. Indiana Fed’n of Dentists*, 476 U.S. 447, 463 (1986) (The argument “that an unrestrained market in which consumers are given access to the information they believe to be relevant to their choices will lead them to make unwise and even dangerous choices . . . amounts to ‘nothing less than a frontal assault on the basic policy of the Sherman Act.’”).

D. The Board’s Affirmative Defenses Fail

Two of the Board’s affirmative defenses—the state action doctrine and the regulatory compliance defense—warrant brief discussion.

State Action Doctrine. The Board’s Answer advanced two affirmative defenses seeking to shield its actions from antitrust scrutiny based on the state action doctrine. *See* Answer at 12 (Third Affirmative Defense, Ninth Affirmative Defense). The Commission granted Complaint Counsel’s motion for partial summary judgment and dismissed both defenses, holding that: (1) the Board is controlled by active market participants; (2) therefore, the Board’s conduct required the State’s active supervision; and (3) the Board’s promulgation and enforcement of Rule 31101 were not actively supervised by the State of Louisiana. *SJ Decision* at 19-20.⁵⁴ Therefore, the Third Affirmative Defense and the Ninth Affirmative Defense are not at issue in this case, and Complaint Counsel will not present evidence on these issues at trial.

⁵⁴ In a sense, then, it is the State’s failure to provide appropriate supervision that opens the door to antitrust liability for the state agency. *See N.C. State Bd. of Dental Exam’rs v. FTC*, 574 U.S. 494, 506 (2015); *In re Ky. Household Goods Carriers Ass’n, Inc.*, 139 FTC 404, 434 (Comm’n Op. and Order, June 30, 2005) (“We acknowledge that the [Respondent’s] liability [for price fixing] in this matter is due in part to the [state’s] sustained failure to provide proper supervision to Respondent’s rate-making activities. This fact, however, does not warrant a different result. Private interests can assess whether a state is in compliance with the requirements of the state action doctrine, and can urge the state to adopt the necessary practices. If a state, for whatever reason, declines to follow the requirements of the state action doctrine, then private interests can alter their behavior to comply with the antitrust laws.”).

Regulatory Compliance. The Board asserts as its Fourth Affirmative Defense that it “acted in good faith to comply with a [sic] federal regulatory mandates.”⁵⁵ Complaint Counsel moved to summarily dismiss this defense as a matter of law.⁵⁶ Although declining to decide its applicability without further factual inquiry at trial, the Commission provided some limited guidance on the contours of the defense. *In the Matter of La. Real Estate Appraisers Bd.*, No. 9374, Op. and Order of the Comm’n, at 5-7 (May 6, 2019), https://www.ftc.gov/system/files/documents/cases/lreab_opinion_and_order.pdf (“*May 6 Comm’n Order*”). Specifically, the Commission identified two elements that, at a minimum, the Board must establish to avoid antitrust liability:

- (1) that the Board “had a reasonable basis to conclude that its actions were necessitated by concrete factual imperatives recognized as legitimate by the regulatory authority;” and
- (2) that the Board’s actions were taken “because of the regulatory obligations, rather than business considerations.”

May 6 Comm’n Order at 6. At trial, the Board will be unable to carry its burden on either element and, thus, its regulatory compliance defense fails.

The Board cannot satisfy the first prong of the defense. One need only compare the federal regulatory regime with Rule 31101 to determine that the Board’s conduct was not necessitated by “imperatives *imposed on the respondent* by the federal regulation.” *May 6*

⁵⁵ See *In the Matter of La. Real Estate Appraisers Bd.*, No. 9374, Resp’t’s Answer to the Compl. at 12 (June 19, 2017).

⁵⁶ *In the Matter of La. Real Estate Appraisers Bd.*, No. 9374, Compl. Counsel’s Mot. for Partial Summ. Decision Dismissing Resp’t’s Fourth Affirmative Defense (Feb. 6, 2018). Specifically, Complaint Counsel argued that the regulatory compliance defense is inapplicable because: (1) there is no conflict between Dodd-Frank and antitrust law; (2) the Board is not a federally regulated entity; and (3) no federal agency can require the Board to alter its misconduct. While declining to hold that these factors are always necessary, the Commission explicitly stated that this does not mean they are irrelevant. *May 6 Comm’n Order* at 7. Accordingly, Complaint Counsel incorporates by reference those arguments as if fully set forth herein. Compl. Counsel’s Mot. for Partial Summ. Decision Dismissing Resp’t’s Fourth Affirmative Defense at 13-19, *In the Matter of La. Real Estate Appraisers Bd.*, No. 9374 (Feb. 6, 2018).

Comm'n Order at 7 (emphasis added). As discussed above, the federal law and rules identify presumptively sufficient methods of complying with the customary and reasonable fee requirement, methods that AMCs can choose or decline to utilize. Federal law does not mandate a particular method of compliance. Rather, the federal banking agencies have interpreted the relevant Dodd-Frank provisions to mean that free market competition should determine appraisal fees. *See supra* Section II.B.1.

In contrast, Rule 31101 by its express terms mandates that rates be set through one of only three possible methods (one of which, the Board Fee Schedule method, was never enacted); in practice, the Board compels AMCs to pay rates at or near the specific appraisal fees published in the SLU Survey, disregarding any other potential method of compliance. *Compare supra* Section II.B.1 *with* Section III. Rule 31101, as promulgated and enforced by the Board, cannot reasonably be characterized as “adherence to regulatory obligations” of the Dodd-Frank regime. *See Columbia Steel Casting Co. v. Portland GE*, 111 F.3d 1427, 1445 (9th Cir. 1985).⁵⁷

Moreover, nothing in Dodd-Frank suggests that states must delegate pricing authority to a panel of appraisers. As demonstrated by the regulatory approaches in other states, there is a range of options by which the State of Louisiana can simultaneously comply with both the Dodd-Frank regulatory regime and the antitrust laws. *See supra* Section II.B.3. The State of Louisiana—not a group of private market participants—could regulate AMCs directly without risking antitrust liability in numerous ways, including by:

⁵⁷ *See also Illinois v. Panhandle E. Pipe Line Co.*, 730 F. Supp. 826 (C.D. Ill. 1990), *aff'd*, *Illinois v. Panhandle E. Pipe Line Co.*, 935 F. 2d 1469 (7th Cir. 1991) (defense does not apply to conduct which “cannot really be characterized as ‘adherence to regulatory obligations.’ . . . to the extent that [Defendant’s] conduct resulted from an exercise of its discretion, the regulatory defense fails.”); *Nat’l Gerimedical Hosp. v. Blue Cross of Kan. City*, 452 U.S. 378, 391 (1981) (defendant Blue Cross’s conduct not exempted from antitrust scrutiny where “[n]othing in the [federal law] requires Blue Cross to take an action” that was designed to achieve the goal supposedly desired by Congress) (emphasis added); *Phonetele, Inc. v. Am. Tel. & Tel.*, 664 F.2d 716, 737-38 (9th Cir. 1979) (regulatory compliance defense requires defendant to show “that its actions were necessitated by concrete factual imperatives recognized as legitimate by the regulatory authority”).

- Tasking an independent state entity with actively supervising and approving the Board's actions;
- Delegating regulatory authority over appraisal fees to a state employee or board that is *not* controlled by active market participants; or
- Passing legislation creating a mandatory price schedule for appraisal fees.

Thus, the Board has no reasonable basis to contend that price fixing by a board of unsupervised private market participants is necessitated by the regulatory imperatives of Dodd-Frank. Because there is no federal regulation that actually compels the Board's fee setting scheme, and because there is no tension between Dodd-Frank's real estate appraisal provisions and antitrust compliance, the Board's regulatory compliance defense fails the first prong.

The Board cannot likewise satisfy the second prong of the regulatory compliance defense. At trial, the evidence will show that that the Board's actions were motivated by appraisers' individual business considerations. The focus of the Board's efforts was to increase appraisal fees for the benefit of appraisers. *See supra* Sections III.D and III.E. Appraisers urged the Board to adopt Rule 31101 to create minimum fee levels then persistently filed complaints imploring the Board to take enforcement action against AMCs for offering fees they deemed too low. *Id.* Despite warnings that its approach to customary and reasonable fee regulation presented antitrust issues, the Board nonetheless proceeded with its unique promulgation and enforcement scheme, further evidencing the Board's focus on the private interests of its members.⁵⁸ Then, following the passage of Rule 31101, the Board and its agents focused enforcement efforts against AMCs viewed as threatening the profits of appraisers,⁵⁹ and revealed when those efforts

⁵⁸ *See, e.g.*, CX0032-002 to -005 (Mar. 12, 2013 letter, Coalition to Facilitate Appraisal Integrity Reform to Boudreaux) (“[W]e believe that the provision of the Proposed Rule. . . violates federal statutes prohibiting restraints on competition.”).

⁵⁹ *See* CX0181-003 (Nov. 2015 draft article from Board Executive Director Bruce Unangst) (“Appraisal income has been slashed by up to 50% by certain AMCs which are now the focus of compliance efforts.”).

led to increased fees.⁶⁰ As such, the Board’s price-fixing conduct amounts to the exercise of the Board’s discretion to favor appraisers’ private economic interests, not to comply with a federal mandate. *See S. Pac. Commc’ns Co. v. Am. Tel. & Tel. Co.*, 740 F.2d 980, 1009 (D.C. Cir. 1984); *MCI Commc’ns Corp. v. Am. Tel. & Tel.*, 708 F.2d 1081, 1138 (7th Cir. 1983).

In addition to the foregoing, the Board’s regulatory compliance defense fails for a third, independent reason. The regulatory compliance defense has never been recognized in a *government* enforcement action seeking only *prospective injunctive relief*. This limitation makes sense. Suppose that a respondent violates the antitrust laws due to an erroneous but good faith effort to comply with a federal regulatory scheme. This respondent may arguably deserve protection against monetary damages attributable to its past conduct. However, there is no reason to protect it against an injunction prohibiting the entity from engaging in the same unlawful, anticompetitive conduct in the future. Thus, as recognized in the cases cited by the Board in its summary decision opposition,⁶¹ a cease and desist order against a defendant can be appropriate even if, under the regulatory compliance defense, an award of monetary damages is not. *Mautz & Oren, Inc. v. Teamsters*, 882 F.2d 1117, 1124 & n.14 (7th Cir.1989) (cease and desist order by the NLRB is appropriate even if monetary liability is not), *citing S. Pac. Comm’ns*, 740 F.2d at 1009-10; *MCI*, 708 F.2d at 1137-38.

V. A REMEDY IS NECESSARY AND THE CASE IS NOT MOOT

Pursuant to Section 5 of the Federal Trade Commission Act, upon determining that a challenged practice is an unfair method of competition, the Commission “shall issue . . . an order

⁶⁰ *See* CX3013 (Jan. 6, 2014 email, Unangst to Holloway) (“An overall increase in fees paid to La. appraisers has been reported to us. Overall, the LREAB and our in state stakeholders could not be more pleased with the results.”).

⁶¹ *See, e.g., In the Matter of La. Real Estate Appraisers Bd.*, No. 9374, Resp’t’s Mem. in Opp. to Compl. Counsel’s Mot. for Partial Summ. Decision Dismissing Resp’t’s Fourth Affirmative Defense, at 16 (Feb. 26, 2018) (citing cases).

requiring such person . . . to cease and desist from using such method of competition or such act or practice.” 15 U.S.C. § 45(b); *FTC v. Nat’l Lead Co.*, 352 U.S. 419, 428 (1957). The Commission has considerable discretion in fashioning an appropriate remedial order, subject to the constraint that the order must bear a reasonable relationship to the unlawful acts or practices. *See, e.g., FTC v. Colgate-Palmolive Co.*, 380 U.S. 374, 394-95 (1965); *FTC v. Ruberoid Co.*, 343 U.S. 470, 473 (1952); *Jacob Siegel Co. v. FTC*, 327 U.S. 608, 612-13 (1946). “It is the duty of the courts to beware of efforts to defeat injunctive relief by protestations of repentance and reform, especially when abandonment seems timed to anticipate suit, and there is probability of resumption.” *United States v. Or. State Med. Soc’y*, 343 U.S. 326, 333 (1952) (internal citations removed).

Consistent with the Notice of Contemplated Relief issued with the Complaint, following a finding of liability, the Court should, *inter alia*, order the Board:

- To rescind and to cease and desist from enforcing Rule 31101, any order based on an alleged violation of Rule 31101, and any agreement with an AMC or other person resolving an alleged violation of Rule 31101.
- To cease and desist from raising, fixing, maintaining, or stabilizing prices or price levels, rates or rate levels, or engaging in any other pricing action in connection with the sale of real estate appraiser services.
- To cease and desist from adopting, promulgating, or enforcing any regulation, rule, or policy relating to the determination of compensation levels for real estate appraiser services.

These remedies are necessary to restore and safeguard competition, and to ensure the Board’s future compliance with the federal antitrust laws.

The Board has previously asserted that actions taken by the State of Louisiana since 2017 address and resolve all contemplated remedies.⁶² Post-Complaint actions by Louisiana do not obviate the need for injunctive relief. First, the Board has never disclaimed an intention to continue enforcing a “customary and reasonable” fee requirement in the future, and a case is not moot if the Board plans to continue engaging in the challenged conduct. *See In re S.C. State Bd. of Dentistry*, No. 9311, 2004 WL 1814165, at *20 (Comm’n Op. and Order, July 28, 2004) (“Because Paragraph 38 of the Complaint suggests that the Board will again engage in actions similar to those challenged, we find that the Complaint sets forth grounds for injunctive relief to address such actions. We thus decline to dismiss the Complaint on such grounds at this stage of these proceedings”). Second, the Commission has already determined that the recent changes to Louisiana’s regulatory regime do not satisfy the requirements for active supervision.⁶³

As the Court may award effective relief, it must reject the Board’s argument that the case is moot. *See SJ Decision* at 8 (rejecting the Board’s mootness argument). An action seeking injunctive relief is moot only if a court lacks *any* ability to fashion some form of relief. *See Church of Scientology of Cal. v. United States*, 506 U.S. 9, 12-13 (1992); *see also Already, LLC v. Nike, Inc.*, 568 U.S. 85, 91 (2013) (“A defendant cannot . . . automatically moot a case simply by ending its unlawful conduct once sued.” (citations omitted)). Here, if the Court finds the Board violated the antitrust laws by promulgating and enforcing Rule 31101, it will be able to fashion a remedial order to safeguard competition going forward.

⁶² *In the Matter of La. Real Estate Appraisers Bd.*, No. 9374, Resp’t’s Mot’n to Dismiss Compl. at 1-2, 9 (Nov. 27, 2017).

⁶³ *SJ Decision* at 13, 15.

VI. CONCLUSION

As set forth above, the evidence at trial will establish that the Board has violated Section 5 of the FTC Act, and will justify entry by the Court of an Order granting the relief set forth in the Notice of Contemplated Relief.

Dated: March 26, 2021

Respectfully Submitted,

s/ Patricia M. McDermott

Geoffrey M. Green
Patricia McDermott
Thomas H. Brock
J. Alexander Ansaldo
Wesley G. Carson
Rachel S. Frank
Lisa Kopchik
Kenneth H. Merber

Federal Trade Commission
Bureau of Competition
Counsel Supporting the Complaint

ATTACHMENT A

Louisiana Administrative Code
Title 46 Professional and Occupational Standards
Part LXVII. Real Estate
Subpart 3. Appraisal Management Companies
Section 31101
2013; 2017

§31101. General Provisions; Customary and Reasonable Fees; Presumptions of Compliance

A. Licensees shall compensate fee appraisers at a rate that is customary and reasonable for appraisal services performed in the market area of the property being appraised and as prescribed by R.S. 37:3415.15(A). For the purposes of this Chapter, market area shall be identified by zip code, parish, or metropolitan area.

1. Evidence for such fees may be established by objective third-party information such as government agency fee schedules, academic studies, and independent private sector surveys. Fee studies shall exclude assignments ordered by appraisal management companies.

2. The board, at its discretion, may establish a customary and reasonable rate of compensation schedule for use by any licensees electing to do so.

3. Licensees electing to compensate fee appraisers on any basis other than an established fee schedule as described in Paragraphs 1 or 2 above shall, at a minimum, review the factors listed in §31101.B.1-6 on each assignment made, and make appropriate adjustments to recent rates paid in the relevant geographic market necessary to ensure that the amount of compensation is reasonable.

B. A licensee shall maintain written documentation that describes or substantiates all methods, factors, variations, and differences used to determine the customary and reasonable fee for appraisal services conducted in the geographic market of the appraisal assignment. This documentation shall include, at a minimum, the following elements:

1. the type of property for each appraisal performed;
2. the scope of work for each appraisal performed;
3. the time in which the appraisal services are required to be performed;
4. fee appraiser qualifications;
5. fee appraiser experience and professional record; and
6. fee appraiser work quality.

C. Licensees shall maintain records of all methods, factors, variations, and differences used to determine the customary and reasonable rate of compensation paid for each appraisal assignment in the geographic market of the property being appraised, in accordance with §30501.C.

D. Except in the case of breach of contract or substandard performance of real estate appraisal activity, an appraisal management company shall make payment to an independent contractor appraiser for the completion of an appraisal or appraisal review assignment:

1. within 30 days after the appraiser provides the completed appraisal report to the appraisal management company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3415.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 39:3073 (November 2013), amended LR 42:872 (June 2016), repromulgated LR 43:2161 (November 2017).

CX0003

From: Bruce Unangst </O=LREC/OU=LREC/CN=RECIPIENTS/CN=BUNANGST>
Sent: Friday, June 22, 2012 4:57 PM
To: Tad Bolton <tbolton@lrec.state.la.us>
Subject: Cust Reasonable info
Attach: Cust Reasonable info.docx

Tad,

Check out the sentence in Red that I added to the attached under presumption 1. Seems to me this may be a way to further restrict AMC plunder and pillage by putting this language in our rules.

Good to see you again in Baton Rouge on Monday and Tuesday. As we discussed, below are the six factors that an AMC MUST take into account when establishing what it constitutes to be a customary and reasonable fee if they are calculating their fees according to Presumption #1

In crafting the LA regulations to implement your new reasonable & customary fee requirement (assuming it is passed), I think you could put some parameters around how an AMC must consider these 6 factors in determining an appraiser's fee. The new LA will say that an AMC must compensate an appraiser at a reasonable and customary rate in accordance with the presumptions of compliance under federal law. Presumably, most AMCs will choose to utilize Presumption #1 to calculate their C & R fee. I don't think that there is anything that says that you can't put in your rules and regulations how, when, where, etc. the AMC has to consider the 6 factors. Then, if an AMC DOES NOT consider one of the six factors (they NEVER do), then the LREAB would have an actionable item against the AMC. The key here is getting them to PROVE that they actually consider each of the 6 factors in setting an appraiser's fee. Of course, they do not. The appraiser gets \$225 whether or not they are required to have the appraisal done overnight or in two weeks. In addition, the appraiser gets \$225 whether or not he/she is designated (item D), etc. etc. etc.

Also, as we discussed, the reason why the AMCs are allowed to utilize their own "recent rates paid for comparable appraisal services" is that the Dodd-Frank Act only specifically excluded AMC assignments from being utilized to calculate fees if those assignments were part of a fee schedule. The Dodd-Frank Act does not say ANYTHING about excluding AMC fees from any OTHER type of system used to calculate reasonable & customary fee. So, in crafting Presumption #1, the FRB very liberally interpreted the statute and relied on the first sentence of (1) and provision (3). The six factors that an AMC must consider are derived out of provision (3).

I hope that this additional information is helpful to you.

SD

Dodd Frank Act

`(i) Customary and Reasonable Fee-

`(1) IN GENERAL- Lenders and their agents shall compensate fee appraisers at a rate that is customary and reasonable for appraisal services performed in the market area of the property being appraised. Evidence for such fees may be established by objective third-party information, such as government agency fee schedules, academic studies, and independent private sector surveys. ***Fee studies shall exclude assignments ordered by known appraisal management companies.***

`(2) FEE APPRAISER DEFINITION- For purposes of this section, the term 'fee appraiser' means a person who is not an employee of the mortgage loan originator or appraisal management company engaging the appraiser and is--

`(A) a State licensed or certified appraiser who receives a fee for performing an appraisal and certifies that the appraisal has been prepared in accordance with the Uniform Standards of Professional Appraisal Practice; or

(B) a company not subject to the requirements of section 1124 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.) that utilizes the services of State licensed or certified appraisers and receives a fee for performing appraisals in accordance with the Uniform Standards of Professional Appraisal Practice.

(3) EXCEPTION FOR COMPLEX ASSIGNMENTS- In the case of an appraisal involving a complex assignment, the customary and reasonable fee may reflect the increased time, difficulty, and scope of the work required for such an appraisal and include an amount over and above the customary and reasonable fee for non-complex assignments.

Interim Final Rule

(f) *Customary and reasonable compensation*—(1) *Requirement to provide customary and reasonable compensation*

to fee appraisers. In any covered transaction, the creditor and its agents shall compensate a fee appraiser for performing appraisal services at a rate that is customary and reasonable for comparable appraisal services performed in the geographic market of the property being appraised. For purposes of paragraph (f) of this section, “agents” of the creditor do not include any fee appraiser as defined in paragraph (f)(4)(i) of this section.

(2) *Presumption of compliance.* A creditor and its agents shall be presumed to comply with paragraph (f)(1) if—

(i) The creditor or its agents compensate the fee appraiser in an amount that is reasonably related to recent rates paid for comparable appraisal services performed in the geographic market of the property being appraised. In determining this amount, a creditor or its agents shall review the factors below and make any adjustments to recent rates paid in the relevant geographic market necessary to ensure that the amount of compensation is reasonable: Pursuant to *(Insert Dodd Frank Legal Reference)*, any consideration of compensation paid to fee appraisers for appraisals ordered by appraisal management companies as defined in paragraph (f)(4)(iii) of this section shall be excluded in the review of factors A through F below:

- (A) The type of property
- (B) The scope of work,
- (C) The time in which the appraisal services are required to be performed,
- (D) Fee appraiser qualifications,
- (E) Fee appraiser experience and professional record, and
- (F) Fee appraiser work quality; and

(ii) The creditor and its agents do not engage in any anticompetitive acts in violation of state or federal law that affect the compensation paid to fee appraisers, including—

(A) Entering into any contracts or engaging in any conspiracies to restrain trade through methods such as price fixing or market allocation, as prohibited under section 1 of the Sherman Antitrust Act, 15 U.S.C. 1, or any other relevant antitrust laws; or

(B) Engaging in any acts of monopolization such as restricting any person from entering the relevant geographic market or causing any person to leave the relevant geographic market, as prohibited under section 2 of the Sherman Antitrust Act, 15 U.S.C. 2, or any other relevant antitrust laws.

(3) *Alternative presumption of compliance.*

A creditor and its agents shall be presumed to comply with paragraph (f)(1) if the creditor or its agents determine the amount of compensation paid to the fee appraiser by relying on information about rates that:

(i) Is based on objective third-party information, including fee schedules, studies, and surveys prepared by independent third parties such as government agencies, academic institutions, and private research firms;

(ii) Is based on recent rates paid to a representative sample of providers of appraisal services in the geographic market of the property being appraised or the fee schedules of those providers; and

(iii) In the case of information based on fee schedules, studies, and surveys, such fee schedules, studies, or surveys, or the information derived therefrom, excludes compensation paid to fee appraisers for appraisals ordered by appraisal management companies, as defined in paragraph (f)(4)(iii) of this section

CX0023

From: Stephanie Boudreaux <boudreaux1969@bellsouth.net>
Sent: Monday, April 25, 2016 7:42 PM
To: Bruce Unangst <bunangst@lrec.state.la.us>
Cc: Summer Mire <smire@lrec.state.la.us>; Jeremy Endicott <jendicott@lrec.state.la.us>; Ryan Shaw <rshaw@lrec.state.la.us>
Subject: FTC Specifications 9 and 10
Attach: REAB - Notice to AMCs - Fee Study.pdf; Bruce PowerPoint Draft 2.pptx; Bruce PowerPoint notes.doc

In completing my part of the response to the FTC, I came across documents related to fees and the subject specifications. I have attached them for your use, in the event that you are not in possession of same. Disregard if they are duplicates of info that you already have on hand.

Stephanie C. Boudreaux
Public Information Director

Louisiana Real Estate Commission
Louisiana Real Estate Appraisers Board
9071 Interline Avenue 70809
Post Office Box 14785
Baton Rouge, LA 70898-4785
(225) 925-1923
(800) 821-4529 (LA only)

Sent from home office
boudreaux1969@bellsouth.net

LOUISIANA

REAL ESTATE APPRAISERS BOARD

NOTICE TO APPRAISAL MANAGEMENT COMPANIES

June 11, 2013

The Louisiana Real Estate Appraisers Board recently commissioned an independent appraisal fee study by the Southeastern Louisiana University Business Research Center. The study was completed in accordance with the Louisiana Appraisal Management Company Licensing and Regulation Act and is consistent with the presumptions of compliance put forth by the federal Dodd-Frank Act and the Federal Reserve Board's Interim Final Rule on Valuation Independence. It is the intent of the board to provide annual updates to the study, so as to continuously conform to the Interim Final Rule.

This study is provided as a courtesy to all licensees; however, its use is not mandatory. Any licensee that elects to use the data provided by the study will be considered in presumptive compliance with LA R.S. 37:3415.15, which is relative to customary and reasonable fees.

The study is entitled *Louisiana Residential Real Estate Appraisal Fees: 2012* and can be found on the board website at www.reab.state.la.us.

Bruce Unangst
Executive Director

\\ssdata\BC\Louisiana_Appraisers_1610068\LREAB\1610068-001\Originals\#3 LA. Admin. Code Title 46 31101\3.f\Bruce Unangst Emails

Bruce PowerPoint Draft 2.pptx

UNSUPPORTED OR EXCLUDED FILE TYPE



LEGISLATIVE UPDATE



FOR THE LOUISIANA REAL ESTATE APPRAISER

Bruce Unangst
Executive Director
Louisiana Real Estate Appraisers Board

Protecting Louisiana Consumers



REAB OBJECTIVE



- *To develop and fairly administer laws, rules, and policies that ensure quality appraisals delivered at a reasonable cost within a reasonable time frame...*

Quality Valuations



Stakeholders Depend on **Quality** Valuations

- Consumers
- Lenders
- Real Estate Licensees
- Homebuilders
- Title Companies
- Economic Growth

APPRAISERS: REGULATION NATION?



FEDERAL

- Title XI of FIRREA (1989) established ASC
- Revised ASC Policy Statements Directing State Regulatory Programs issued June 2013
- USPAP Compliance
- Dodd-Frank Valuation Independence 2010
- Final Interim Rules Mandates State Regulation of AMCs
- Final Proposed AMC Rules Just Published!

The Louisiana Law and You



Appraiser Laws and Rules

- Regulates through licensing, education and disciplinary enforcement
- Designed to uphold **minimum** professional standards of practice

Appraisal Management Company Laws and Rules

- Regulates through licensing and disciplinary enforcement
- Designed to correct **imbalance of power** between AMC's and appraisers created by Dodd-Frank

Appraiser Law and Rule Amendments



2014 Proposed Legislation

HB 1018

- Mandates background checks for new applicants
- Provides for technical amendments

HB 894

- Requires board membership to include AMC representation

HB 838

- Addition of a standard processing fee
- Amends temporary practice permit fee



2014 Proposed Rule Changes

- Peer Review Committee
- Application for experience credit to comply with 2015 AQB standards

AMC Laws: The Journey



Evolution of Current Law

Louisiana was the 5th state in the nation to license AMCs.

2010

- AMC Licensing and Regulation Act enacted

2011 – 2013

- Amended each year to expand regulatory authority
- Main areas of change
 - Authority to set certain license fees
 - Adherence to standards; competency
 - Customary and reasonable fees; disclosure
 - Surety bond requirements
 - Rulemaking authority
 - Definitions



New AMC Rules Finalized



Key Provisions Effective November 20, 2013

- Compensation of fee appraisers; customary and reasonable fees; presumption of compliance
- Competency
- Investigations
- Record Keeping



National Recognition



Isaac Peck Article

“...Louisiana is not the first state to pass AMC regulation that addresses C&R fees, but it is the first to empower its Real Estate and Appraisal Board to determine whether a fee meets the C&R threshold and if not, to sanction the offending AMC. While it remains to be seen if other states will follow, the latest regulations passed in Louisiana should be of interest to appraisers nationwide...”

Excerpt from “Working RE” by Isaac Peck,
Associate Editor



A Solid Foundation Moving Forward



Stakeholder Support Critical

- Consumers
- Appraisal Institute
- Louisiana REALTORS®
- Louisiana Homebuilders Association
- Louisiana Bankers Association
- Louisiana Appraisers
- Mortgage Lenders Association

Proposed Amendments to AMC Law



2014

SB 263

- Removes legislative committee oversight provisions that exceed the requirements of the APA

The Battle Continues!



Quote From Don Kelly/REEVA Pledging Legislative Fight

“REVAA plans to address the Louisiana State Legislature in spring 2014 and encourage it to reopen this issue. REVAA plans to continue advocating that Louisiana’s State Board lacks the authority to determine C&R fees and is hoping to convince state legislators to reconsider the current language in the AMC regulations.”

REEVA Positions:

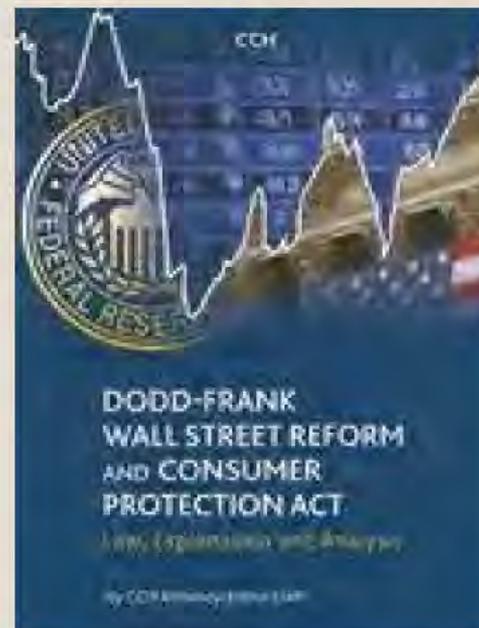
- Regulation of C & R fees can only be enforced through “TILA” at federal level.
- Marketplace only should determine professional appraisal fees.



REAB Position on C&R Fees



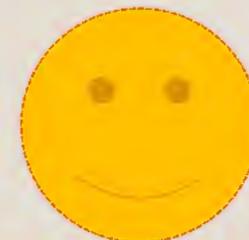
- Dodd-Frank clearly **authorizes** state regulatory boards to regulate AMCs.
- Dodd-Frank language sets **minimum** standards. States are not precluded from enacting laws/rules exceeding Dodd-Frank.
- Any semblance of a free market approach went out the window with the exponential **growth & power** of AMCs as a result of Dodd-Frank.



FEDS AGREE WITH REAB POSITION



- Federal rules are minimum standards
- Individual states may enact additional requirements
- States may enact rules for enforcement of C & R provisions consistent with TILA
- States may inspect records, conduct investigations, and audit AMC's for compliance
- AMC violations must be reported to the Appraisal Subcommittee



Recent Enforcement Action



Summary of Appraiser Disciplinary Action

- **17** complaints cleared through initial assessments absolving any violation
 - **26** formal investigations
 - **4** disciplinary hearings resulting in fines, additional USPAP education, and suspension
- 43 total written appraiser complaints in 2013**
- All disciplinary action reported to the ASC

Typical Violations



- Failure to disclose names of individuals performing specific tasks in report
- Failure to include credential classification in the report
- Failure to maintain work file for a period of five years.
- Failure to include the signature of the supervisory appraiser

AMC Enforcement Action



FIVE (5) FORMAL INVESTIGATIONS NOW OPEN

- UNLICENSED OUT OF STATE ACTIVITY
- UNLICENSED AMC APPRAISAL REVIEWS
- CUSTOMARY & REASONABLE FEES
- COERCION

**VOLUNTARY COMPLIANCE EFFORTS
ONGOING!**

If A Tree Falls in the Forest...



FEDERAL & STATE COMPLAINT VENUES AVAILABLE

National Hotline Implemented July 2013

- Assists in wading through maze of federal agencies
- Online at www.refermyappraisalcomplaint.asc.gov
- Toll free 1-877-739-0096
- This was added to the REAB website under How to File a Complaint as of 10-13-2013

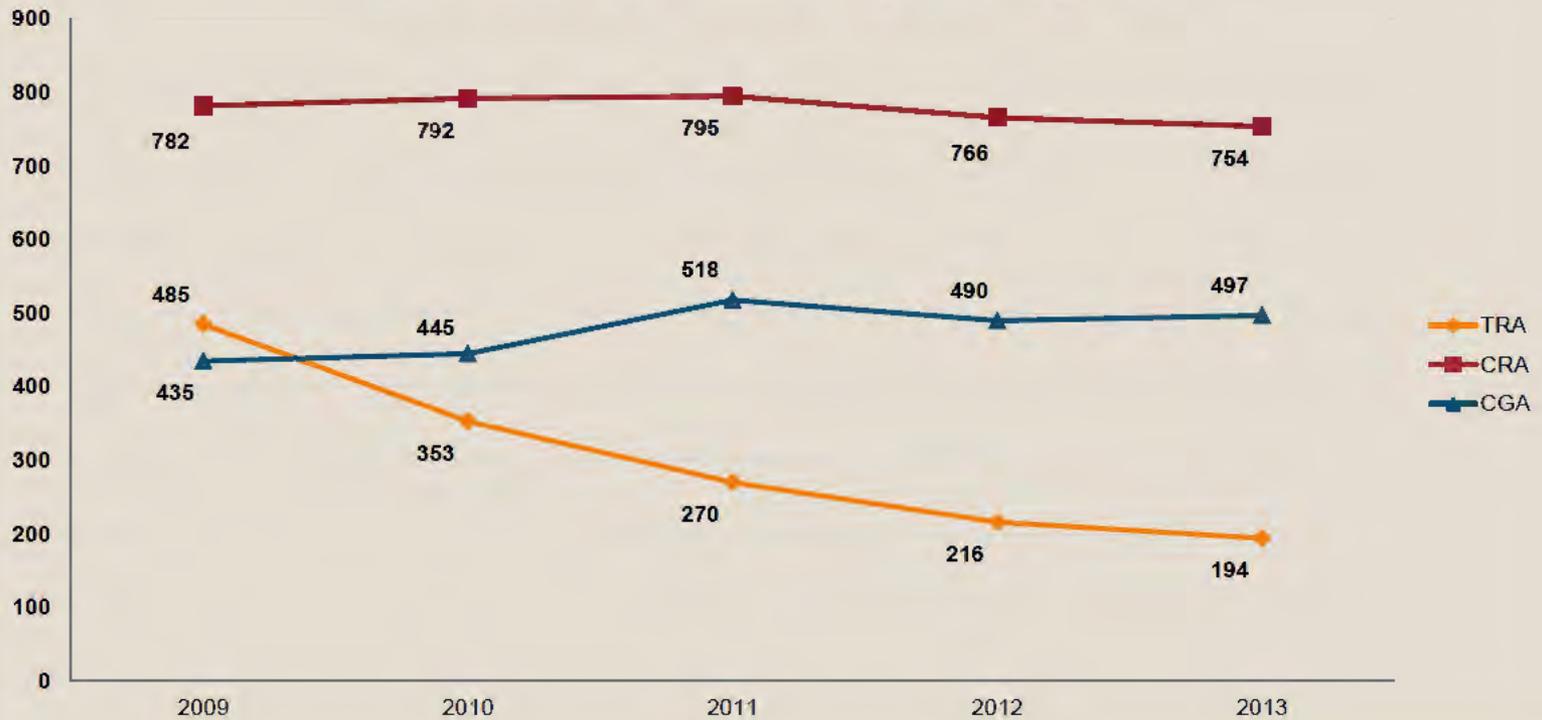
Filing Complaints in Louisiana

- Signed written complaints
- Motion by the Board
- Executive Director's written authorization (usually anonymous complaint)
- Forms & instructions on filing a complaint can be found online at www.reab.state.la.us .
- Toll free 1-800-821-4529 or 225-925-1923

The Vanishing Trainee



Appraiser License Types by Year



Your Voice Counts



“If you’re in business in Louisiana, and want to stay in business, you better get involved in politics...”

**Senator Jack Donahue, Chairman
Senate Finance Committee**

- Get active in professional organizations (AI).
- Keep your REAB member(s) informed.
- Contact your legislators and let them know how you feel on any proposed legislation.

Half The Battle Is Just Showing Up



Questions?

Slide 6

PROPOSED 2014 APPRAISER LAW AND RULE AMENDMENTS

Appraiser Law

- Amendments to various sections to satisfy the minimum education, examination, and experience requirements mandated by the federal Appraiser Qualifications Board (AQB) and published in the current version of the Real Property Appraiser Qualification Criteria
- “Housekeeping” amendments - correct grammar and terminology

Rules

- Application for Experience Credit (Section 10309) to comply with 2015 AQB Standards

Slide 7

AMC LAWS: THE JOURNEY

2010...

2011...

- First rules and regulations promulgated in August 2011

2012

- Definitions
- Adherence to standards; competency
- Fees; customary and reasonable; disclosure
- Surety bond requirements

2013

- License application fees; delinquent renewal

Slide 8

NEW AMC RULES FINALIZED

2012

- No changes

2013

- Surety Bond Required; Amount and Conditions; Filing
- Appraiser License Verification
- Record Keeping
- Investigations
- General Provisions; Customary and Reasonable Fees; Presumption of Compliance

CX0032

Coalition to Facilitate Appraisal Integrity Reform

March 12, 2013

VIA ELECTRONIC MAIL

Ms. Stephanie Boudreaux
Louisiana Real Estate Commission
9071 Interline Avenue
Baton Rouge, LA 70809
sboudreaux@lrec.state.la.us

Re: Revisions to Proposed Rules under the Louisiana Appraisal Management Company Licensing and Regulation Act

Dear Ms. Boudreaux:

This letter is submitted by the Coalition to Facilitate Appraisal Integrity Reform (“FAIR”), which is a coalition of four appraisal management companies (“AMCs”).¹ FAIR appreciates the opportunity to submit additional comments to the Louisiana Real Estate Appraiser Board (the “Board”) as it works to finalize rules to implement the Louisiana Appraisal Management Company Licensing and Regulation Act, La. Rev. Stat. Ann. §§ 37:3415.1 *et seq.* (the “Act”).

I. COMMENTS

Of the five rules the Board originally proposed in November 2012, its most recent proposal includes the most substantive changes to Proposed Rule 31101, which relates to the payment of “customary and reasonable” fees to fee appraisers performing services for AMCs. Despite the Board’s revision of the Proposed Rule, many of the concerns we previously expressed about it remain. Specifically, the revised text of Proposed Rule 31101 still incorporates by reference Section 129E(i) of the Truth in Lending Act (“TILA”), as it was amended by the Dodd Frank Wall Street Reform and Consumer Protection Act (“Dodd Frank Act”), which requires a creditor or its agent to compensate fee appraisers at a rate that is customary and reasonable for appraisal

¹ These four appraisal management companies are: (1) LSI, a division of Lender Processing Services, Inc.; (2) Valuation Information Technology, LLC d/b/a ReIs Valuation; (3) CoreLogic Collateral Solutions, LLC; and (4) ServiceLink.

Ms. Stephanie Boudreaux
March 12, 2013
Page 2

services performed in the market area of the property being appraised. Effective April 1, 2011, the Federal Reserve Board (“FRB”) adopted a final interim rule implementing that requirement, which establishes two presumptions of compliance through which a creditor or its agent may fulfill its obligations under TILA. See 75 Fed. Reg. 66572 (Oct. 28, 2010).

We believe that Proposed Rule 31101, contrary to the requirements of federal law, would continue to require an AMC doing business under the Act to use one of the two presumptions of compliance found in the FRB’s final interim rule. In fact, the construction of the Proposed Rule, which differentiates documentation requirements based on the chosen presumption, strongly favors use of one of the two presumptions. Both effects of the Proposed Rule contradict the FRB’s final interim rule, under which use of either presumption is optional. Additionally, we believe that the disclosure requirements that Proposed Rule 31101 would impose on AMCs may require the revelation of confidential business information for reasons unrelated to complying with the requirements of TILA. Finally, we believe that the provision of the Proposed Rule granting the Board discretion to establish “customary and reasonable” fee schedules violates federal statutes prohibiting restraints on competition. Accordingly, we urge the Board to consider the issues addressed below before finalizing Proposed Rule 31101.

A. Proposed Rule 31101 Still Conflicts with Federal Law and May Negatively Impact AMCs Doing Business in Louisiana

In its original form, Proposed Rule 31101 would have required an AMC registered under the Act to use one of the two presumptions of compliance from the FRB’s interim final rule to ensure the AMC’s payment of customary and reasonable appraisal fees. The revised rule utilizes permissive rather than mandatory language: an AMC *may* use one of the presumptions of compliance to demonstrate that it pays fee appraisers a “customary and reasonable” fee in keeping with Section 37:3415.15 of the Act. Despite the adjustment, we believe the revised Proposed Rule 31101 still conflicts with, and represents an improper attempt by the Board to interpret, federal law.

1. *The Disclosure and Documentation Requirements of Proposed Rule 31101 Effectively Require Use of One of the Presumptions of Compliance, Contrary to Federal Law*

Although the Proposed Rule would permit an AMC to use one of the presumptions of compliance found in the FRB’s final interim rule to demonstrate its compliance with the Act’s requirement to pay customary and reasonable rates of compensation, it would effectively require an AMC to use one of the presumptions by

Ms. Stephanie Boudreaux
March 12, 2013
Page 3

imposing extensive disclosure and documentation requirements. Proposed Rule 31101 would require an AMC to maintain written documentation of “all methods, factors, variations, and differences used to determine the customary and reasonable rate of compensation,” including, at a minimum, six elements set forth in the rule. These documentation requirements mirror the six factors required as part of the first presumption of compliance in the FRB final interim rule. Proposed Rule 31101 also would give an AMC the option of establishing a “customary and reasonable rate of compensation based on objective third-party information prepared by independent third parties” in a manner that mirrors the second presumption of compliance found in the FRB’s final rule. In essence, while the rule suggests an AMC “may” rely on federal presumptions of compliance, the manners in which Proposed Rule 31101 would require an AMC to demonstrate that it pays a “customary and reasonable” fee in keeping with the requirements of federal law and Section 37:3415.15 of the Act would continue to require use of one of the two presumptions of compliance.

Additionally, in its current iteration, we believe that Proposed Rule 31101 strongly favors use of one of the two presumptions of compliance from the FRB Interim Rule. Under one reading of the language of the Proposed Rule, use of the second presumption of compliance would double an AMC’s documentation burdens, leaving it with little choice but to use the first presumption of compliance to comply with Louisiana law. Specifically, regardless of its method of calculating compensation, an AMC would be subject to the documentation requirement of Subsection (B) of the Proposed Rule, which, as noted above, mirrors the six factors required under the first presumption of compliance. An AMC using third-party information to calculate its fees under the second presumption of compliance would also have to maintain written documentation describing and substantiating the third-party information on which its compensation rates are based. Thus, an AMC choosing the first presumption of compliance (as it is incorporated into Proposed Rule 31101) would be subject to one level of documentation requirements, while a second level would apply to an AMC choosing the second presumption of compliance.

Under an alternative reading of the language of the Proposed Rule, an AMC establishing its own customary and reasonable rate under the second presumption of compliance found in the FRB’s Interim Rule would have far less to report than if it chose to use the first presumption. If an AMC uses third-party information, such as other providers’ fee schedules, to establish its customary and reasonable rates of compensation, it will have little to no additional information to include in its demonstration of the “methods, factors, variations, and differences” used to determine those rates. In either case, the disparate documentation requirements applicable to use of each of the presumptions of compliance will have the effect of encouraging use of

Ms. Stephanie Boudreaux
March 12, 2013
Page 4

one. Whereas the previous version of the rule imposed different documentation standards based on an AMC's chosen method of compliance, the lack of differentiation in the current text of Proposed Rule 31101 leads us to believe the Board intends to favor, if not require an AMC to use, one of the two presumptions of compliance.

The overall effect of Proposed Rule 31101 remains to require an AMC operating in Louisiana to use one of the presumptions of compliance found in the FRB final rule. However, as we previously noted, under TILA and the FRB interim rule, use of a presumption of compliance is not mandatory; an AMC has discretion to establish "customary and reasonable" rates of compensation in the manner that best fits its needs. As our previous comments to the Board indicated, we find no statutory support for the Board's attempt to interpret the requirements of federal law, particularly where its interpretation would conflict with and otherwise limit an AMC's ability to comply with an existing federal rule. The Act authorizes the Board to adopt rules necessary for its enforcement, but does not require the Board to interpret or enforce Section 129E(i) of TILA. La. Rev. Stat. Ann. § 37:3415.21(A). Similarly, the Dodd Frank Act and Section 129E(g) of TILA reserve rulemaking authority to implement the "customary and reasonable" fee and other appraisal independence requirements of TILA exclusively to the FRB, the other federal banking regulatory agencies, and the Consumer Financial Protection Bureau. (The FRB's final interim rule represents the exercise of this power.) State appraisal regulators such as the Board have no authority under TILA or other federal law to promulgate their own regulations interpreting Section 129E or to modify the regulations issued by the FRB. Thus, we believe that Proposed Rule 31101 represents an attempt by the Board to promulgate rules for which it has no statutory basis or power. In effect, the Board has improperly attempted to preempt the issue in the face of conflicting federal law.

2. *Proposed Rule 31101 also Raises Concerns about the Revelation of Confidential Business Information*

The phrasing of the documentation and disclosure requirements in Proposed Rule 31101 also suggests that AMCs operating under the Act would have to reveal confidential business information to fee appraisers in order to satisfy their obligations under the rule. As written, before or at the time an appraisal assignment is made, an AMC would have to disclose those methods, factors, variations, and differences to the selected fee appraiser; an AMC using the first presumption of compliance would have to include in its disclosure the elements set forth in the documentation standard. Although the Proposed Rule no longer would require an AMC to disclose to an appraiser which presumption of compliance it uses, the revised disclosure requirement will permit an appraiser to determine the applicable presumption of compliance based on the

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March 12, 2013
Page 5

information that an AMC provides. We continue to be concerned that an AMC's compliance with the disclosure requirements would have the effect of putting AMCs subject to the Act at a competitive disadvantage, which should not be a natural consequence of paying a "customary and reasonable" fee as required by federal law.

B. The Board's Ability to Establish Presumptively Compliant Rates of Compensation Raises Concerns about Anti-Competitive Behavior

As was true in its previous version, Proposed Rule 31101 would give the Board discretion to "establish a customary and reasonable rate of compensation schedule for use by any licensees [sic] that elects to do so." We believe, as we previously commented to the Board, that this provision runs contrary to the weight of United States Supreme Court case law and to the practices of the Board's counterparts in other states. Absent a clear articulation in the Act (or other Louisiana law) of the Board's authority to establish minimum rates of compensation, the Supreme Court has opined that efforts to do so constitute restraints on competition. See Federal Trade Commission v. Ticor Title Insurance Co. et al, 504 U.S. 621, 112 S. Ct. 2169, 119 L. Ed. 410 (1992); Parker v. Brown, 317 U.S. 341, 63 S. Ct. 307, 87 L. Ed. 315 (1943) (the Sherman Act and the Federal Trade Commission Act, which prohibit restraints on competition to include horizontal price-fixing, "are subject to supersession by state regulatory programs . . . only if the state's anti-competitive policy is clearly and firmly articulated in state law and the implementation of the policy is actively supervised by the state itself").

While the Act requires an AMC to "compensate appraisers at a rate that is customary and reasonable for appraisals being performed in the market area of the property being appraised, consistent with the presumptions of compliance under federal law," it does not require or permit the Board to regulate or control appraiser fees. We are not aware of any other provision of Louisiana law on which the Board could otherwise base its attempt to exercise such authority. As a result, we believe that this provision of Proposed Rule 31101 could be found in violation of the Sherman Act and the Federal Trade Commission Act.

II. CONCLUSION

Again, we appreciate the Board's invitation of a second round of comments on its Proposed Rules to implement the Act. However, we believe that issues remain that should preclude the adoption of the Proposed Rules in their current form. We reiterate our previous request that in light of the FRB's interim final regulations interpreting Section 129E(i) of TILA, the Board not adopt Rule 31101 in its revised form and

Ms. Stephanie Boudreaux
March 12, 2013
Page 6

reconsider its ability to engage in such rulemaking. If you have any questions about the comments herein, please do not hesitate to contact us.

Thank you for your consideration.

Sincerely,

Coalition to Facilitate Appraisal Integrity Reform

CX0038

From: Roland Hall, SRA <rhallsra@bellsouth.net>
Sent: Wednesday, November 11, 2015 3:13 PM
To: Justin.Memenga@guaranteedrate.com
Cc: rolandhallsra@att.net; Henk VanDuyvendijk <henk@lrec.state.la.us>; Bruce Unangst <bunangst@lrec.state.la.us>; 'Joseph Mier' <joe@jmappraisers.com>
Subject: Louisiana Customary and Reasonable Fees
Attach: Louisiana Residential Real Estate Appraisal Fees_2014_FINAL.PDF

Mr. Justin Memenga
Appraisal Desk Manager
GUARANTEED RATE, INC.
Dba GUARANTEED RATE

I am not willing to accept and/or complete your application for your appraisal panel under the current offer/scope of work you emailed to me. There are a number of issues with this application and your attached Louisiana Fees Schedule in order to be in compliance with the AMC Rules and Regulations of state of Louisiana.

The fee(s) schedule that GUARANTEED RATE, INC. dba GUARANTEED RATE is offering for appraisal assignments does not meet Customary and Reasonable fee(s) for the state of Louisiana. I am requesting you provide what presumption of compliance is your company is using to determine at a minimum your Customary and Reasonable Fee(s).

See attached Louisiana Residential Real Estate Appraisal Fees 2014 Study. This newest fee survey was commissioned by the Louisiana Real Estate Appraisal Board to provide for AMCs to use as a guide to be in compliance under the appropriate presumption of compliance according to Dodd/Frank.

The Louisiana real estate appraisers board is taking these issues very seriously. I have CC'd this email with our state appraisers board contact Henk VanDuyvendijk, Head Appraiser Investigator, and Bruce Unangst, Executive Director of Louisiana Real Estate Appraisers Board. If you have any additional questions on the AMC Rules and Regulations in Louisiana. MR. Unangst email address is BUangst@lrec.state.la.us and Mr. Vanduyvendijk email address is henk@lrec.state.la.us will be glad to help you.

I am prepared to discuss these issues with you should you have any questions.

Louisiana AMC Rules and Regulations state:

Fees; customary and reasonable; disclosure

A. An appraisal management company shall compensate appraisers at a rate that is customary and reasonable for appraisals being performed in the market area of the property being appraised, consistent with the presumptions of compliance under federal law.

Competency:

Prior to making an assignment to a real estate fee appraiser, AMC licensees shall have a system in place to verify that the appraiser holds a license in good standing in this state pursuant to the Louisiana Real Estate Appraisers Law, R.S. 37:3391 et seq. Licensees may rely on the National Registry of the Appraisal Subcommittee for purposes of appraiser license verification. Before or at the time of making an assignment to a real estate fee appraiser, licensees shall obtain a written certification from the appraiser that he or she:

1. Is competent in the property type of the assignment;

2. Is competent in the geographical area of the assignment;
3. Has access to appropriate data sources for the assignment;
4. will immediately notify the licensee in writing if the appraiser later determines that he or she is not qualified to complete the assignment; and
5. is aware that misrepresentation of competency may be subject to the mandatory reporting requirement in the most current version of the Uniform Standards of Professional Appraisal Practice (USPAP).

B. Subsequent to a completed appraisal being submitted to the assigning licensee, any request for additional information that may impact or alter the opinion of value stated therein shall be made by the certified appraiser completing the appraisal review.

Sincerely,

Roland M. Hall, SRA
318-798-2044

OCTOBER 2015



LOUISIANA
RESIDENTIAL
REAL ESTATE
APPRAISAL FEES 2014

A STUDY FUNDED BY AND CONDUCTED FOR
LOUISIANA REAL ESTATE APPRAISAL BOARD
BY SOUTHEASTERN LOUISIANA UNIVERSITY BUSINESS RESEARCH CENTER

FTC-LAB-00023678

CX0038-003



October 30, 2015

The Southeastern Louisiana University Business Research Center (BRC) is jointly operated by the Southeast Louisiana Business Center and the Southeastern College of Business. The BRC provides applied economic analyses and research studies that aid business and economic development efforts. The Center represents one aspect of the University's commitment to economic development in the region.

The Center is located in the Southeast Louisiana Business Center on Martens Drive, two blocks west of the main campus of Southeastern Louisiana University. The Business Research Center is a proud member of the Association for University Business and Economic Research (AUBER) and the Council for Community and Economic Research (C2ER).

The following study was commissioned by the Louisiana Real Estate Appraisal Board, and was conducted using generally accepted research methods, models, and techniques.

The information gathered and/or study results are for informational purposes only and are not intended to be used for investment, lending, or legal decisions. Research and results of this study do not represent any form of endorsement by Southeastern Louisiana University.

Sincerely,

A handwritten signature in cursive script that reads 'William Joubert'.

William Joubert
Director
Business Research Center

*Cover Photo: "Edwardian-style house at 1913 Esplanade Avenue. New Orleans, Louisiana, April 24, 2005"
by Alexy Sergeev, downloaded from
<http://www.asergeev.com/pictures/archives/compress/2005/445/01.htm> on
10/20/2015.*

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EXECUTIVE SUMMARY

The Business Research Center at Southeastern Louisiana University conducted an online survey of mortgage lenders who provided loans in Louisiana and licensed Louisiana real estate appraisers to collect information on typical residential real estate appraisal fees paid in Louisiana in 2014. Fee data were restricted to appraisal fees paid directly to licensed appraisers (i.e., not routed through appraisal management companies (AMCs)), per guidance of relevant federal regulations for determining “customary and reasonable” fees.

Usable responses were received from 30 mortgage lenders located in 16 parishes (and five unspecified locations) and 330 appraisers with primary offices in 36 parishes, six other states (AL, FL, GA, ME, MS, & TX), and three unspecified locations. Appraisal fee data were provided for properties located in all 64 parishes.

Typical appraisal fees were collected for five appraisal types for properties in urban, suburban, and rural locations. Median fees were analyzed by region of the state based on geographic designations by the Governor’s Office of Homeland Security and Emergency Preparedness (GOHSEP), illustrated in Figure 9 and listed in Appendix 4.

The five appraisal types for which typical fees were collected included:

- Form 1004 (Full appraisal)
- Form 1004 FHA (Full appraisal for FHA)
- Form 1025 (Small (1–4 units) residential income property appraisal)
- Form 1073 (Individual condominium unit appraisal)
- Form 2055 (Exterior-only inspection appraisal)

Median fees ranged from lows of \$350 - \$400 for Form 2055 appraisals to highs of \$550 - \$800 for Form 1025 appraisals (Table 32).

Although fees for some appraisal types were fairly uniform across the regions (e.g., Form 1004 FHA), other types showed significant variations in typical fees across regions. Table 32 on page 35 provides a summary of median fees for all appraisal types by every region and location type, and the tables in Appendix 1 provide additional descriptive statistics by region, appraisal type, and location type.

The baseline appraisal fees discussed in this report and summarized in Table 32 should be considered typical appraisal fees for “normal” properties, with adjustments necessary for large or complex properties or properties located in distant or remote locations.

Although there was much variation depending on property details, the median typical fee adjustment for large/complex properties was \$125, while additional distance fees ranged from \$25 for travel distances of 16-25 miles to \$100 for distances of 51 miles and over.

INTRODUCTION

Enacted May 1, 2009, the Home Valuation Code of Conduct (HVCC) drastically changed the method in which residential real estate appraisal services were procured for secondary mortgage loans delivered to the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac). The required separation of mortgage production from appraiser selection led to the rapid growth in the number and volume of business of appraisal management companies (AMCs).

Due to debates about the fairness of fees paid to appraisers by some AMCs, the Consumer Financial Protection Bureau enacted additional regulations on December 22, 2011 which required that "... the creditor and its agents shall compensate a fee appraiser for performing appraisal services at a rate that is customary and reasonable for comparable appraisal services performed in the geographic market of the property being appraised."

These federal regulations are detailed at:

Title 12 – Banks and Banking
Chapter X – BUREAU OF CONSUMER FINANCIAL PROTECTION
Part 1026 – TRUTH IN LENDING (REGULATION Z)
Subpart E – Special Rules for Certain Home Mortgage Transactions
Section 1026.42 – Valuation independence
Sub-section (f) – *Customary and reasonable compensation. (1) Requirement to provide customary and reasonable compensation to fee appraisers.*

Paragraph (f) (3) – *Alternative presumption of compliance* states:

"A creditor and its agents shall be presumed to comply with paragraph (f)(1) of this section if the creditor or its agents determine the amount of compensation paid to the fee appraiser by relying on information about rates that :

- (i) Is based on objective third-party information, including fee schedules, studies, and surveys prepared by independent third parties such as government agencies, academic institutions, and private research firms;
- (ii) Is based on recent rates paid to a representative sample of providers of appraisal services in the geographic market of the property being appraised or the fee schedules of those providers; and
- (iii) In the case of information based on fee schedules, studies, and surveys, such fee schedules, studies, or surveys, or the information derived therefrom, excludes compensation paid to fee appraisers for appraisals ordered by appraisal management companies, as defined in paragraph (f)(4)(iii) of this section."

The Louisiana Real Estate Appraisal Board (LREAB) commissioned this study to provide mortgage lenders and appraisal management companies doing business in Louisiana with a convenient, concise, and complete report meeting the requirements under the above *Alternative presumption of compliance*.

METHODOLOGY

The Southeastern Louisiana University Business Research Center (BRC) conducted an online survey of both Louisiana-licensed residential real estate appraisers and Louisiana mortgage lenders to collect a diverse sample of data regarding typical residential appraisal fees for various appraisal types in all geographic areas of the state.

The survey instruments, attached to this report as Appendices 2 & 3, differed slightly for the two groups – lenders and appraisers – in order to collect different background and classification information from the two groups. Both groups were asked to provide data on their typical appraisal fees charged/paid for appraisals of properties in urban, suburban, and rural locations in all 64 parishes.

The lender and appraiser survey instruments were both hosted on the QuestionPro™ online survey site, and were protected with separate passwords provided to potential survey respondents.

Survey Timeline, Sample Pool, and Number of Responses

An introductory e-mail was sent out by LREAB to their appraiser contact list on May 29, 2015.

Announcements of the opening of the online survey sites, along with the links and passwords, were provided to LREAB, the Louisiana Bankers Association (LBA), and the Louisiana Mortgage Lenders Association (LMLA) on June 15, 2015 for distribution to their members.

Reminder e-mails were provided to the same three organizations on July 1, 2015 for distribution to their members.

In an effort to increase the number of responses from mortgage lenders, a special request for participation was sent by BRC to 119 lenders who had participated in the 2012 and/or 2013 surveys on August 5, 2015.

LREAB sent a final e-mail reminder to their contact list on August 6, 2015.

The survey sites were closed on August 17, 2015, at which point there were 391 partial or complete survey responses from appraisers and 37 from lenders.

In order to check for duplicate/multiple responses, IP addresses and/or e-mail addresses (when provided) were used to compare responses. Based on these comparisons, 31 of the appraiser responses and three of the lender responses were determined to be partial or complete duplicates of other responses, typically where the responder had exited the survey before completion and later returned

4

and completed the survey again. (Due to the branching nature of some of the questions, it was not possible to go back to a previous question in the survey.)

Removal of the duplicate responses left 360 potentially useable responses from appraisers and 34 from lenders. Nineteen of the 360 appraiser respondents were not licensed in 2014, and four of the lenders indicated that they were not involved in mortgage lending in 2014, so these responses were removed from the data.

Six appraiser respondents provided no answers to any questions, so these blank responses were also removed from the data.

Seven appraiser respondents provided fee data that was partially (2) or completely (5) either indecipherable or unreasonable. Three of the seven included fee responses that were unreasonably low (1, 3, 5, 12, etc.), perhaps indicating the number of appraisals completed rather than the fees. Another three respondents input fee responses that were unreasonably high, in the thousands of dollars, which were obviously outliers from the rest of the responses and would have skewed the statistics. One response had multiple numbers in each response cell separated by commas, thus making it impossible to determine the respondent's intent.

The useable portions of the two partially useable responses were left in the data to be analyzed, but the other five responses were completely removed.

After removing the duplicate, unlicensed, uninvolved, blank, and faulty responses, 330 appraiser and 30 lender responses remained:

	<u>Appraisers</u>	<u>Lenders</u>
Raw responses	391	37
Duplicates	-31	-3
Unlicensed/not involved	-19	-4
Blank	-6	0
Unreasonable/Indecipherable	<u>-5</u>	<u>0</u>
Useable responses	330	30

The 330 useable appraiser responses represent approximately 22 percent of licensed Louisiana real estate appraisers and trainees. The response rate among lenders cannot be calculated because of overlap between the LBA and LMLA memberships.

Of the useable responses, 21 appraisers indicated that they only did appraisals for appraisal management companies (AMCs) in 2014, and 13 lenders indicated that all of their appraisals in 2014 were ordered through AMCs, so these respondents were directed to the end of the survey without being allowed to provide any fee information. However, their demographic and classification information was retained and used in those portions of the analysis.

This process left 17 responses from lenders who potentially could provide non-AMC appraisal fee information for 2014, of which 12 did. Similarly, of the 309 remaining appraisers who could potentially provide fee information, appraisal fee data was provided by 293.

DEMOGRAPHIC AND CLASSIFICATION INFORMATION

Mortgage Lenders

Percentage of Appraisals Ordered Directly from Licensed Real Estate Appraisers in 2014

Question 5 of the lender survey asked for the percentage of mortgage loans processed by the respondent for which appraisals were ordered directly from licensed appraisers, i.e. not through an AMC.

Twenty-six (26) of the 30 respondents answered the question, selecting from pre-set responses ranging from 0% (i.e., all appraisals ordered through AMCs) to 100% (i.e., all appraisals ordered directly from licensed appraisers).

Responses are detailed in Table 1 and illustrated in Figure 1.

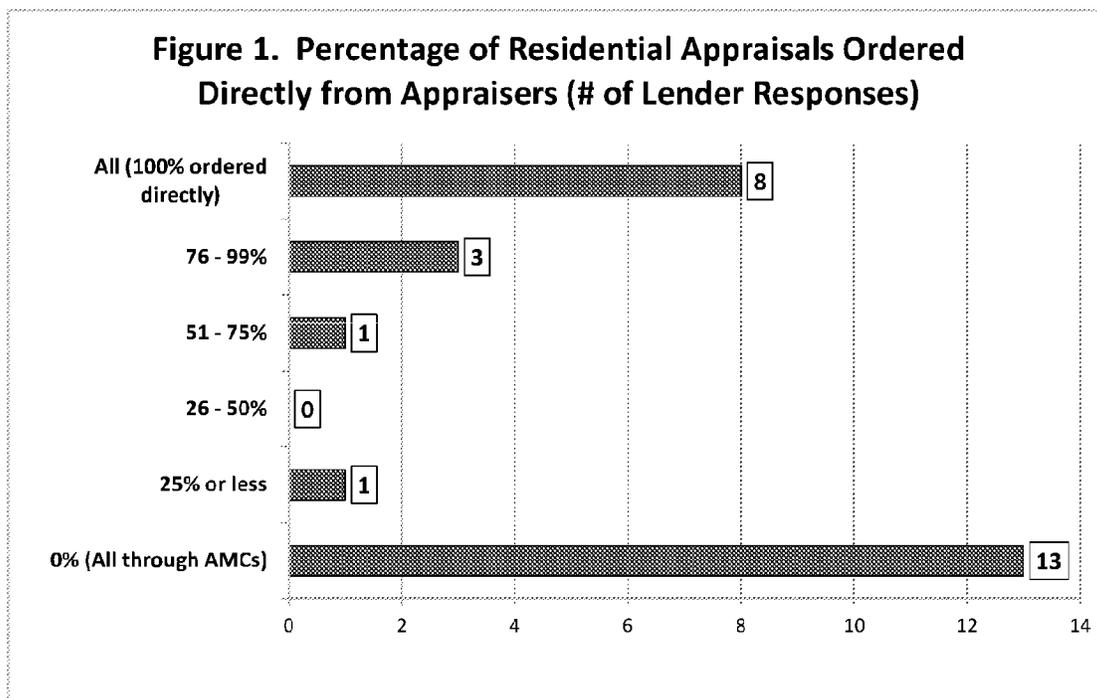
<u>% of Appraisals Ordered Directly from Appraisers</u>	<u>Count</u>	<u>%</u>
0% (All appraisals ordered through AMCs)	13	50.0%
25% or less	1	3.8%
26 - 50%	0	0.0%
51 - 75%	1	3.8%
76 - 99%	3	11.5%
All (100% ordered from licensed appraisers)	<u>8</u>	<u>30.8%</u>
Total	26	100.0%

Half of the lender respondents indicated that they ordered all of their residential appraisals through AMCs, while approximately 31 percent ordered all residential appraisals directly from licensed appraisers.

The remaining 19 percent of respondents used a combination of AMC- and direct-ordered appraisals in varying proportions.

Position/Occupation of Respondents

Question 1 of the lender survey asked respondents to indicate their occupation or position within their company.



The two most common responses from among the provided position descriptions (see Table 2) were *Mortgage loan officer* and *President*, each with four responses (15.4 percent). However, nine respondents (34.6 percent) selected *Other* and typed in their own position title. Their text responses are shown in Table 3.

Position/Occupation	Count	%
Mortgage loan officer	4	15.4%
President	4	15.4%
CEO	3	11.5%
Mortgage loan department manager	2	7.7%
Staff person/asst. in mortgage loan dept.	1	3.8%
Administrator	1	3.8%
Branch Manager	1	3.8%
Vice-President	1	3.8%
Other	9	34.6%
Total Responses	26	100.0%

Table 3. Other positions held by lender respondents in 2014.
Appraisal Review Manager
Appraiser Coordinator
Compliance Officer
Credit Officer
Lending Compliance Officer
Operation Manager
Owner / Mortgage Loan Officer
VP, Credit Administration
(No response)

Lender Survey Response Counts by Type of Lender

As detailed in Table 4 and illustrated in Figure 2, the largest number of lender respondents to the 2014 survey were associated with financial institutions with offices/branches in multiple parishes of Louisiana (n=11, 42.3 percent), followed by mortgage lending companies with multiple offices in Louisiana (n=7, 26.9 percent). Approximately 69 percent of lender responses came from these two types of lenders.

Table 4. Lender survey response counts by type of lender: 2014.		
Type of Lender	# of responses	% of responses
Local financial institution with office/branches in only one parish	2	7.7%
Financial institution with offices/branches in multiple parishes in La.	11	42.3%
Financial institution with offices/branches in multiple states	3	11.5%
Local/independent mortgage lending company	2	7.7%
Mortgage lending company with multiple offices in Louisiana	7	26.9%
Branch office of a multi-state/national mortgage lending company	0	0.0%
Other (“Mortgage Broker”)	<u>1</u>	<u>3.8%</u>
Total	26	100.0%

Percentage of lender respondents ordering some/all appraisals directly from appraisers: by type of lender

Among the 26 respondents who answered Question 5, 50 percent (n=13) ordered at least some residential appraisals directly from appraisers, while an equal 50 percent (n=13) ordered all appraisals through AMCs (Table 5).

Financial institutions were much more likely to order appraisals directly from appraisers, with approximately 69 percent ordering at least some appraisals directly from appraisers (versus 31 percent who ordered all appraisals through AMCs). This was essentially the reverse of mortgage lending companies, where 78 percent ordered all of their appraisals through AMCs, and only 22 percent ordered any appraisals directly from appraisers.

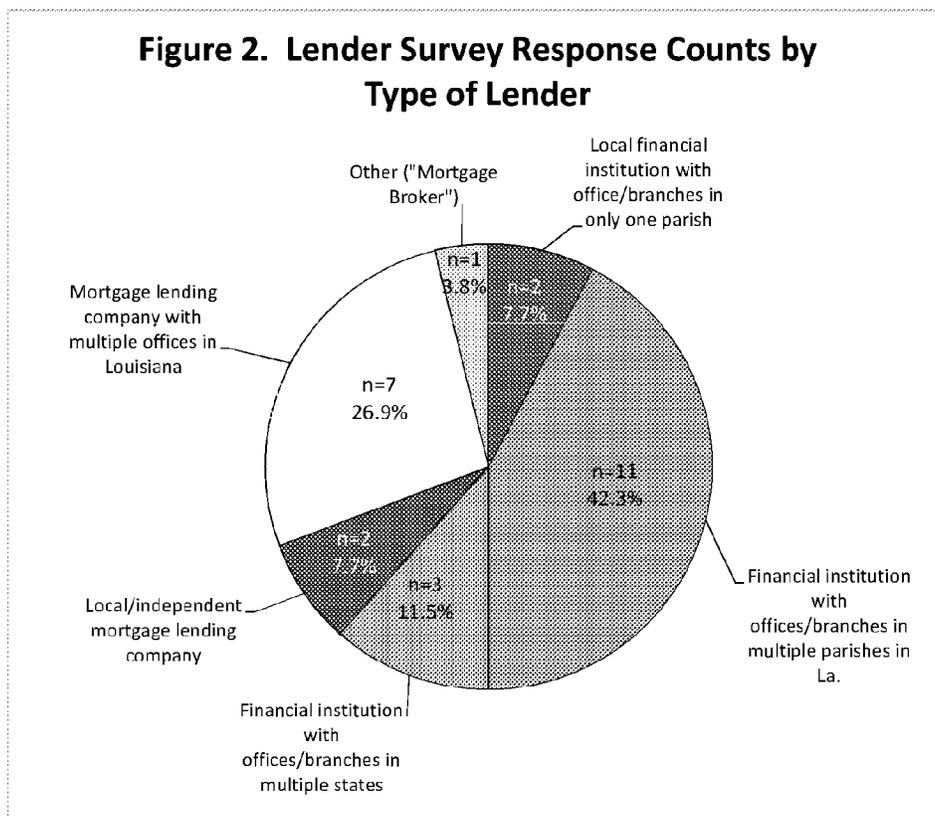


Table 5. Percentages of responding lenders ordering some/all non-AMC appraisals versus 100% AMC appraisals

	Financial Institutions	Mortgage Lending Companies	Other	All
Some/all non-AMC appraisals	68.8%	22.2%	0.0%	50.0%
100% AMC appraisals	<u>31.3%</u>	<u>77.8%</u>	<u>100.0%</u>	<u>50.0%</u>
Totals	100.0%	100.0%	100.0%	100.0%

Primary Office Location of Respondents

Respondents to the lender survey were asked to provide the zip code for the office location in which they spent the majority of their time in 2014. The zip codes were then matched to the parishes where located.

Table 6 lists the number of responses by parish for the 25 respondents who provided their zip code plus five who did not.

Respondents to the lender survey were located in 16 of Louisiana's 64 parishes, but provided at least some appraisal fee data for properties in all 64 parishes.

Lenders from East Baton Rouge Parish contributed 20 percent (n=6) of all lender responses, followed by St. Tammany with 10 percent (n=3), and Jefferson and Lafayette parishes with two responses each (6.7 percent).

Parish	Count	%
Caddo	1	3.3%
Calcasieu	1	3.3%
Concordia	1	3.3%
East Baton Rouge	6	20.0%
East Feliciana	1	3.3%
Iberia	1	3.3%
Jefferson	2	6.7%
La Salle	1	3.3%
Lafayette	2	6.7%
Ouachita	1	3.3%
Rapides	1	3.3%
Sabine	1	3.3%
St. Tammany	3	10.0%
Tangipahoa	1	3.3%
Terrebonne	1	3.3%
West Feliciana	1	3.3%
Unspecified	5	16.7%
Total	30	100.0%

Number of Mortgage Loans Processed in 2014

Question 4 of the lender survey asked respondents to indicate how many mortgage loans for properties in Louisiana they were involved with in processing during 2014.

As shown in Table 7 and Figure 3, most respondents indicated processing high numbers of mortgage loans. Almost two-thirds or responding lenders (n=16, 64 percent) indicated that they handled over 100 mortgage loans in 2014.

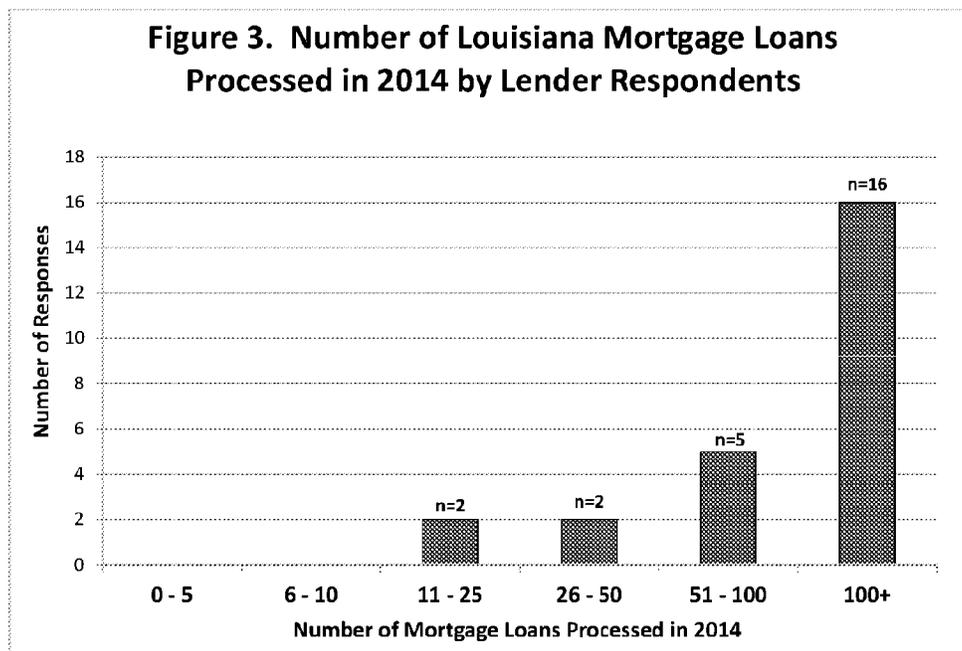
Appraisers

Position/Occupation During 2014

Appraisers completing the survey were asked in Question 2 to indicate their position/occupation in 2014. Responses were provided by 329 respondents.

As shown in Table 8 and Figure 4, almost three-fourths of responding appraisers (72.9 percent) were Independent Certified Residential Appraisers in 2014. Another 18.5 percent were Independent Certified General Appraisers, and the remaining 8.6 percent were In-House Staff Appraisers, Appraiser Trainees, or *Other*.

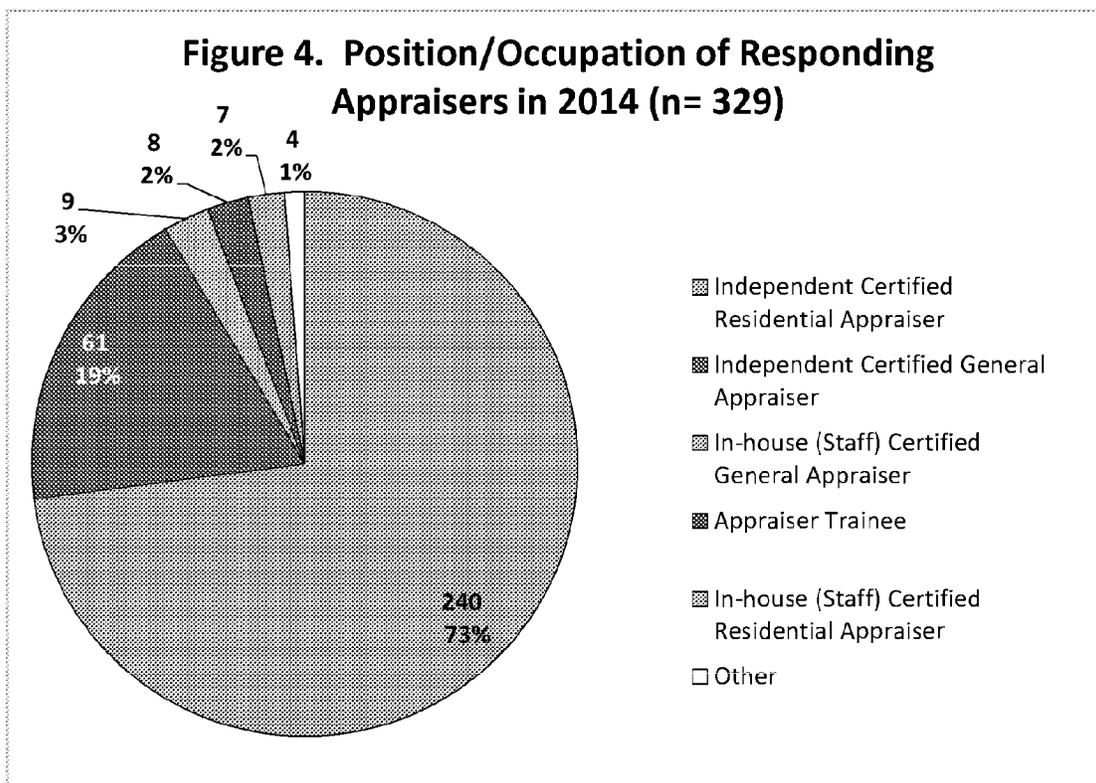
<u>Number of Loans</u>	<u>Count</u>	<u>%</u>
0 - 5	0	0.0%
6 - 10	0	0.0%
11 - 25	2	8.0%
26 - 50	2	8.0%
51 - 100	5	20.0%
100+	<u>16</u>	<u>64.0%</u>
Total	25	100.0%



The four *Other* responses included one Appraisal Manager, one Appraisal Coordinator, one trainee who became a Certified Residential Appraiser during 2014, and one blank response.

Table 8. Position/occupation held in 2014 by respondents to the appraiser survey.

Position/Occupation	Count	%
Independent Certified General Appraiser	240	72.9%
Independent Certified Residential Appraiser	61	18.5%
In-house (Staff) Certified Residential Appraiser	9	2.7%
Appraiser Trainee	8	2.4%
In-house (Staff) Certified General Appraiser	7	2.1%
Other	4	1.2%
Total	329	100.0%



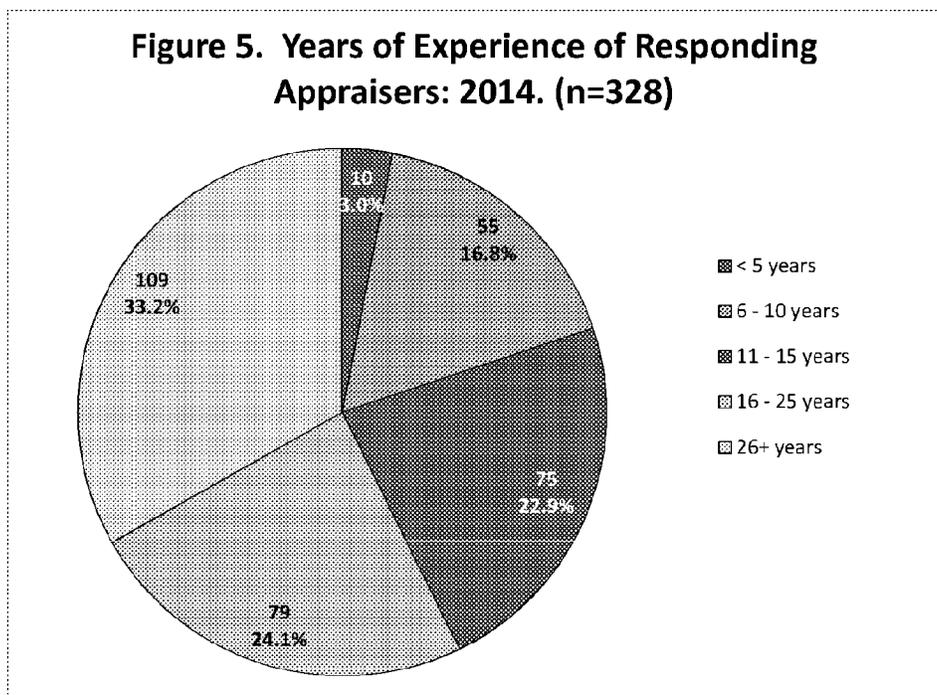
Experience Levels of Responding Appraisers

Question 3 of the appraisers’ survey asked respondents how many years they had been in the appraisal business. Responses are detailed in Table 9 and Figure 5.

Approximately one-third of responding appraisers (n=109, 33.2 percent) indicated that they had more than 25 years of experience in the appraisal profession. This was followed by 16 – 25 years and 11 – 15 years, with 79 (24.1 percent) and 75 (22.9 percent) responses, respectively.

There were 55 respondents (16.8 percent) with 6 – 10 years of experience, while the <5 years category had, by far, the fewest number of responses (n=10, 3.0 percent).

<u>Years of Experience</u>	<u>Number of Responses</u>	<u>% of Responses</u>
< 5 years	10	3.0%
6 - 10 years	55	16.8%
11 - 15 years	75	22.9%
16 - 25 years	79	24.1%
26+ years	<u>109</u>	<u>33.2%</u>
Totals	328	100.0%



Primary Office Location of Responding Appraisers

Respondents were asked to provide the zip code of the office location where they spent the majority of their time in 2014. These zip codes were then converted to the parish where the zip code is located.

The number and percentage of responding appraisers by parish are detailed in Table 10.

Three parishes – Jefferson, East Baton Rouge, and St. Tammany – were each the primary office locations for over 10 percent of respondents, with 15.2 percent, 11.2 percent, and 10.6 percent of all responses, respectively. Combined, these three parishes accounted for 37.0 percent of all responses.

The remaining responses were spread between 33 other parishes and six other states (Alabama (n=1), Florida (n=2), Georgia (n=1), Maine (n=1), Mississippi (n=6), and Texas (n=3)), plus three respondents who did not provide a location.

Twenty-eight parishes were not indicated as the primary office location of any responding appraisers, but fee data were reported for all 64 parishes.

Volume of Residential Appraisals Conducted in 2014

Responding appraisers were asked in Question 5 to indicate how many residential appraisals they conducted for properties in Louisiana in 2014.

As shown in Table 11 and Figure 6, 100 respondents (30.5 percent) indicated that they conducted 101 – 250 residential appraisals in 2014, and 96 respondents (29.3 percent) said they conducted 251 – 400 appraisals in 2014.

Combined, these two categories made up approximately 60 percent of all responses.

The third most-commonly indicated answer was 0 - 25 appraisals with 13.1 percent, followed by 401+ (12.5 percent) and 51 – 100 (11.3 percent). Only 11 respondents (3.4 percent) selected the 26 – 50 answer.

Percentage of Appraisals Done Directly for Clients or Lenders (non-AMC)

Question 6 of the appraiser's survey asked respondents to indicate what percentage of their 2014 residential appraisals were completed directly for clients or lenders, i.e. NOT routed through an appraisal management company.

As detailed in Table 12 and illustrated in Figure 7, 21 respondents (6.4 percent) indicated that all of their 2014 residential appraisals were conducted for AMCs. Because this survey was designed to collect information specifically on non-AMC fees, these respondents were directed to the end of the survey without being asked for any fee information.

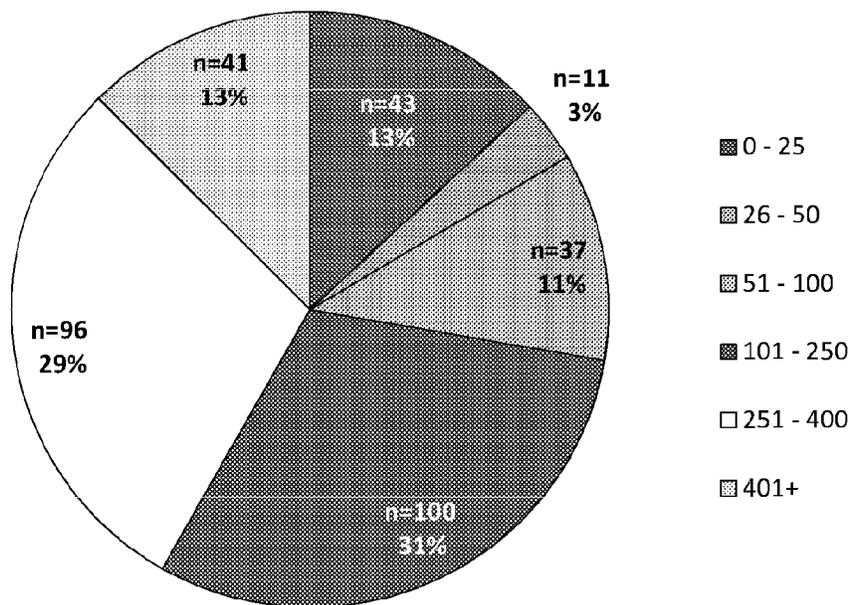
The single answer with the most responses to Question #6 was the 25% or less category (n=87, 26.4 percent), indicating that 75 percent or more of those respondents' residential appraisal business in 2014 was conducted via AMCs. Combining the 25% or less and the 26 – 50% (n=70, 21.2 percent) categories, approximately 48 percent of responding appraisers indicated that over half (but not all) of their 2014 residential appraisals were conducted for AMCs.

Table 10. Number and percentage of responding appraisers by parish/state of primary office: 2014.

<u>Parish/State</u>	<u>Count</u>	<u>%</u>
Acadia	3	0.9%
Ascension	7	2.1%
Assumption	1	0.3%
Avoyelles	2	0.6%
Beauregard	2	0.6%
Bossier	8	2.4%
Caddo	17	5.2%
Calcasieu	14	4.2%
Caldwell	2	0.6%
Claiborne	2	0.6%
Concordia	1	0.3%
De Soto	1	0.3%
East Baton Rouge	37	11.2%
Franklin	1	0.3%
Iberia	6	1.8%
Jefferson	50	15.2%
Jefferson Davis	2	0.6%
Lafayette	21	6.4%
Lafourche	2	0.6%
Lincoln	2	0.6%
Livingston	10	3.0%
Orleans	15	4.5%
Ouachita	10	3.0%
Pointe Coupee	1	0.3%
Rapides	12	3.6%
Sabine	1	0.3%
St. Bernard	2	0.6%
St. Charles	4	1.2%
St. Landry	4	1.2%
St. Martin	2	0.6%
St. Mary	1	0.3%
St. Tammany	35	10.6%
Tangipahoa	15	4.5%
Terrebonne	9	2.7%
Vermilion	10	3.0%
Webster	1	0.3%
AL	1	0.3%
FL	2	0.6%
GA	1	0.3%
ME	1	0.3%
MS	6	1.8%
TX	3	0.9%
Unspecified	<u>3</u>	<u>0.9%</u>
Totals	330	100.0%

<u>Number of Appraisals</u>	<u>Responses</u>	<u>%</u>
0 - 25	43	13.1%
26 - 50	11	3.4%
51 - 100	37	11.3%
101 - 250	100	30.5%
251 - 400	96	29.3%
401+	41	12.5%
Totals	328	100.0%

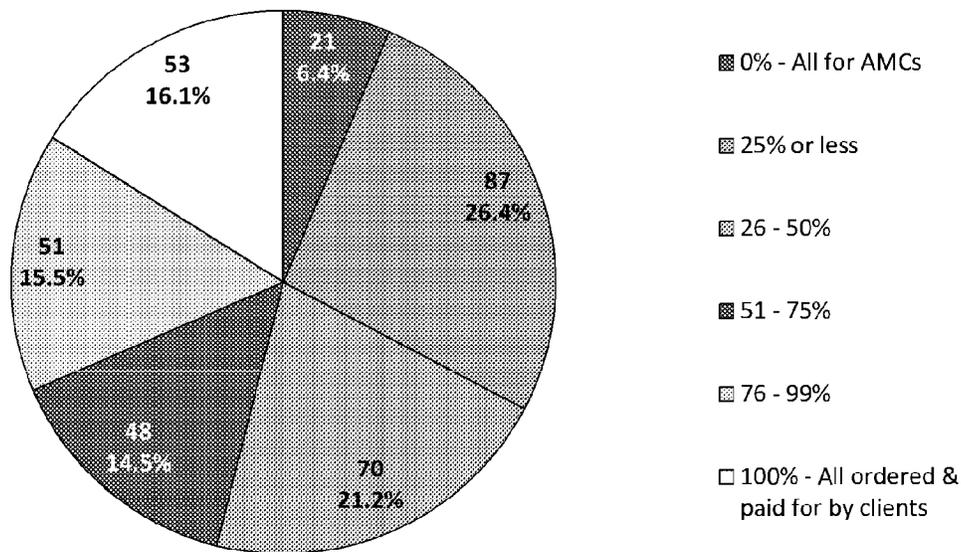
Figure 6. Number of LA Residential Appraisals Conducted in 2014 (n=328)



Summing the three remaining response categories, approximately 46 percent of respondents indicated that over half of their residential appraisals in 2014 were conducted directly for clients or lenders, including 16.1 percent who indicated that all of their 2014 residential appraisals were done directly for clients/lenders.

<u>Percentage of non-AMC Appraisals</u>	<u>Count</u>	<u>%</u>
0% - All for AMCs	21	6.4%
25% or less	87	26.4%
26 - 50%	70	21.2%
51 - 75%	48	14.5%
76 - 99%	51	15.5%
100% - All ordered & paid for by clients	<u>53</u>	<u>16.1%</u>
Totals	330	100.0%

Figure 7. Percentage of 2014 Residential Appraisals Completed Directly for Non-AMC Clients (n=330)



APPRAISAL FEE DATA

Appraisal fee information was collected from mortgage lenders and licensed appraisers for properties in all 64 parishes in Louisiana for five types of residential appraisals:

- Form 1004 (Full appraisal)
- Form 1004 FHA (Full appraisal for FHA)
- Form 1025 (Small (1-4 units) residential income property appraisal)
- Form 1073 (Individual condominium unit appraisal)
- Form 2055 (Exterior-only inspection appraisal)

The survey collected separate fees for each appraisal type depending on whether the property was located in an urban, suburban, or rural location.

Mean (average) fees are subject to skewing by either very high or very low responses, so median fees will be used throughout this analysis. Because the median is the value at the midpoint of all responses, with an equal number higher and lower, it is a useful proxy for determining “mid-range” or “typical” appraisal fees.

The number of responses (distinct appraisers and lenders) and the number of non-blank observations (n) included in calculating the median are also reported for all data cells in the following tables. Detailed descriptive statistics, including mean, mode, minimum, maximum, and standard deviation are included in the tables in Appendix 1.

2014 Median Appraisal Fees by Type of Appraisal (Statewide)

Median fees from the survey responses for each of the appraisal types, across all 64 parishes and all three location types (urban, suburban, rural), are detailed in Table 13.

Form 1025 appraisals had the highest median response statewide across all location types (\$600), followed by Form 1004, 1004 FHA and Form 1073 which all had medians of \$450. The lowest statewide median appraisal fee was for Form 2055 appraisals (\$350).

The number of observations for each appraisal type is much higher than the number of individuals responding to the surveys because many respondents provided data for multiple parishes and location types.

	Form 1004	Form 1004 FHA	Form 1025	Form 1073	Form 2055
Responses	301	239	201	186	223
Observations	4,232	3,294	2,170	1,857	2,613
Median	\$450	\$450	\$600	\$450	\$350

Table 14 separates the statewide statistics for each appraisal type by the location type of the subject property: urban, suburban, or rural.

Table 14. Median appraisal fees by type of appraisal and location (statewide): 2014.

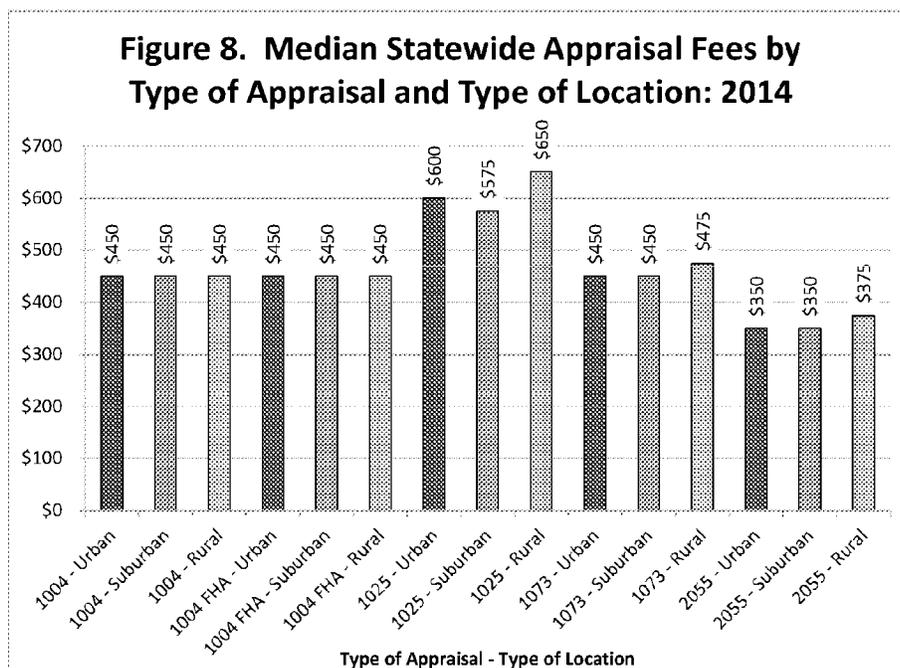
	Form 1004			Form 1004 FHA			Form 1025		
	Urban	Suburb.	Rural	Urban	Suburb.	Rural	Urban	Suburb.	Rural
Responses	242	277	242	190	224	195	160	184	132
Observations	1,295	1,579	1,358	1,009	1,219	1,066	701	848	621
Median	\$450	\$450	\$450	\$450	\$450	\$450	\$600	\$575	\$650
	Form 1073			Form 2055					
	Urban	Suburb.	Rural	Urban	Suburb.	Rural			
Responses	151	176	115	182	204	178			
Observations	621	730	506	802	987	824			
Median	\$450	\$450	\$475	\$350	\$350	\$375			

Median appraisal fees for all three location types – urban, suburban, and rural – were equal at \$450 for appraisal types Form 1004 and Form 1004 FHA.

For Form 1073 and Form 2055 appraisals, the median fees for urban and suburban properties were equal at \$450 (Form 1073) and \$350 (Form 2055), while the rural fees were \$25 higher - \$475 for Form 1073 and \$375 for Form 2055.

Form 1025 appraisals had a unique pattern of median fees among the three location types. The median fee for urban properties was \$600, while the median fee for suburban properties was \$25 lower (\$575) and for rural properties was \$50 higher (\$650).

Figure 8 graphically illustrates the statewide medians by appraisal and location type detailed in Table 14.

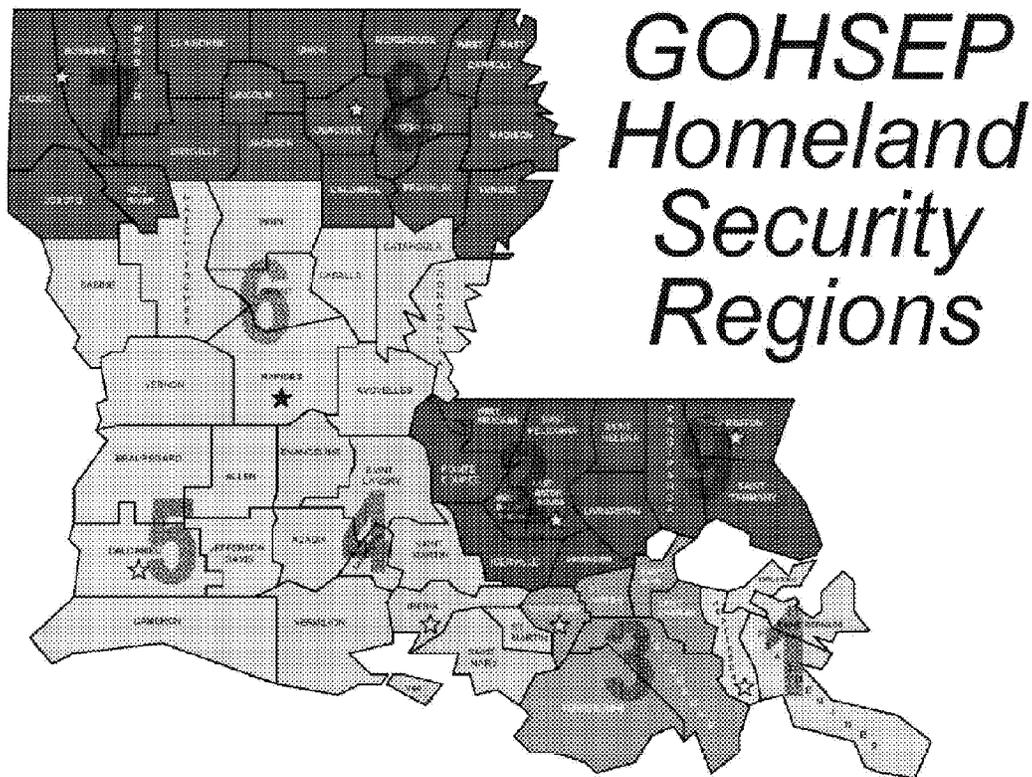


2014 Median Appraisal Fees by Region

In order to compare median appraisal fees for different regions of the state (as called for in the Federal guidelines), a map of Louisiana used by the Governor’s Office of Homeland Security and Emergency Preparedness (GOHSEP) was utilized to divide the state into nine regions (Figure 9). A table listing the parishes included in each region is attached as Appendix 4.

The survey collected appraisal fee information for each parish individually. Responses for the 64 parishes were then grouped into appropriate regions based on the GOHSEP map.

Figure 9. GOHSEP regional map used to group the 64 parishes into nine regions.



Form 1004 Appraisal Fees by Region

Tables 15, 16, and 17 detail the median Form 1004 fees for urban, suburban, and rural properties, respectively, in all nine regions.

Median Form 1004 fees for urban, suburban, and rural properties (Tables 15-17) did not differ in Regions 2, 4, 6, and 7 – all equaling \$450.

Median Form 1004 fees in Regions 1 and 3 displayed identical patterns - \$425 for urban properties, \$400 for suburban properties, and \$450 for those in rural areas.

Regions 8 and 9 also had duplicate fee patterns - \$425 for urban and suburban properties and \$450 for rural properties.

Region 5 had a unique pattern of median fees - \$450 for urban and suburban properties and \$500 for those in rural areas.

Figure 10 illustrates graphically the median fees for Form 1004 appraisals by property type in all nine regions.

	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
Responses	71	58	45	52	39	33	35	17	46
Obs. (n)	172	256	106	214	99	137	130	90	91
Median	\$425	\$450	\$425	\$450	\$450	\$450	\$450	\$425	\$425

	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
Responses	89	70	72	56	40	36	37	19	79
Obs. (n)	239	322	158	234	105	143	138	99	141
Median	\$400	\$450	\$400	\$450	\$450	\$450	\$450	\$425	\$425

	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
Responses	38	65	41	56	44	40	38	21	55
Obs. (n)	102	291	102	230	110	149	145	120	109
Median	\$450	\$450	\$450	\$450	\$500	\$450	\$450	\$450	\$450

Form 1004 FHA Appraisal Fees by Region

Tables 18-20 detail the median Form 1004 FHA fees reported by respondents for urban, suburban, and rural properties in the nine regions.

Median 1004 FHA appraisal fees for both urban and suburban properties were \$450 in all nine regions.

For rural properties, median fees for Form 1004 FHA appraisals were the same as urban and suburban fees (\$450) in regions 1, 2, 6, 7, and 9. The median fee for rural properties was \$25 higher (\$475) in Region 3 and \$50 higher (\$500) in regions 4, 5 and 8.

Form 1004 FHA median fees from Tables 18–20 are illustrated graphically in Figure 11.

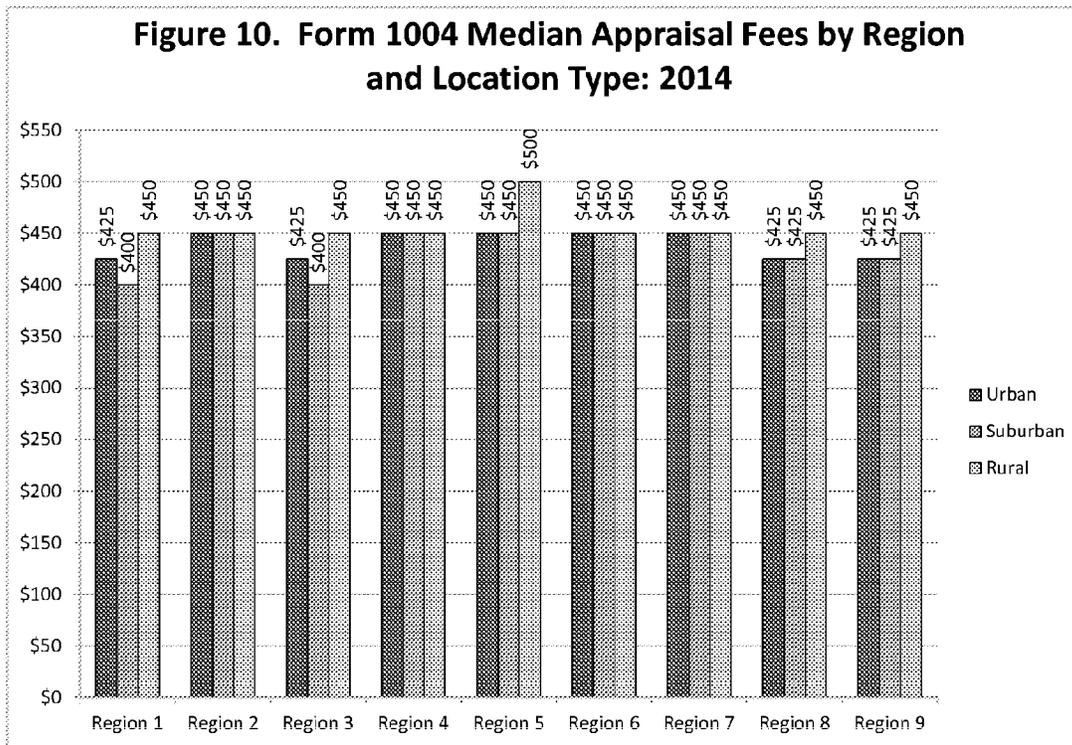


Table 18. Median Form 1004 FHA appraisal fees for URBAN properties by region: 2014.

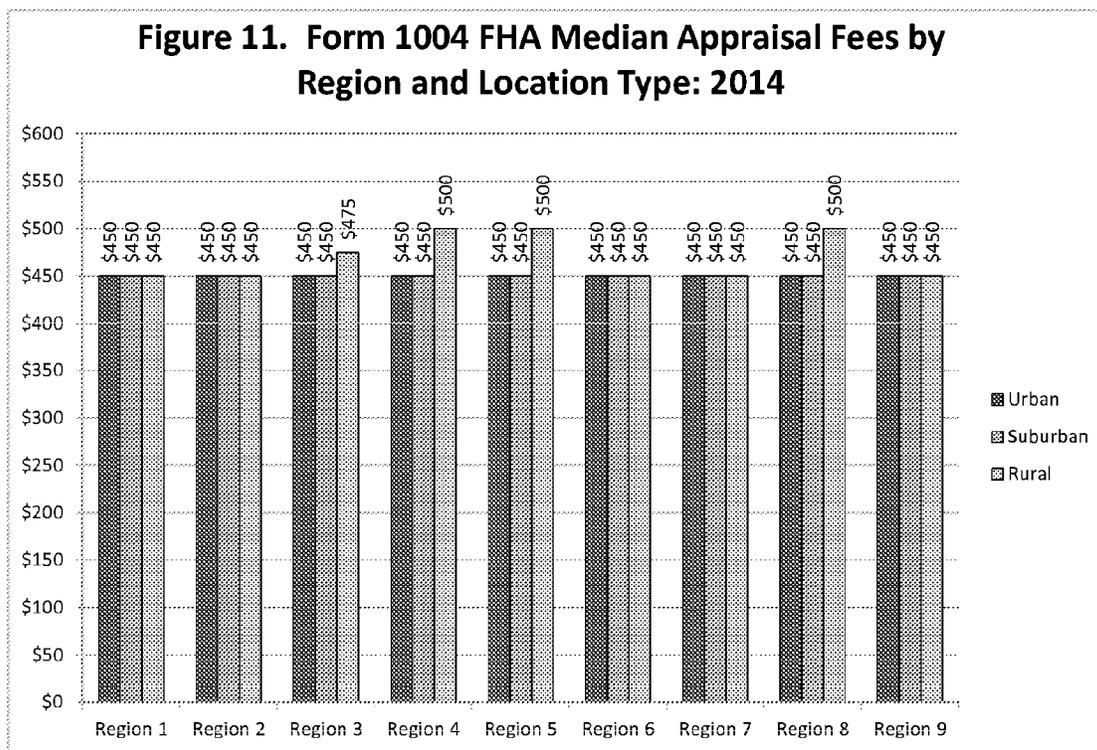
	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
Responses	56	46	37	36	28	21	30	13	35
Obs. (n)	138	203	83	160	68	106	108	72	71
Median	\$450	\$450	\$450	\$450	\$450	\$450	\$450	\$450	\$450

Table 19. Median Form 1004 FHA appraisal fees for SUBURBAN properties by region: 2014.

	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
Responses	73	54	57	38	29	25	31	16	55
Obs. (n)	197	242	121	171	73	115	114	83	103
Median	\$450	\$450	\$450	\$450	\$450	\$450	\$450	\$450	\$450

Table 20. Median Form 1004 FHA appraisal fees for RURAL properties by region: 2014.

	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
Responses	33	53	35	38	31	27	32	17	42
Obs. (n)	91	224	82	165	75	120	120	100	89
Median	\$450	\$450	\$475	\$500	\$500	\$450	\$450	\$500	\$450



As shown in Table 21, median fees for Form 1004 FHA appraisals ranged from the same to \$50 higher compared to Form 1004 appraisals.

For urban properties, the median fees for Form 1004 and Form 1004 FHA appraisals were the same in regions 2, 4, 5, 6, and 7, while Form 1004 FHA median fees were \$25 higher in regions 1, 3, 8, and 9.

For suburban properties, Form 1004 FHA median fees were the same as Form 1004 median fees in regions 2, 4, 5, and 6, \$25 higher in regions 7 – 9, and \$50 higher in regions 1 and 3.

For rural properties, median fees for 1004 FHA appraisals were \$50 higher than 1004 appraisals in regions 4 and 8, \$25 higher in Region 3, and equal in regions 1, 2, 5, 6, 7, and 9.

Form 1025 Appraisal Fees by Region

Form 1025 appraisals – for small (1-4 units) residential income properties – had the highest median fees of the five appraisal types in the 2014 survey, ranging from \$100 - \$350 higher than Form 1004 appraisals depending on region and location type.

Form 1025 appraisal fees showed large variations both between regions – with median fees ranging from \$550 (regions 1, 3, & 9) to \$800 (Region 8) – and within regions (see Appendix 1).

Median Form 1025 fees by region for urban, suburban, and rural properties are shown in Tables 22, 23, and 24, respectively, and compared graphically in Figure 12.

Table 21. Comparison of Form 1004 FHA and Form 1004 median fees for appraisals in nine regions: 2014.

	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
1004 FHA Urban	\$450	\$450	\$450	\$450	\$450	\$450	\$450	\$450	\$450
1004 Urban	<u>\$425</u>	<u>\$450</u>	<u>\$425</u>	<u>\$450</u>	<u>\$450</u>	<u>\$450</u>	<u>\$450</u>	<u>\$425</u>	<u>\$425</u>
Difference	\$25	\$0	\$25	\$0	\$0	\$0	\$0	\$25	\$25
1004 FHA Suburban	\$450	\$450	\$450	\$450	\$450	\$450	\$450	\$450	\$450
1004 Suburban	<u>\$400</u>	<u>\$450</u>	<u>\$400</u>	<u>\$450</u>	<u>\$450</u>	<u>\$450</u>	<u>\$450</u>	<u>\$425</u>	<u>\$425</u>
Difference	\$50	\$0	\$50	\$0	\$0	\$0	\$25	\$25	\$25
1004 FHA Rural	\$450	\$450	\$475	\$500	\$500	\$450	\$450	\$500	\$450
1004 Rural	<u>\$450</u>	<u>\$450</u>	<u>\$450</u>	<u>\$450</u>	<u>\$500</u>	<u>\$450</u>	<u>\$450</u>	<u>\$450</u>	<u>\$450</u>
Difference	\$0	\$0	\$25	\$50	\$0	\$0	\$0	\$50	\$0

Median Form 1025 fees for urban, suburban, and rural properties were all equal in four regions – Region 2 (\$600), Region 4 (\$700), Region 5 (\$750), and Region 8 (\$800).

Urban and suburban Form 1025 median fees were equal in Region 1 (\$550), Region 6 (\$750), Region 7 (\$600), and Region 9 (\$550), while rural median fees were \$25 - \$75 higher.

In Region 3 the median Form 1025 urban fee was \$563 (\$562.50), the median suburban fee was slightly lower at \$550, and the rural fee was somewhat higher at \$600.

Table 22. Median Form 1025 appraisal fees for URBAN properties by region: 2014.

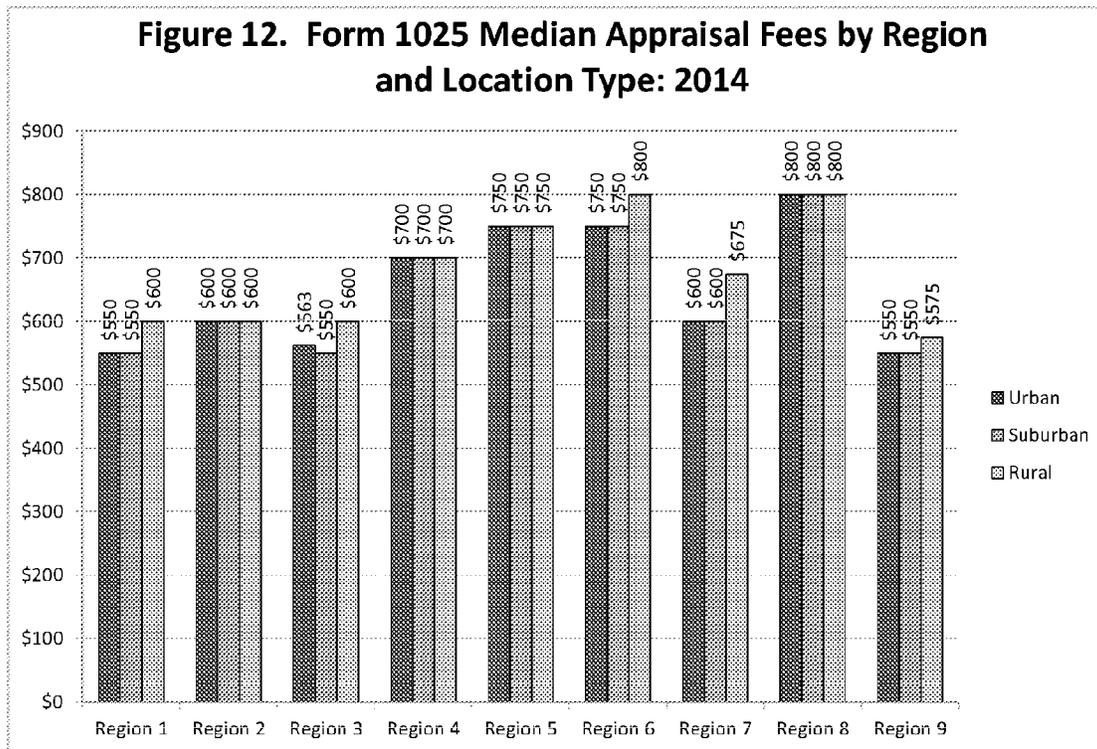
	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
Responses	57	29	31	29	23	15	22	9	26
Obs. (n)	138	111	66	117	48	64	59	48	50
Median	\$550	\$600	\$563	\$700	\$750	\$750	\$600	\$800	\$550

Table 23. Median Form 1025 appraisal fees for SUBURBAN properties by region: 2014.

	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
Responses	72	37	50	29	23	15	20	11	45
Obs. (n)	194	137	100	122	48	64	56	47	80
Median	\$550	\$600	\$550	\$700	\$750	\$750	\$600	\$800	\$550

Table 24. Median Form 1025 appraisal fees for RURAL properties by region: 2014.

	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
Responses	26	31	24	27	22	16	17	7	31
Obs. (n)	71	116	53	116	47	65	50	42	61
Median	\$600	\$600	\$600	\$700	\$750	\$800	\$675	\$800	\$575



Form 1073 Appraisal Fees by Region

Form 1073 appraisals – for individual condominium units - had median fees ranging from equal to \$175 higher than Form 1004 appraisals, depending on region and location type (Tables 25-27).

Table 25. Median Form 1073 appraisal fees for URBAN properties by region: 2014.

	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
Responses	54	38	27	23	15	12	18	4	30
Obs. (n)	133	143	58	73	29	44	56	30	55
Median	\$438	\$450	\$450	\$500	\$550	\$575	\$450	\$600	\$450

Table 26. Median Form 1073 appraisal fees for SUBURBAN properties by region: 2014.

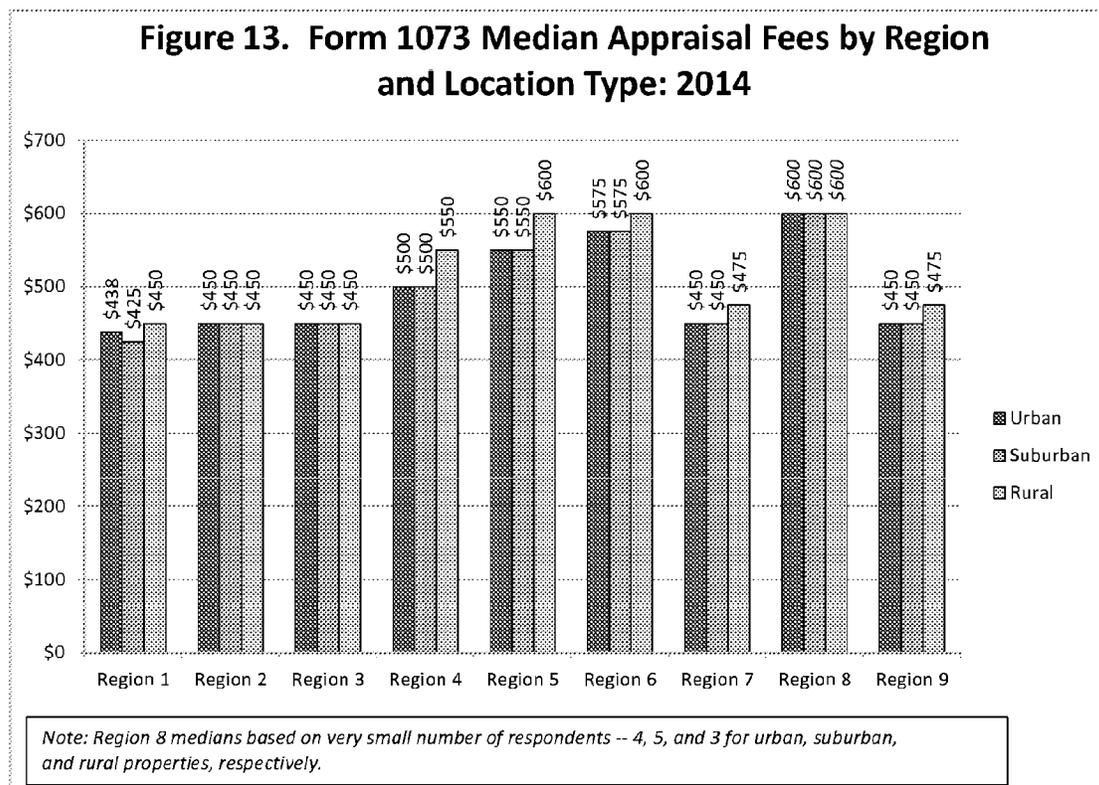
	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
Responses	70	44	41	25	15	12	17	5	46
Obs. (n)	180	161	81	75	29	44	54	28	78
Median	\$425	\$450	\$450	\$500	\$550	\$575	\$450	\$600	\$450

	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
Responses	23	34	17	21	15	12	13	3	29
Obs. (n)	65	133	37	70	29	44	46	25	57
Median	\$450	\$450	\$450	\$550	\$600	\$600	\$475	\$600	\$475

As illustrated in Figure 13, urban and suburban median fees for Form 1073 appraisals differed in only Region 1, where the median urban fee was \$438 (\$437.50) and the median suburban fee was \$425. In the other eight regions the median urban and suburban fees were equal, ranging from \$450 in regions 2, 3, 7, and 9 to \$600 in Region 8.

Median Form 1073 appraisal fees for rural properties were equal to urban and suburban fees in Regions 2, 3, and 8, and \$12 - \$50 higher in Regions 1, 4, 5, 6, 7, and 9.

Note that the median Form 1073 appraisal fees for Region 8 are based on very small numbers of responses (from 3 to 5 appraisers).



Form 2055 Appraisal Fees by Region

Form 2055 appraisals – exterior-only inspection appraisals – had the lowest median fees of all appraisal types in the survey, ranging from \$350 to \$400 depending on region and location of property (Tables 28-30).

As shown in Figure 14, Form 2055 median fees for urban and suburban properties differed only in regions 4, 5, and 8. Median fees for suburban properties were somewhat higher (\$20 - \$25) in regions 4 and 5, and \$45 lower in Region 8.

Median Form 2055 fees for rural properties were the same as for urban and suburban properties in regions 2 and 7 (\$350) and Region 6 (\$400), and \$25 higher than either urban or suburban median fees in regions 1, 3, and 9 (\$375 vs. \$350).

In regions 4 and 5, median Form 2055 fees for rural properties equaled those for suburban properties (\$400), with both \$20 - \$25 higher than the median fee for urban properties.

In Region 8, the median fee for Form 2055 appraisals of rural properties was also \$400, \$5 higher than the median urban fee (\$395) and \$50 higher than the median suburban fee (\$350).

Table 28. Median Form 2055 appraisal fees for URBAN properties by region: 2014.

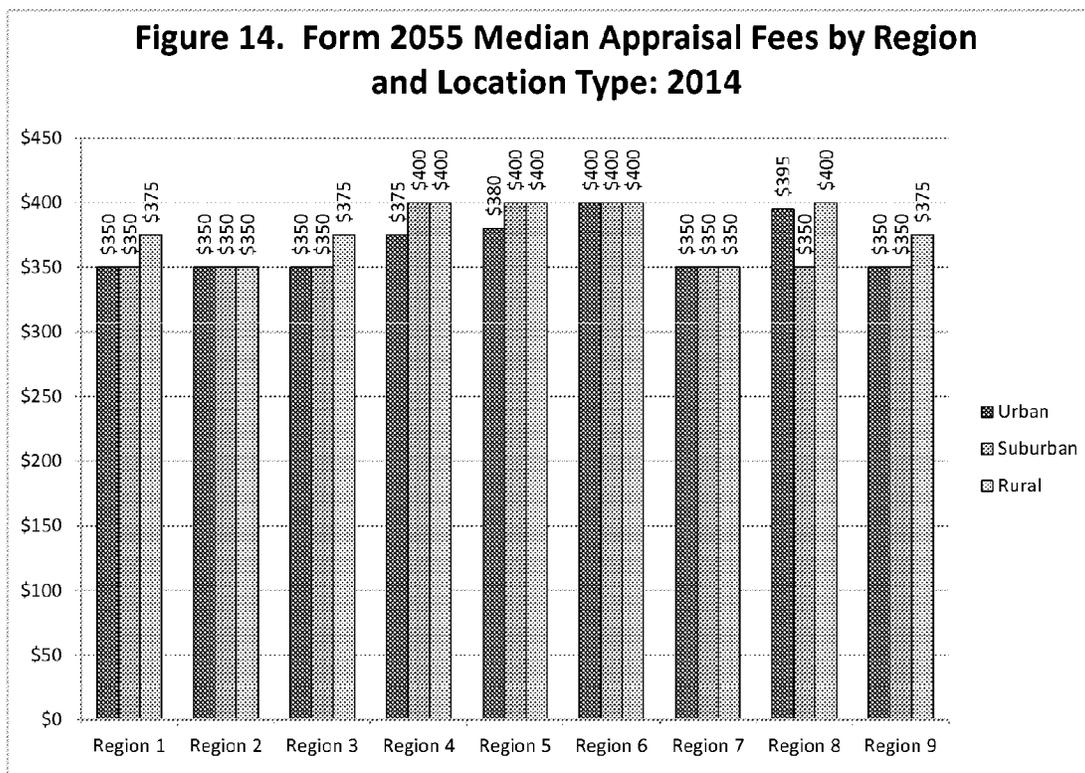
	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
Responses	50	38	34	34	27	18	26	12	28
Obs. (n)	127	147	70	141	54	73	84	53	53
Median	\$350	\$350	\$350	\$375	\$380	\$400	\$350	\$395	\$350

Table 29. Median Form 2055 appraisal fees for SUBURBAN properties by region: 2014.

	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
Responses	64	47	52	35	27	20	26	13	45
Obs. (n)	180	192	104	147	59	79	88	58	80
Median	\$350	\$350	\$350	\$400	\$400	\$400	\$350	\$350	\$350

Table 30. Median Form 2055 appraisal fees for RURAL properties by region: 2014.

	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
Responses	25	44	30	36	28	23	27	13	36
Obs. (n)	69	174	65	146	60	83	89	69	69
Median	\$375	\$350	\$375	\$400	\$400	\$400	\$350	\$400	\$375



COMPARISON OF 2014 MEDIAN APPRAISAL FEES TO 2012 AND 2013

The 2014 LREAB Appraisal Fee Survey marks the third consecutive year that LREAB has collected appraisal fee data for the state of Louisiana.

In order to provide insight into trends in appraisal fees in the state, Figures 15 – 24 compare median fees for the five appraisal types combined across location types (urban, suburban, rural) for the state as a whole and each of the nine regions for 2012, 2013, and 2014.

As shown in Figure 15, statewide median fees have increased somewhat (\$25 - \$50) over the three year period for all appraisal types except Form 1004 FHA, for which they have been flat at \$450.

Regions 1-3, 7, and 9 (Figures 16-18, 22, & 24) have shown trends in median fees fairly similar to the statewide trends. Median fees reported by appraisers and lenders in those regions have occasionally declined from one year to the next, but for the most part have been flat or exhibited modest increases over the 3-year period of \$25 - \$75.

Regions 5 and 8 have shown more dramatic increases in median Form 1025 fees (\$150 - \$300), and regions 4 and 6 have shown substantial increases in both Form 1025 and Form 1073 median fees (\$100 - \$250). The very large increases (50 – 60 percent) in Form 1025 medians for 2014 in regions 6 and 8 are particularly noteworthy.

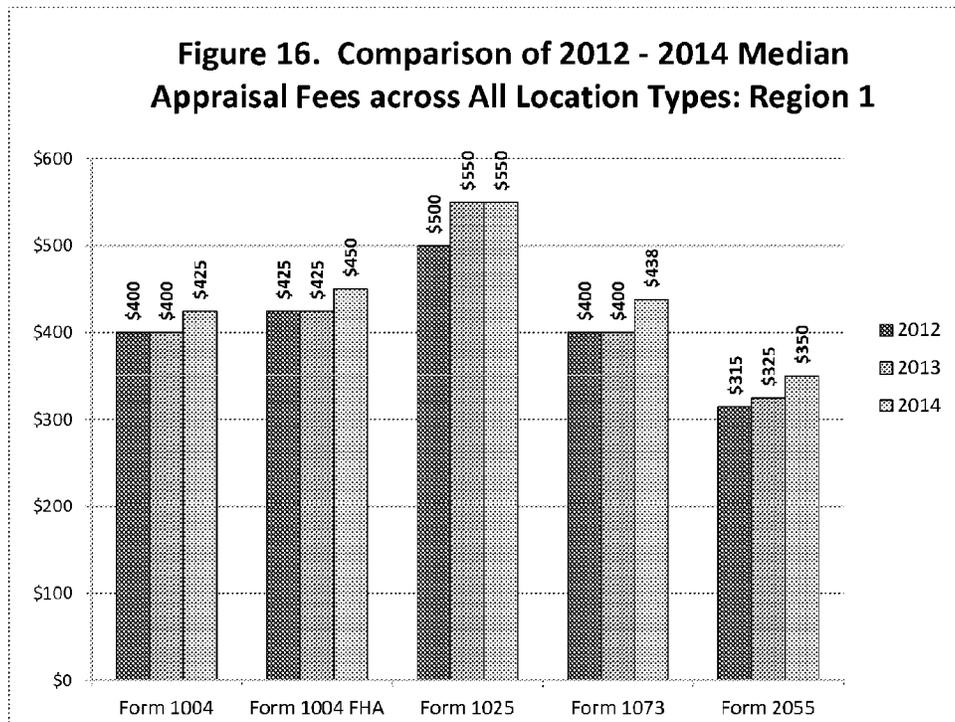
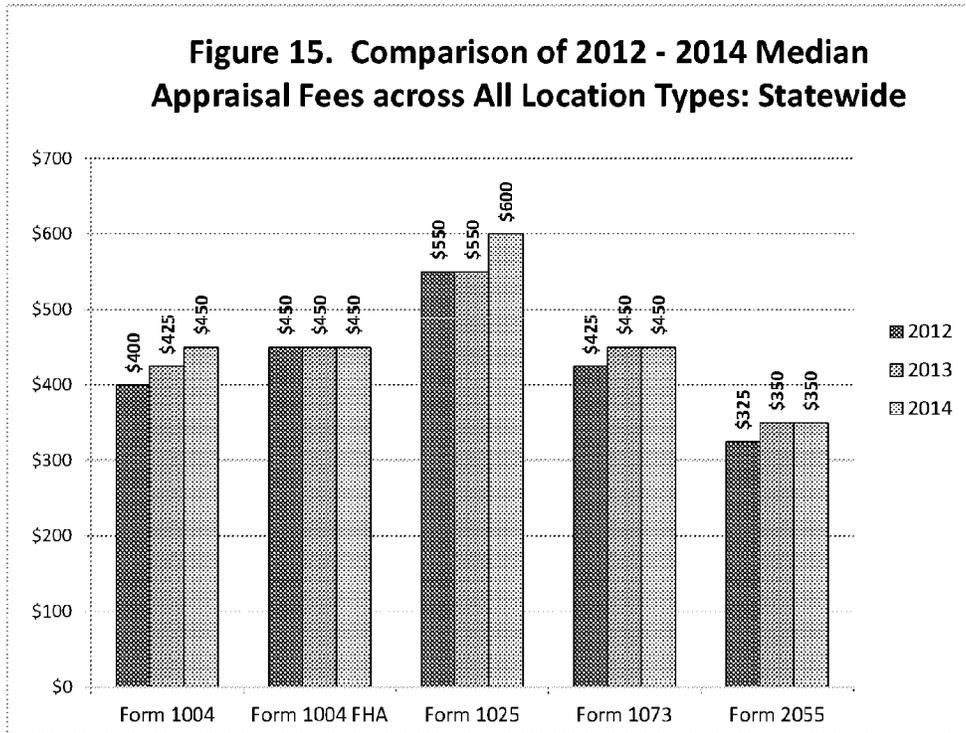


Figure 17. Comparison of 2012 - 2014 Median Appraisal Fees across All Location Types: Region 2

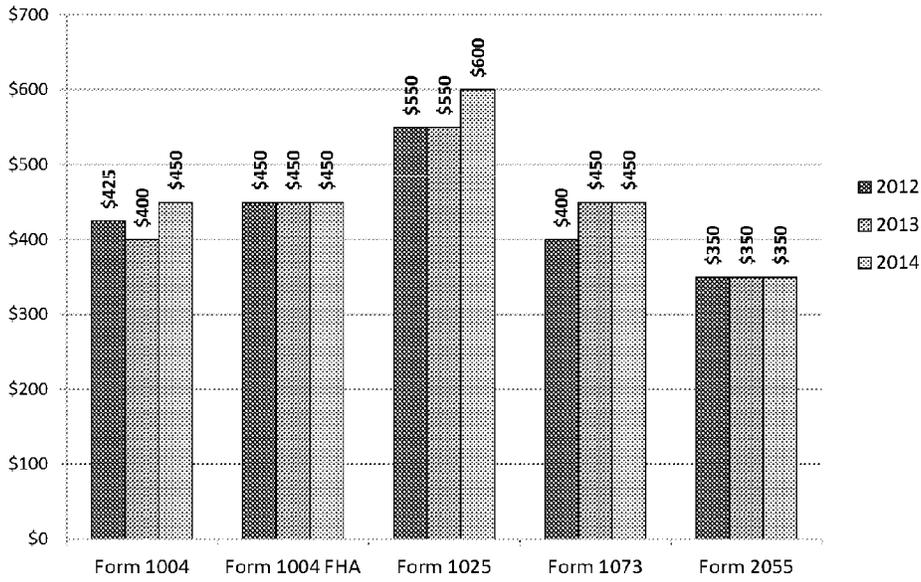
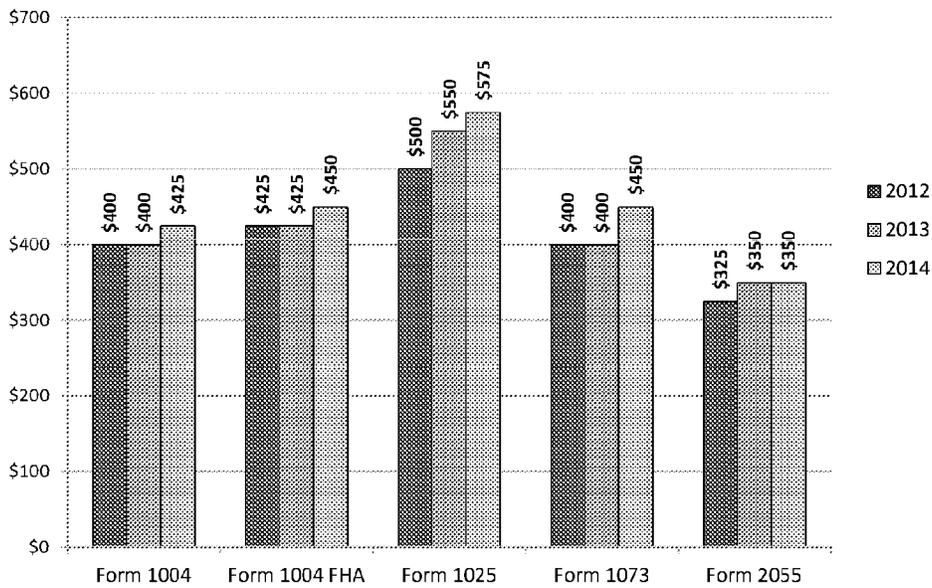
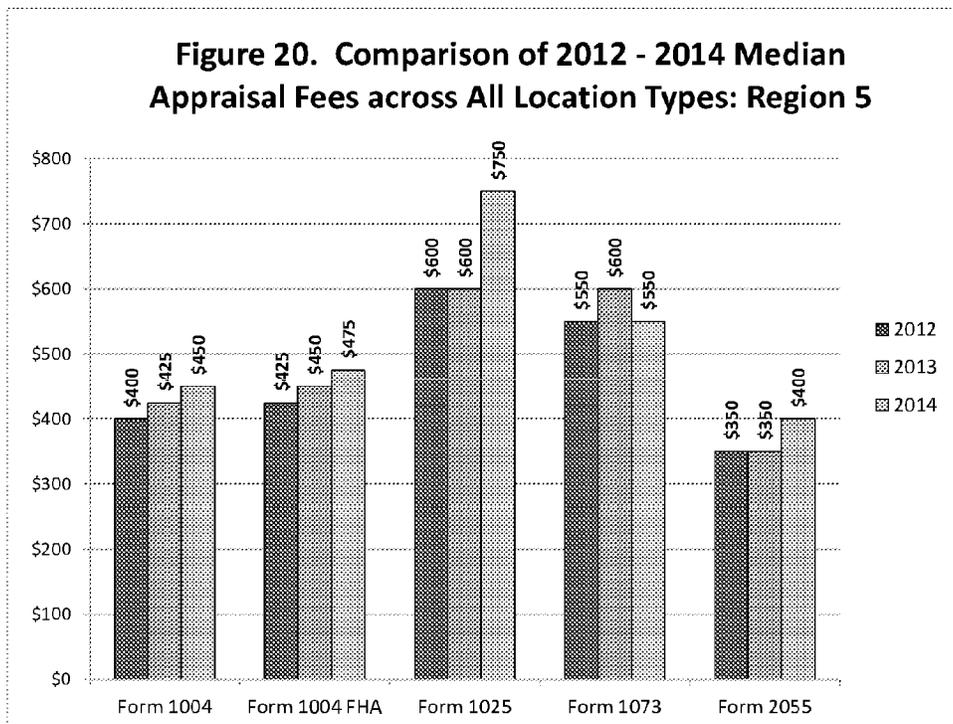
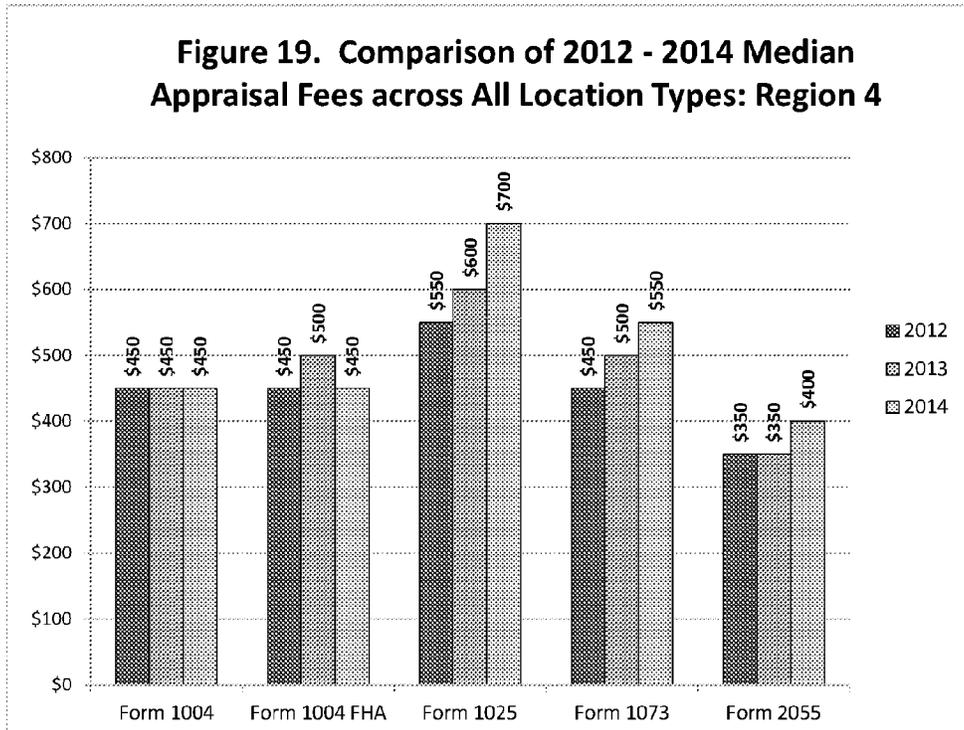
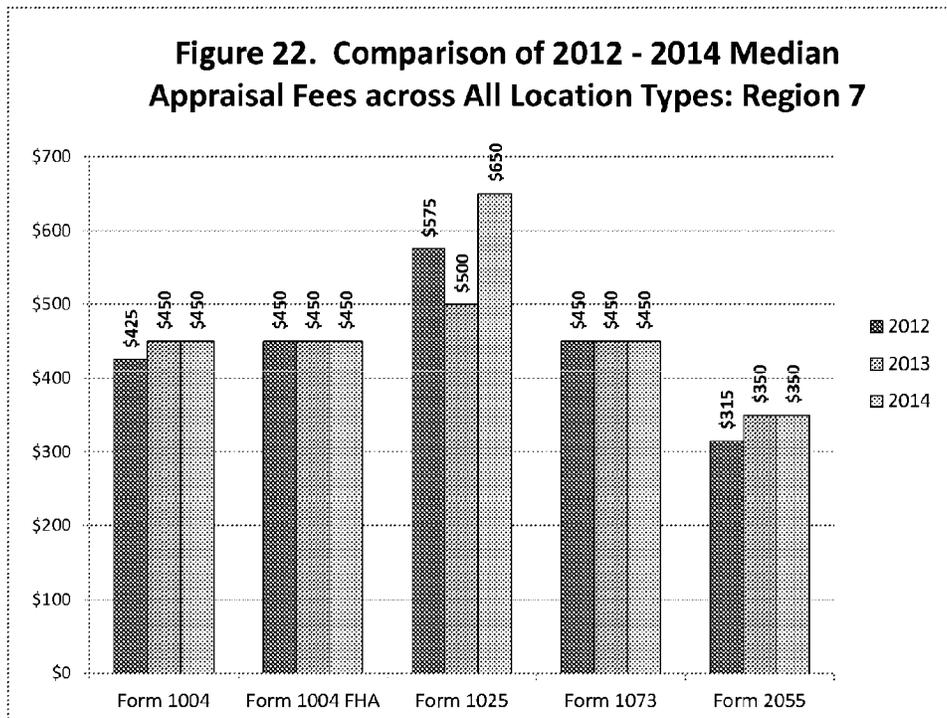
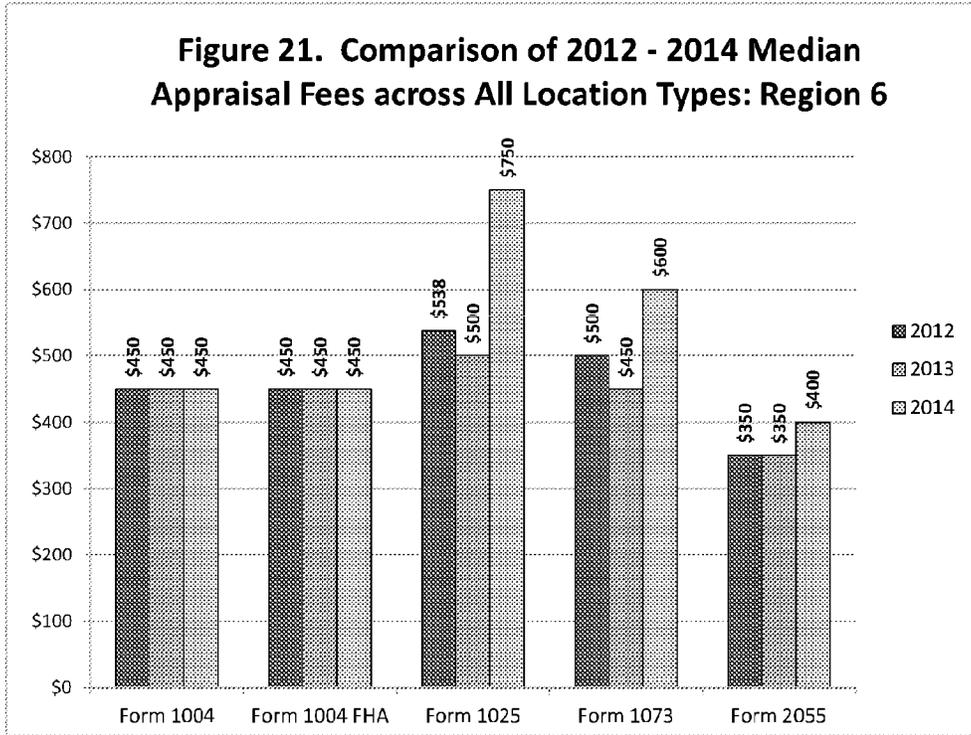
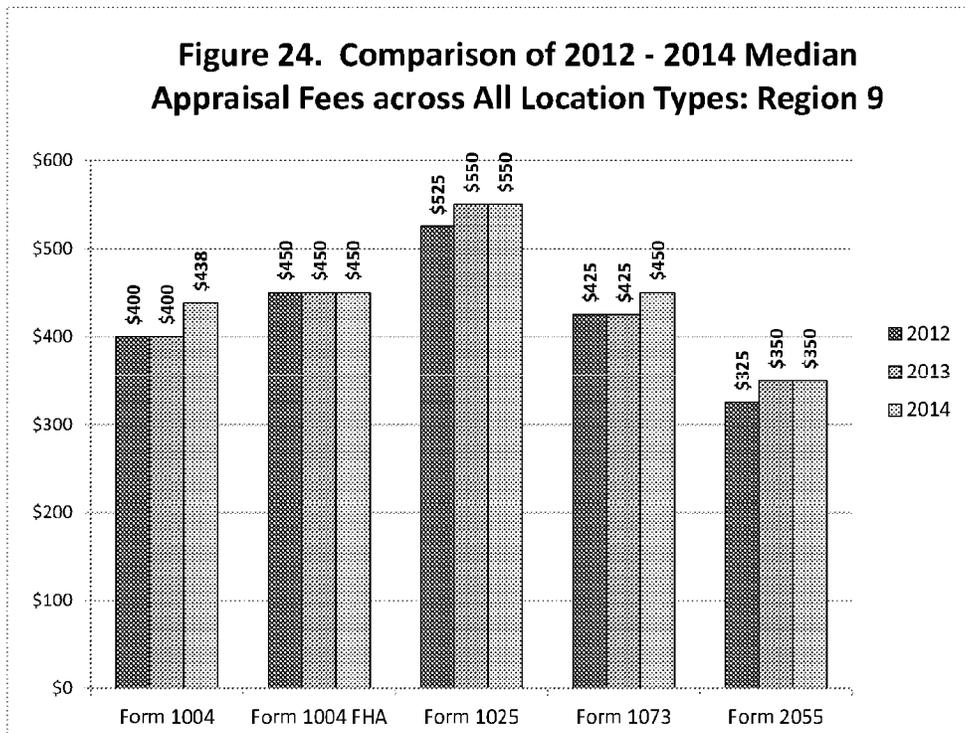
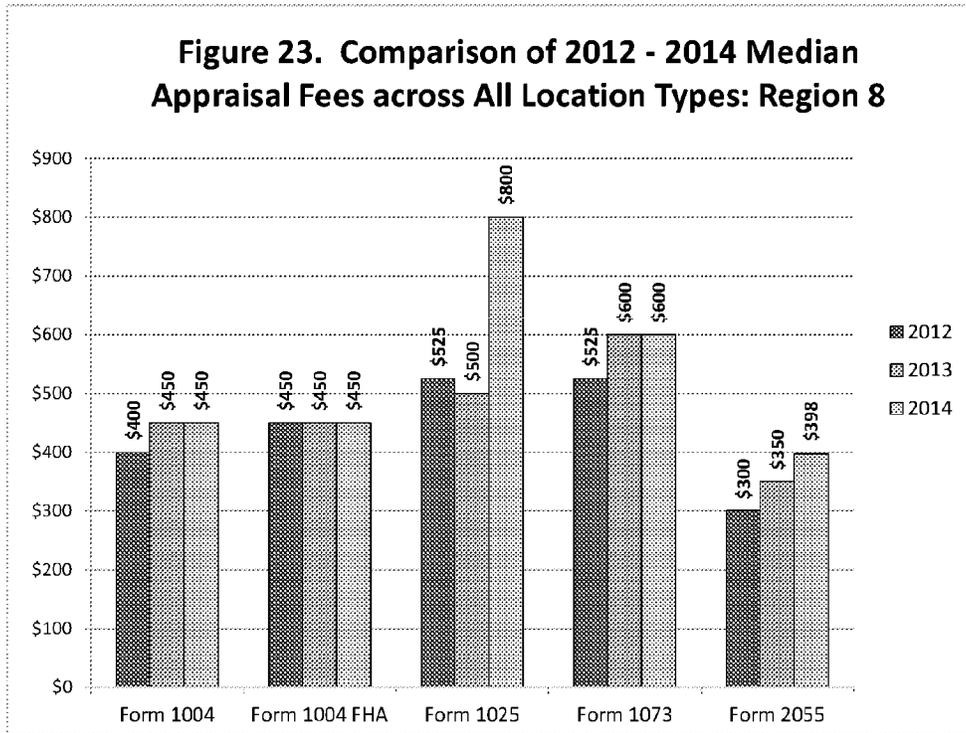


Figure 18. Comparison of 2012 - 2014 Median Appraisal Fees across All Location Types: Region 3









APPRAISAL FEE ADJUSTMENTS

The appraisal fees collected in the survey and discussed in the preceding sections are for “typical” appraisals and should be considered as “normal” or baseline fees for the various types of appraisals.

Fees may need to be adjusted upward for complex, unique, or high-value properties, or for properties at distant locations requiring significant travel for the appraiser.

Additional Fee for Appraisals of Complex, Unique, or Very Expensive Properties

Question 11 of the lenders’ survey and Question 12 of the appraisers’ survey asked respondents if they paid/charged additional or higher fees for appraisals of “complex, unique, or very expensive properties”, and if so, how much of an additional fee was typical.

A total of 260 lenders and appraisers responded that they did pay/charge additional fees for large, expensive, or complex properties, while 25 said they did not. The question was not answered by 75 survey respondents.

Of the 260 who indicated that they charged/paid higher fees, 228 respondents indicated a fixed value or range (\$100, \$100 - \$200, \$100+, etc.) and 10 indicated a percentage or range (25%, 10% - 15%, etc.).

Several respondents did not specify a percentage or an amount, but said that the additional fee varied or depended on the characteristics of the property, time spent on the appraisal, etc., and some respondents said they charged/paid higher fees but did not provide an amount.

In order to calculate statistics, the midpoint of any range indicated in a response was used as a proxy for that response. For example, if the respondent said “\$100 – \$200” then the midpoint value of \$150 was used in the calculations. If the respondent indicated one end of a range, e.g. “\$100+” or “up to \$300”, then that single endpoint was used.

Using the protocol described above, the 228 dollar value responses had a range of \$50 - \$2,500 with a **median additional fee of \$125**. The ten percentage responses had a range of 13.5 to 150 percent, with a **median additional percentage of 31.25 percent**.

Additional Fee for Appraisals of Properties in Remote or Distant Locations

Questions 12 – 13c of the lenders’ survey and Questions 13 – 14c of the appraisers’ survey asked respondents if they paid/charged additional or higher appraisal fees for properties in remote or distant locations, and, if so, what the typical increase was, how it was determined, and how it varied with distance.

Of the 282 respondents who answered the distance fee questions, 231 (81.9 percent) indicated that they did pay/charge additional fees for remote or distant locations, while 51 respondents (18.9 percent) said they did not.

Of the 231 who indicated that they paid/charged additional distance fees, 90 (39.5 percent) said the fee was a flat rate, and 87 of these provided information on typical fees. Additional flat-rate distance fees ranged from \$25 to \$550, with a **median additional flat rate distance fee of \$75**. The modal (most common) flat-rate distance fee was \$50.

A variable fee based on mileage was used by 128 respondents (56.1 percent), of which 114 provided at least some information on typical distance fees for four mileage brackets provided in the survey:

- 10 – 15 miles
- 16 – 25 miles
- 26 – 50 miles
- 51+ miles

Responses and statistics are detailed in Table 31. Since the intent of blank responses could not be determined, they were left out of the calculations of the medians. However, zero responses were included.

	<u>10 – 15 miles</u>	<u>16 – 25 miles</u>	<u>26 – 50 miles</u>	<u>51+ miles</u>
Blank Responses	47	41	19	32
Fee=\$0 Responses	49	30	5	--
Number of Non-Blank, Non-Zero Responses	18	42	90	82
Median Fee (incl. Fee=\$0 Responses)	\$0	\$25	\$50	\$100

Ten respondents indicated that their distance fees were mileage-based, but only nine provided mileage rates. **The median mileage fee was \$0.60 per mile.**

SUMMARY

The Business Research Center at Southeastern Louisiana University conducted online surveys of mortgage lenders operating in Louisiana and licensed Louisiana real estate appraisers to collect information on “customary and reasonable” residential real estate appraisal fees.

Usable responses were received from 30 mortgage lenders located in 16 parishes and 330 appraisers with primary offices in 36 parishes (plus six other states). Appraisal fee data were provided for properties located in all 64 parishes.

Typical appraisal fees were collected for five appraisal types for properties in urban, suburban, and rural locations. Fees were analyzed by region based on designations by the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP), illustrated in the map in Figure 9.

Median fees for all appraisal types and locations for all nine regions and the state as a whole are shown in Table 32.

These fees should be considered as "normal" or baseline residential appraisal fees. Adjustments may be necessary for large or complex properties or for properties in remote or distant locations.

Type of Appraisal	Property Location	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9	State-wide
1004	Urban	\$425	\$450	\$425	\$450	\$450	\$450	\$450	\$425	\$425	\$450
	Suburb.	\$400	\$450	\$400	\$450	\$450	\$450	\$450	\$425	\$425	\$450
	Rural	\$450	\$450	\$450	\$450	\$500	\$450	\$450	\$450	\$450	\$450
1004FHA	Urban	\$450	\$450	\$450	\$450	\$450	\$450	\$450	\$450	\$450	\$450
	Suburb.	\$450	\$450	\$450	\$450	\$450	\$450	\$450	\$450	\$450	\$450
	Rural	\$450	\$450	\$475	\$500	\$500	\$450	\$450	\$500	\$450	\$450
1025	Urban	\$550	\$600	\$563	\$700	\$750	\$750	\$600	\$800	\$550	\$600
	Suburb.	\$550	\$600	\$550	\$700	\$750	\$750	\$600	\$800	\$550	\$575
	Rural	\$600	\$600	\$600	\$700	\$750	\$800	\$675	\$800	\$575	\$650
1073	Urban	\$438	\$450	\$450	\$500	\$550	\$575	\$450	\$600	\$450	\$450
	Suburb.	\$425	\$450	\$450	\$500	\$550	\$575	\$450	\$600	\$450	\$450
	Rural	\$450	\$450	\$450	\$550	\$600	\$600	\$475	\$600	\$475	\$475
2055	Urban	\$350	\$350	\$350	\$375	\$380	\$400	\$350	\$395	\$350	\$350
	Suburb.	\$350	\$350	\$350	\$400	\$400	\$400	\$350	\$350	\$350	\$350
	Rural	\$375	\$350	\$375	\$400	\$400	\$400	\$350	\$400	\$375	\$375

APPENDICES

Appendix 1 - Descriptive Statistics of Survey Appraisal Fees by Region, Appraisal Type, and Property Location

STATEWIDE	Form 1004			Form 1004 for FHA			Form 1025		
	Urban	Suburban	Rural	Urban	Suburban	Rural	Urban	Suburban	Rural
Respondents	242	277	242	190	224	195	160	184	132
n	1,295	1,579	1,358	1,009	1,219	1,066	701	848	621
Median	\$450	\$450	\$450	\$450	\$450	\$450	\$600	\$575	\$650
Mean	\$449.21	\$445.83	\$473.58	\$482.06	\$472.45	\$498.28	\$676.49	\$649.16	\$710.10
Mode	\$400	\$400	\$450	\$450	\$450	\$450	\$550	\$550	\$600
Minimum	\$100	\$130	\$102	\$325	\$300	\$325	\$325	\$325	\$325
Maximum	\$850	\$850	\$1,500	\$1,000	\$1,000	\$1,000	\$1,500	\$1,500	\$1,500
Std. Deviation	\$70.15	\$69.89	\$92.10	\$94.96	\$90.98	\$97.19	\$220.39	\$210.41	\$226.55

STATEWIDE	Form 1073			Form 2055		
	Urban	Suburban	Rural	Urban	Suburban	Rural
Respondents	151	176	115	182	204	178
n	621	730	506	802	987	824
Mean	\$450	\$450	\$475	\$350	\$350	\$375
Median	\$489.89	\$481.54	\$512.89	\$370.62	\$360.43	\$387.20
Mode	\$450	\$450	\$450	\$350	\$350	\$350
Minimum	\$325	\$275	\$325	\$175	\$175	\$200
Maximum	\$800	\$1,250	\$800	\$750	\$750	\$750
Std. Deviation	\$111.59	\$112.63	\$115.36	\$74.57	\$73.86	\$76.71

REGION 1	Form 1004			Form 1004 for FHA			Form 1025		
	Urban	Suburban	Rural	Urban	Suburban	Rural	Urban	Suburban	Rural
Respondents	71	89	38	56	73	33	57	72	26
n	172	239	102	138	197	91	138	194	71
Median	\$425	\$400	\$450	\$450	\$450	\$450	\$550	\$550	\$600
Mean	\$424.24	\$417.66	\$456.86	\$455.62	\$443.32	\$482.53	\$569.89	\$550.13	\$617.89
Mode	\$450	\$400	\$450	\$450	\$450	\$450	\$550	\$550	\$600
Minimum	\$325	\$300	\$350	\$375	\$300	\$375	\$400	\$325	\$450
Maximum	\$600	\$600	\$650	\$750	\$750	\$750	\$1,250	\$1,250	\$1,250
Std. Deviation	\$51.18	\$47.77	\$68.23	\$65.97	\$63.51	\$82.32	\$142.34	\$126.90	\$171.18

REGION 1	Form 1073			Form 2055		
	Urban	Suburban	Rural	Urban	Suburban	Rural
Respondents	54	70	23	50	64	25
n	133	180	65	127	180	69
Mean	\$438	\$425	\$450	\$350	\$350	\$375
Median	\$441.14	\$434.28	\$464.55	\$337.99	\$330.97	\$368.12
Mode	\$450	\$450	\$400	\$350	\$350	\$400
Minimum	\$350	\$275	\$375	\$175	\$175	\$225
Maximum	\$750	\$750	\$750	\$550	\$550	\$550
Std. Deviation	\$73.34	\$75.47	\$89.35	\$59.50	\$57.19	\$69.25

REGION 2	Form 1004			Form 1004 for FHA			Form 1025		
	Urban	Suburban	Rural	Urban	Suburban	Rural	Urban	Suburban	Rural
Respondents	58	70	65	46	54	53	29	37	31
n	256	322	291	203	242	224	111	137	116
Median	\$450	\$450	\$450	\$450	\$450	\$450	\$600	\$600	\$600
Mean	\$442.48	\$438.90	\$460.41	\$466.26	\$457.57	\$476.38	\$651.80	\$638.87	\$662.07
Mode	\$400	\$450	\$450	\$450	\$450	\$450	\$550	\$550	\$650
Minimum	\$300	\$300	\$350	\$350	\$325	\$350	\$450	\$400	\$450
Maximum	\$600	\$650	\$1,200	\$750	\$750	\$750	\$1,250	\$1,250	\$1,250
Std. Deviation	\$55.30	\$58.46	\$75.05	\$82.28	\$79.46	\$88.72	\$204.38	\$188.38	\$197.28

REGION 2	Form 1073			Form 2055		
	Urban	Suburban	Rural	Urban	Suburban	Rural
Respondents	58	70	65	38	47	44
n	256	322	291	147	192	174
Mean	\$450	\$450	\$450	\$350	\$350	\$350
Median	\$442.48	\$438.90	\$460.41	\$361.22	\$349.74	\$366.95
Mode	\$400	\$450	\$450	\$350	\$350	\$350
Minimum	\$300	\$300	\$350	\$250	\$250	\$250
Maximum	\$600	\$650	\$1,200	\$550	\$550	\$550
Std. Deviation	\$55.30	\$58.46	\$75.05	\$63.51	\$61.77	\$62.98

REGION 3	Form 1004			Form 1004 for FHA			Form 1025		
	Urban	Suburban	Rural	Urban	Suburban	Rural	Urban	Suburban	Rural
Respondents	45	72	41	37	57	35	31	50	24
n	106	158	102	83	121	82	66	100	53
Median	\$425	\$400	\$450	\$450	\$450	\$475	\$563	\$550	\$600
Mean	\$437.74	\$427.22	\$461.52	\$482.53	\$458.88	\$504.88	\$651.14	\$595.25	\$707.55
Mode	\$400	\$400	\$450	\$450	\$450	\$450	\$550	\$550	\$600
Minimum	\$350	\$325	\$350	\$350	\$350	\$350	\$350	\$325	\$350
Maximum	\$600	\$600	\$650	\$750	\$750	\$750	\$1,250	\$1,250	\$1,250
Std. Deviation	\$64.94	\$60.54	\$73.35	\$96.49	\$90.02	\$100.03	\$217.88	\$188.12	\$240.42

REGION 3	Form 1073			Form 2055		
	Urban	Suburban	Rural	Urban	Suburban	Rural
Respondents	27	41	17	34	52	30
n	58	81	37	70	104	65
Mean	\$450	\$450	\$450	\$350	\$350	\$375
Median	\$478.45	\$462.96	\$514.86	\$372.86	\$348.56	\$393.85
Mode	\$450	\$450	\$450	\$350	\$350	\$400
Minimum	\$350	\$325	\$400	\$300	\$225	\$250
Maximum	\$750	\$750	\$750	\$550	\$550	\$650
Std. Deviation	\$109.47	\$102.40	\$122.96	\$61.20	\$63.46	\$77.56

REGION 4	Form 1004			Form 1004 for FHA			Form 1025		
	Urban	Suburban	Rural	Urban	Suburban	Rural	Urban	Suburban	Rural
Respondents	52	56	56	36	38	38	29	29	27
n	214	234	230	160	171	165	117	122	116
Median	\$450	\$450	\$450	\$450	\$450	\$500	\$700	\$700	\$700
Mean	\$459.02	\$465.56	\$487.07	\$488.28	\$489.62	\$509.09	\$702.78	\$699.18	\$737.07
Mode	\$450	\$450	\$450	\$450	\$450	\$450	\$650	\$750	\$600
Minimum	\$100	\$300	\$300	\$325	\$325	\$325	\$325	\$325	\$325
Maximum	\$850	\$850	\$1,000	\$850	\$850	\$850	\$1,250	\$1,250	\$1,250
Std. Deviation	\$74.74	\$72.13	\$90.08	\$87.68	\$84.01	\$92.73	\$165.92	\$165.49	\$182.96

REGION 4	Form 1073			Form 2055		
	Urban	Suburban	Rural	Urban	Suburban	Rural
Respondents	23	25	21	34	35	36
n	73	75	70	141	147	146
Mean	\$500	\$500	\$550	\$375	\$400	\$400
Median	\$532.19	\$529.33	\$547.86	\$386.17	\$386.90	\$401.37
Mode	\$450	\$450	\$450	\$350	\$350	\$350
Minimum	\$325	\$325	\$325	\$250	\$250	\$250
Maximum	\$800	\$800	\$800	\$550	\$550	\$650
Std. Deviation	\$107.41	\$107.75	\$105.36	\$65.49	\$64.99	\$72.92

REGION 5	Form 1004			Form 1004 for FHA			Form 1025		
	Urban	Suburban	Rural	Urban	Suburban	Rural	Urban	Suburban	Rural
Respondents	39	40	44	28	29	31	23	23	22
n	99	105	110	68	73	75	48	48	47
Median	\$450	\$450	\$500	\$450	\$450	\$500	\$750	\$750	\$750
Mean	\$462.73	\$471.05	\$502.05	\$501.84	\$499.66	\$517.67	\$740.63	\$742.71	\$760.64
Mode	\$400	\$400	\$500	\$450	\$450	\$450	\$750	\$750	\$750
Minimum	\$325	\$325	\$325	\$325	\$325	\$325	\$325	\$325	\$325
Maximum	\$800	\$800	\$850	\$800	\$800	\$800	\$1,500	\$1,500	\$1,500
Std. Deviation	\$85.48	\$85.94	\$104.22	\$105.56	\$102.36	\$105.09	\$232.11	\$231.72	\$232.35

REGION 5	Form 1073			Form 2055		
	Urban	Suburban	Rural	Urban	Suburban	Rural
Respondents	15	15	15	27	27	28
n	29	29	29	54	59	60
Mean	\$550	\$550	\$600	\$380	\$400	\$400
Median	\$536.21	\$537.93	\$555.17	\$406.20	\$404.83	\$421.67
Mode	\$600	\$600	\$600	\$350	\$350	\$450
Minimum	\$325	\$325	\$325	\$300	\$200	\$200
Maximum	\$750	\$750	\$750	\$750	\$750	\$750
Std. Deviation	\$128.62	\$127.06	\$120.34	\$87.22	\$91.57	\$88.23

REGION 6	Form 1004			Form 1004 for FHA			Form 1025		
	Urban	Suburban	Rural	Urban	Suburban	Rural	Urban	Suburban	Rural
Respondents	33	36	40	21	25	27	15	15	16
n	137	143	149	106	115	120	64	64	65
Median	\$450	\$450	\$450	\$450	\$450	\$450	\$750	\$750	\$800
Mean	\$465.33	\$469.06	\$479.87	\$495.94	\$493.65	\$503.29	\$749.61	\$749.61	\$750.38
Mode	\$450	\$450	\$450	\$450	\$450	\$450	\$800	\$800	\$800
Minimum	\$325	\$325	\$325	\$325	\$325	\$325	\$325	\$325	\$325
Maximum	\$600	\$600	\$800	\$750	\$750	\$750	\$1,250	\$1,250	\$1,250
Std. Deviation	\$76.65	\$75.99	\$86.88	\$108.09	\$105.39	\$108.13	\$298.29	\$298.29	\$297.20

REGION 6	Form 1073			Form 2055		
	Urban	Suburban	Rural	Urban	Suburban	Rural
Respondents	12	12	12	18	20	23
n	44	44	44	73	79	83
Mean	\$575	\$575	\$600	\$400	\$400	\$400
Median	\$534.66	\$534.66	\$537.50	\$398.29	\$395.57	\$399.10
Mode	\$750	\$750	\$600	\$400	\$400	\$400
Minimum	\$325	\$325	\$325	\$200	\$200	\$200
Maximum	\$750	\$750	\$750	\$550	\$550	\$550
Std. Deviation	\$157.67	\$157.67	\$157.52	\$85.12	\$85.74	\$84.50

REGION 7	Form 1004			Form 1004 for FHA			Form 1025		
	Urban	Suburban	Rural	Urban	Suburban	Rural	Urban	Suburban	Rural
Respondents	35	37	38	30	31	32	22	20	17
n	130	138	145	108	114	120	59	56	50
Median	\$450	\$450	\$450	\$450	\$450	\$450	\$600	\$600	\$675
Mean	\$453.54	\$455.14	\$474.90	\$484.86	\$483.90	\$496.17	\$710.17	\$712.50	\$730.00
Mode	\$450	\$450	\$400	\$450	\$450	\$450	\$550	\$550	\$500
Minimum	\$350	\$350	\$350	\$375	\$375	\$375	\$500	\$500	\$500
Maximum	\$750	\$750	\$1,500	\$750	\$750	\$750	\$1,250	\$1,250	\$1,250
Std. Deviation	\$77.89	\$77.92	\$117.28	\$91.44	\$89.30	\$87.00	\$234.57	\$236.07	\$239.05

REGION 7	Form 1073			Form 2055		
	Urban	Suburban	Rural	Urban	Suburban	Rural
Respondents	18	17	13	26	26	27
n	56	54	46	84	88	89
Mean	\$450	\$450	\$475	\$350	\$350	\$350
Median	\$491.52	\$493.06	\$512.50	\$357.92	\$354.15	\$371.52
Mode	\$400	\$400	\$400	\$350	\$300	\$350
Minimum	\$375	\$375	\$400	\$250	\$250	\$275
Maximum	\$750	\$750	\$750	\$550	\$550	\$550
Std. Deviation	\$117.29	\$119.20	\$122.56	\$74.09	\$73.26	\$70.08

REGION 8	Form 1004			Form 1004 for FHA			Form 1025		
	Urban	Suburban	Rural	Urban	Suburban	Rural	Urban	Suburban	Rural
Respondents	17	19	21	13	16	17	9	11	7
n	90	99	120	72	83	100	48	47	42
Median	\$425	\$425	\$450	\$450	\$450	\$500	\$800	\$800	\$800
Mean	\$471.50	\$466.52	\$485.08	\$537.36	\$526.08	\$535.65	\$868.75	\$876.60	\$911.90
Mode	\$400	\$400	\$450	\$450	\$450	\$450	\$1,250	\$1,250	\$1,250
Minimum	\$375	\$375	\$375	\$400	\$400	\$400	\$550	\$550	\$550
Maximum	\$750	\$750	\$1,500	\$1,000	\$1,000	\$1,000	\$1,250	\$1,250	\$1,250
Std. Deviation	\$87.95	\$85.67	\$124.70	\$136.91	\$130.69	\$119.81	\$254.87	\$252.13	\$243.40

REGION 8	Form 1073			Form 2055		
	Urban	Suburban	Rural	Urban	Suburban	Rural
Respondents	4	5	3	12	13	13
n	30	28	25	53	58	69
Mean	\$600	\$600	\$600	\$395	\$350	\$400
Median	\$625.00	\$655.36	\$666.00	\$393.21	\$386.47	\$412.54
Mode	\$750	\$600	\$750	\$550	\$275	\$350
Minimum	\$400	\$450	\$450	\$250	\$250	\$250
Maximum	\$750	\$750	\$750	\$550	\$550	\$600
Std. Deviation	\$122.65	\$89.59	\$87.46	\$105.85	\$103.45	\$97.38

REGION 9	Form 1004			Form 1004 for FHA			Form 1025		
	Urban	Suburban	Rural	Urban	Suburban	Rural	Urban	Suburban	Rural
Respondents	46	79	55	35	55	42	46	79	55
n	91	141	109	71	103	89	91	141	109
Median	\$425	\$425	\$450	\$450	\$450	\$450	\$425	\$425	\$450
Mean	\$438.47	\$431.60	\$455.48	\$464.08	\$451.70	\$481.17	\$438.47	\$431.60	\$455.48
Mode	\$400	\$400	\$400	\$450	\$450	\$450	\$400	\$400	\$400
Minimum	\$350	\$130	\$102	\$375	\$350	\$375	\$350	\$130	\$102
Maximum	\$600	\$650	\$650	\$750	\$750	\$750	\$600	\$650	\$650
Std. Deviation	\$53.50	\$63.46	\$74.00	\$84.17	\$75.27	\$82.15	\$53.50	\$63.46	\$74.00

REGION 9	Form 1073			Form 2055		
	Urban	Suburban	Rural	Urban	Suburban	Rural
Respondents	30	46	29	28	45	36
n	55	78	57	53	80	69
Mean	\$450	\$450	\$475	\$350	\$350	\$375
Median	\$475.47	\$469.24	\$498.26	\$353.77	\$339.69	\$371.74
Mode	\$450	\$450	\$450	\$350	\$350	\$350
Minimum	\$375	\$325	\$375	\$200	\$200	\$200
Maximum	\$750	\$1,250	\$750	\$550	\$550	\$550
Std. Deviation	\$92.32	\$124.23	\$88.71	\$67.12	\$62.60	\$61.67

Appendix 2 – Lender Survey Instrument

Survey: LREAB 2014 Appraisal Fee Survey - Lenders

Louisiana Residential Appraisal Fee Survey

This survey has been commissioned by the Louisiana Real Estate Appraisers Board in order to collect data on "customary and reasonable" appraisal fees paid to Louisiana-licensed real estate appraisers in 2014 as outlined in the federal regulations detailed at:

Title 12 - Banks and Banking
Chapter X - BUREAU OF CONSUMER FINANCIAL PROTECTION
Part 1026 - TRUTH IN LENDING (REGULATION Z)
Subpart E - Special Rules for Certain Home Mortgage Transactions
Section 1026.42 - Valuation independence.

This survey and the resulting report have been designed to meet the requirements of the "Alternative presumption of compliance" for customary and reasonable compensation described in the above-referenced regulations.

All responses are totally confidential, will not be associated with your identity or e-mail address, and will only be released in aggregate form.

Participants who complete this survey are invited to request a copy of the final survey report by entering their e-mail address at the conclusion of the survey.

Should you have any questions about the survey or need more information, please contact:

Herb Holloway
Research Economist
Southeastern Louisiana University
Business Research Center
(985) 549-3199
herb.holloway@seu.edu

Thank you very much for your participation.

DEMOGRAPHIC AND BACKGROUND INFORMATION

1. Please indicate your position/occupation during 2014:

- Staff person or assistant in mortgage loan department
- Mortgage loan officer
- Mortgage loan department manager
- Chief Lending Officer
- Branch Manager
- VP
- President
- CEO
- Other

2. Please select the description which BEST describes your employer/company in 2014:

- Local financial institution with offices/branches in only one parish
- Financial institution with offices/branches in multiple parishes of Louisiana
- Financial institution with offices/branches in multiple states
- Local/independent mortgage lending company
- Mortgage lending company with multiple offices in Louisiana
- Branch office of a multi-state/national mortgage lending company
- Other

3. Please enter the five-digit zip code for the office location in which you spent the majority of your time in 2014:**4. Approximately how many mortgage loans for properties located in Louisiana were you involved in processing during calendar year 2014?**

- 0 - 5
- 6 - 10
- 11 - 25
- 26 - 50
- 51 - 100
- 100+

5. Of the mortgage loans you worked on in 2014, for approximately what percentage did you order appraisals directly from a licensed real estate appraiser (i.e., not from an appraisal management company (AMC))? *

- I am not involved in ordering residential real estate appraisals. (You will be directed to the end of the survey.)
- 0% - All appraisals in 2014 were ordered through appraisal management companies (AMCs). (You will be directed to the end of the survey.)
- 2.5% or less.
- 26 - 50%
- 51 - 75%
- 76 - 99%
- All (100% ordered directly from licensed real estate appraisers).

The remainder of the survey will ask for details of typical fees paid in 2014 for appraisals ordered directly from licensed real estate appraisers. Please DO NOT include any information related to appraisals ordered through appraisal management companies (AMCs).

In the tables below, please enter the typical/average appraisal fee paid directly to licensed real estate appraisers (NOT routed through AMCs) in 2014 for the following types of appraisals, including appropriate addenda:

- Form 1004 (Residential 1-unit full appraisal)
- Form 1004 FHA (Residential 1-unit full appraisal for FHA)
- Form 1025 (Small (2-4 units) residential income property full appraisal)
- Form 1073 (Individual condominium unit full appraisal)
- Form 2055 (Residential 1-unit exterior-only inspection appraisal)

Please input the typical fees for properties in each parish for which you handled mortgage loans. Columns are provided for you to input typical fees for urban, suburban and rural property appraisals, as applicable, for each parish. (If fees for urban, suburban and rural properties are the same for a particular parish, please enter that amount in each of the columns.)

Question 6. Form 1004 (Residential 1-unit full appraisal)

Typical residential appraisal fees paid directly to licensed appraisers in 2014.

(Please enter numbers only - no dollar signs necessary.)

	Urban	Suburban	Rural
Acadia			
Allen			
Ascension			
Assumption			
Avoyelles			
Beauregard			
Bienville			
Bossier			
Caddo			
Calcasieu			
Caldwell			
Cameron			
Catahoula			
Claiborne			
Concordia			
DeSoto			
East Baton Rouge			
East Carroll			
East Feliciana			
Evangeline			
Franklin			
Grant			
Iberville			
Iberville			
Jackson			
Jefferson			
Jefferson Davis			
Lafayette			
Lafourche			
LaSalle			
Lincoln			
Livingston			
Madison			

(Fee input forms were repeated for each appraisal type: Form 1004 for FHA, Form 1025, Form 1073, and Form 2055.)

•
•
•

11. Does your company typically pay additional or higher fees for appraisals of complex, unique, or very expensive properties?

- Yes
- No

12. Does your company typically pay additional or higher fees for appraisals in remote or distant locations?

- Yes
- No

13. How is the additional distance fee determined?

- Flat fee
- Variable fee based on distance
- Mileage based fee

13.a. What was a typical additional distance fee paid by your company in 2014?

13.b. How much additional distance fee (over and above the base appraisal fee) would your company have paid for appraisals the following distances from the property's location? (Please enter numbers only -- no dollar sign necessary.)

	Addtl. Fee
10 - 15 miles	<input type="text"/>
16 - 25 miles	<input type="text"/>
26 - 50 miles	<input type="text"/>
50+ miles	<input type="text"/>

13.c. What mileage rate is paid per mile for distant appraisals by your company? (Please enter numbers and a decimal point only -- no dollar sign necessary.)

14. Would you like to receive an electronic version of the report containing the results of this survey?

- Yes
- No

Appendix 3 – Appraiser Survey Instrument

Survey: LREAB 2014 Appraisal Fee Survey – Appraisers

Louisiana Residential Appraisal Fee Survey

This survey has been commissioned by the Louisiana Real Estate Appraisers Board in order to collect data on "customary and reasonable" appraisal fees paid to Louisiana-licensed real estate appraisers in 2014 as outlined in the federal regulations detailed at:

Title 12 - Banks and Banking
Chapter X - BUREAU OF CONSUMER FINANCIAL PROTECTION
Part 1026 - TRUTH IN LENDING (REGULATION Z)
Subpart E - Special Rules for Certain Home Mortgage Transactions
Section 1026.42 - Valuation independence.

This survey and the resulting report have been designed to meet the requirements of the "Alternative presumption of compliance" for customary and reasonable compensation described in the above-referenced regulations.

All responses are totally confidential, will not be associated with your identity or e-mail address, and will only be released in aggregate form.

Participants who complete this survey are invited to request a copy of the final survey report by entering their e-mail address at the conclusion of the survey.

Should you have any questions about the survey or need more information, please contact:

Herb Holloway
Research Economist
Southeastern Louisiana University
Business Research Center
(985) 549-3199
herb.holloway@setu.edu

Thank you very much for your participation.

DEMOGRAPHIC AND BACKGROUND INFORMATION

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1. Did you hold a license to conduct residential real estate appraisals in the state of Louisiana in 2014? *

- Yes
 No

2. Please indicate your position/occupation during 2014:

- Independent Certified General Appraiser
 Independent Certified Residential Appraiser
 In-house (Staff) Certified General Appraiser
 In-house (Staff) Certified Residential Appraiser
 Appraiser Trainee
 Other (please specify)

3. Approximately how many years have you been in the appraisal business?

- < 5 years
 6 - 10 years
 11 - 15 years
 16 - 25 years
 25+ years

4. Please enter the five-digit zip code for the office location in which you spent the majority of your time in 2014:

5. Approximately how many residential appraisals for properties located in Louisiana did you conduct during calendar year 2014?

- 0 - 25
 26 - 50
 51 - 100
 101 - 250
 251 - 400
 401+

6. Of the residential appraisals you completed in 2014, approximately what percentage were done directly for clients or lenders, i.e. NOT ordered or paid for by an appraisal management company (AMC)? *

- 0% - All appraisals I completed were for appraisal management companies (AMCs). (You will be directed to the end of the survey.)
- 25% or less.
- 25 - 50%
- 51 - 75%
- 75 - 99%
- All (100% ordered and paid for directly by clients or lenders).

The remainder of the survey will ask for details of typical fees you received in 2014 for appraisals ordered and paid for by lenders, buyers, property owners, or other clients. Please DO NOT include any information related to appraisals ordered through appraisal management companies (AMCs).

In the tables below, please enter the typical/average appraisal fee you received for residential appraisals completed directly for clients (NOT routed through AMCs) in 2014 for the following types of appraisals, including appropriate addenda:

- Form 1004 (Residential 1-unit full appraisal)
- Form 1004 FHA (Residential 1-unit full appraisal for FHA)
- Form 1025 (Small (2-4 units) residential income property full appraisal)
- Form 1073 (Individual condominium unit full appraisal)
- Form 2055 (Residential 1-unit exterior-only inspection appraisal)

Please input the typical appraisal fees you received for properties in each parish in which you completed residential appraisals in 2014. Columns are provided for you to input typical fees for urban, suburban and rural property appraisals, as applicable, for each parish. (If fees for urban, suburban and rural properties are the same for a particular parish, please enter that amount in each of the columns.)

Question 7. Form 1004 (Residential 1-unit full Appraisal)

Typical residential appraisal fees received from non-AMC clients in 2014.

(Please enter numbers only - no dollar signs necessary.)

	Urban	Suburban	Rural
Acadia			
Allen			
Ascension			
Assumption			
Avoyelles			
Beauregard			
Bianville			
Bossier			
Caddo			
Calcasieu			
Caldwell			
Cameron			
Catahoula			
Claiborne			
Concordia			
DeSoto			
East Baton Rouge			
East Carroll			
East Feliciana			
Evangeline			
Franklin			
Grant			
Iberia			
Iberville			
Jackson			
Jefferson			
Jefferson Davis			
Lafayette			
Lafourche			
LaSalle			
Lincoln			
Livingston			
Madison			
Morehouse			

Natchitoches					
Orleans					
Quachita					
Plaquemines					
Pointe Coupee					
Rapides					
Red River					
Richland					
Sabine					
St. Bernard					
St. Charles					
St. Helena					
St. James					
St. John					
St. Landry					
St. Martin					
St. Mary					
St. Tammany					
Tangipahoa					
Tensas					
Terrebonne					
Union					
Vermilion					
Vernon					
Washington					
Webster					
West Baton Rouge					
West Carroll					
West Feliciana					
Winn					

•
•

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•

(Fee input forms were repeated for each appraisal type: Form 1004 for FHA, Form 1025, Form 1073, and Form 2055.)

•

•

•

12. Do you typically charge additional or higher fees for appraisals of complex, unique, or very expensive properties?

- Yes
- No

13. Do you typically charge additional or higher fees for appraisals in remote or distant locations?

- Yes
- No

14. How is the additional distance fee determined?

- Flat fee
- Variable fee based on distance
- Mileage based fee

14.a. What was the typical additional distance fee you charged in 2014?

14.b. How much additional distance fee did you charge in 2014 for appraisals the following distances from your location? (Please enter numbers only -- no dollar sign necessary.)

	Addtl. Fee
10 - 15 miles	<input type="text"/>
16 - 25 miles	<input type="text"/>
26 - 50 miles	<input type="text"/>
50+ miles	<input type="text"/>

14.c. What rate per mile did you charge in 2014 for distant appraisals by your company? (Please enter numbers and a decimal point only -- no dollar sign necessary.)

15. Would you like to receive an electronic version of the report containing the results of this survey?

- Yes
- No

Appendix 4 – Parishes in each GOHSEP* Region

<u>Region</u>	<u>Parishes Included</u>
Region 1	Jefferson, Orleans, Plaquemines, St. Bernard
Region 2	Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, West Baton Rouge, West Feliciana
Region 3	Assumption, Lafourche, St. Charles, St. James, St. John, Terrebonne
Region 4	Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, St. Mary, Vermilion
Region 5	Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis
Region 6	Avoyelles, Catahoula, Concordia, Grant, LaSalle, Natchitoches, Rapides, Sabine, Vernon, Winn
Region 7	Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Webster
Region 8	Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll
Region 9	St. Tammany, Tangipahoa, Washington

*GOHSEP = Governor’s Office of Homeland Security and Emergency Preparedness



Southeastern Business Research Center
SLU Box 10337
Hammond, LA 70402
985-549-5199
brc@southeastern.edu
www.southeastern.edu/brc

CX0043

From: Bill Cobb <fastvalue@gmail.com>
Sent: Friday, July 24, 2015 1:11 PM
To: Henk VanDuyvendijk <henk@lrec.state.la.us>
Subject: That Triserv 350 order

On this order, when I reminded them this wasn't a C&R fee, they increased fee to \$425.00 as it's really an FHA assignment.

It was when I mentioned C&R fees and the Coester AMC discipline that they changed their tune.

Bill Cobb, Appraiser
Accurate Valuations Group, LLC
Phone: 225-293-1500

CX0144

From: Dibiasio, Scott <sdibiasio@appraisalinstitute.org>
Sent: Friday, May 4, 2012 10:22 AM
To: Bruce Unangst <BUnangst@lrec.state.la.us>; Roland M. Hall <rhallsra@bellsouth.net>
Cc: Tad Bolton <tbolton@lrec.state.la.us>; Garber, Bill <bgarber@appraisalinstitute.org>
Subject: RE: Presumptions of Compliance Under Dodd-Frank.

It looks like both HB 1014 and HB 823 have been advanced to 3rd reading and are on the calendar for debate and consideration on Tuesday, May 8th.

Is the plan still to try to move forward with HB 1014 unless someone objects to the appraiser law amendments being included since they are not germane to the AMC bill? Obviously, HB 1014 is preferred because it contains the appraiser law amendments, as well as a shorter time period (45 days) on the rulemaking provisions.

We might want to touch base with Rieger and/or Reps. Greene and Hoffman to make sure that only HB 1014 advances.

SD

From: Bruce Unangst [mailto:BUnangst@lrec.state.la.us]
Sent: Wednesday, May 02, 2012 12:54 PM
To: Dibiasio, Scott; Roland M. Hall
Cc: Tad Bolton; Garber, Bill
Subject: RE: Presumptions of Compliance Under Dodd-Frank.

Thanks, Scott. Based on the assumption of final passage of our bill in its current form, could you assist us in drafting specific language with respect to the fee issue? Have any similar rules been adopted in other states?

I know I can speak for our Board in letting you know how much we appreciate your coming to Baton Rouge in support of our bill, and providing the expertise we desperately need moving forward.

Bruce

From: Dibiasio, Scott [mailto:sdibiasio@appraisalinstitute.org]
Sent: Wednesday, May 02, 2012 10:50 AM
To: Roland M. Hall
Cc: Bruce Unangst; Tad Bolton; Garber, Bill
Subject: Presumptions of Compliance Under Dodd-Frank.

Roland:

Good to see you again in Baton Rouge on Monday and Tuesday. As we discussed, below are the six factors that an AMC MUST take into account when establishing what it constitutes to be a customary and reasonable fee if they are calculating their fees according to Presumption #1

In crafting the LA regulations to implement your new reasonable & customary fee requirement (assuming it is passed), I think you could put some parameters around how an AMC must consider these 6 factors in determining an appraiser's fee. The new LA will say that an AMC must compensate an appraiser at a reasonable and customary rate in accordance with the presumptions of compliance under federal law. Presumably, most AMCs will choose to utilize Presumption #1 to calculate their C & R fee. I don't think that there is anything that says that you can't put in your rules and regulations how, when, where, etc. the AMC has to consider the 6 factors. Then, if an AMC DOES NOT consider one of the six factors (they NEVER do), then the LREAB would have an actionable item against the AMC. The key here is getting them to PROVE that they actually consider each of the 6 factors in setting an appraiser's fee. Of course, they do not. The

appraiser gets \$225 whether or not they are required to have the appraisal done overnight or in two weeks. In addition, the appraiser gets \$225 whether or not he/she is designated (item D), etc. etc. etc.

Also, as we discussed, the reason why the AMCs are allowed to utilize their own “recent rates paid for comparable appraisal services” is that the Dodd-Frank Act only specifically excluded AMC assignments from being utilized to calculate fees if those assignments were part of a fee schedule. The Dodd-Frank Act does not say ANYTHING about excluding AMC fees from any OTHER type of system used to calculate reasonable & customary fee. So, in crafting Presumption #1, the FRB very liberally interpreted the statute and relied on the first sentence of (1) and provision (3). The six factors that an AMC must consider are derived out of provision (3).

I hope that this additional information is helpful to you.

SD

Dodd Frank Act

(i) Customary and Reasonable Fee-

(1) IN GENERAL- Lenders and their agents shall compensate fee appraisers at a rate that is customary and reasonable for appraisal services performed in the market area of the property being appraised. Evidence for such fees may be established by objective third-party information, such as government agency fee schedules, academic studies, and independent private sector surveys. ***Fee studies shall exclude assignments ordered by known appraisal management companies.***

(2) FEE APPRAISER DEFINITION- For purposes of this section, the term “fee appraiser” means a person who is not an employee of the mortgage loan originator or appraisal management company engaging the appraiser and is--

(A) a State licensed or certified appraiser who receives a fee for performing an appraisal and certifies that the appraisal has been prepared in accordance with the Uniform Standards of Professional Appraisal Practice; or

(B) a company not subject to the requirements of section 1124 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.) that utilizes the services of State licensed or certified appraisers and receives a fee for performing appraisals in accordance with the Uniform Standards of Professional Appraisal Practice.

(3) EXCEPTION FOR COMPLEX ASSIGNMENTS- In the case of an appraisal involving a complex assignment, the customary and reasonable fee may reflect the increased time, difficulty, and scope of the work required for such an appraisal and include an amount over and above the customary and reasonable fee for non-complex assignments.

Interim Final Rule

(f) Customary and reasonable compensation—(1) Requirement to provide customary and reasonable compensation

to fee appraisers. In any covered transaction, the creditor and its agents shall compensate a fee appraiser for performing appraisal services at a rate that is customary and reasonable for comparable appraisal services performed in the geographic market of the property being appraised. For purposes of paragraph (f) of this section, “agents” of the creditor do not include any fee appraiser as defined in paragraph (f)(4)(i) of this section.

(2) Presumption of compliance. A creditor and its agents shall be presumed to comply with paragraph (f)(1) if—

(i) The creditor or its agents compensate the fee appraiser in an amount that is reasonably related to recent rates paid for comparable appraisal services performed in the geographic market of the property being appraised. In determining this amount, a creditor or its agents shall review the factors below and make any adjustments to recent rates paid in the relevant geographic market necessary to ensure that the amount of compensation is reasonable:

- (A) The type of property,
- (B) The scope of work,
- (C) The time in which the appraisal services are required to be performed,
- (D) Fee appraiser qualifications,
- (E) Fee appraiser experience and professional record, and
- (F) Fee appraiser work quality; and

(ii) The creditor and its agents do not engage in any anticompetitive acts in violation of state or federal law that affect the compensation paid to fee appraisers, including—

(A) Entering into any contracts or engaging in any conspiracies to restrain trade through methods such as price fixing or market allocation, as prohibited under section 1 of the Sherman Antitrust Act, 15 U.S.C. 1, or any other relevant antitrust laws; or

(B) Engaging in any acts of monopolization such as restricting any person from entering the relevant geographic market or causing any person to leave the relevant geographic market, as prohibited under section 2 of the Sherman Antitrust Act, 15 U.S.C. 2, or any other relevant antitrust laws.

(3) *Alternative presumption of compliance.*

A creditor and its agents shall be presumed to comply with paragraph (f)(1) if the creditor or its agents determine the amount of compensation paid to the fee appraiser by relying on information about rates that:

(i) Is based on objective third-party information, including fee schedules, studies, and surveys prepared by independent third parties such as government agencies, academic institutions, and private research firms;

(ii) Is based on recent rates paid to a representative sample of providers of appraisal services in the geographic market of the property being appraised or the fee schedules of those providers;
and

(iii) In the case of information based on fee schedules, studies, and surveys, such fee schedules, studies, or surveys, or the information derived therefrom, excludes compensation paid to fee appraisers for appraisals ordered by appraisal management companies, as defined in paragraph (f)(4)(iii) of this section.

Scott DiBiasio
Manager, State & Industry Affairs
Appraisal Institute
122 C Street, NW
Suite 360
Washington, DC 20001
T 202-298-5593
F 202-298-5547
sdibiasio@appraisalinstitute.org

CX0181

From: Bruce Unangst </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9efe56bad823425f9e0f5c7fabf72d66-bunangst>
Sent: Thursday, March 17, 2016 5:42 PM
To: 'bruce4265@gmail.com'
Subject: FW: Article
Attach: AMC REGULATION IN LOUISIANA.docx

Bruce Unangst
Executive Director
Louisiana Real Estate Commission
Louisiana Real Estate Appraisers Board
Post Office Box 14785-4785
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From: Bruce Unangst
Sent: Wednesday, November 04, 2015 10:16 AM
To: 'Joan Trice'
Cc: Summer Mire; Robert Maynor; Henk VanDuyvendijk
Subject: Article

Joan,

I have attached a draft article for your newsletter. Please feel free to edit, fold, mutilate, staple and otherwise change to meet your requirements. Have a great day!

Bruce Unangst
Executive Director
Louisiana Real Estate Commission
Louisiana Real Estate Appraisers Board
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THE CHANGING LANDSCAPE IN LOUISIANA'S APPRAISAL INDUSTRY

The implementation of the Home Valuation Code of Conduct (HVCC) in 2008, followed by enactment of Dodd-Frank two years later, resulted in a massive change in the business models of lenders, residential appraisers, appraisal management companies (AMCs), and other stakeholders in the real estate industry. Business relationships between appraisers and local lenders built on years of trust and experience became meaningless with the stroke of the federal legislative pen. Just a few short years ago, appraisal assignments were handled by local lenders familiar with their local market area as well as the experience and qualifications of their local appraisers. Today, an estimated 85% of all residential appraisals in Louisiana are administered by regional or national AMCs with no such local expertise.

It is ironic that the HVCC resulted from litigation by the Attorney General of New York against eAppraisalIT, **an AMC**, for inflating values on behalf of Washington Mutual. The federal solution was not to curb the market power of AMCs, but to essentially establish an oligarchy with AMCs in the driver's seat. To be sure, appraisal management companies have played a valuable role in the real estate industry long before HVCC or Dodd-Frank and continue to do so. However, it became apparent to the Louisiana Real Estate Appraisers Board as full implementation of Dodd-Frank drew near that our regulatory focus needed to change to meet the changing appraisal landscape.

Faced with the challenge of navigating the troubled waters of impending change, the Board restated their mission to **"protect consumers in all real estate appraisal-related activities"**. Our belief is that an accurate appraisal provided at a reasonable fee and turn time remains the bedrock of our Louisiana real estate industry. A two pronged strategy to meet Board objectives was set in motion:

- 1) Improve the quality of residential appraisals through better education of our licensees while stepping up compliance and enforcement efforts for all fee appraisers.
- 2) Immediately enact a regulatory framework to establish a fair and level playing field for appraisal management companies doing business in Louisiana.

The Board's efforts to provide improved educational opportunities for our fee appraisers coupled with enhanced compliance and enforcement actions against substandard appraiser performance has been embraced by appraisers, lenders, real estate licensees, and other stakeholders. Our second objective to establish a fair and level playing field for all AMCs remains a work in progress!

In 2010, Louisiana became one of the first states to legislatively enact an AMC registration and licensing law which enabled the Board to at least identify the AMCs doing business in the state. The Board has been successful in subsequent years in amending our law to provide funding through annual license fees as well as allow the Board to regulate AMC activity including the controversial issue of payment of customary and reasonable fees. Despite strong opposition from AMC lobbyists and large out of state AMCs, Louisiana rules requiring the payment of customary and reasonable fees became effective in November of 2013.

As a courtesy to all industry stakeholders, the Board then sponsored an independent appraisal fee study conducted by the Business Research Center at Southeastern Louisiana University which has been updated annually. This third party study compiled results from lenders and fee appraisers throughout our 64 parishes (counties). AMCs choosing to utilize the results of this study enjoy a presumption of compliance. AMCs choosing not to utilize this study must evaluate six different factors relative to the experience and qualifications of the appraiser and the scope, location, and type of assignment in establishing their customary and reasonable fees.

Primary opposition from the AMC lobby to our efforts to enact and enforce rules regulating C & R fees centered on two issues:

- 1) AMC lawyers argued that individual states lacked the authority to regulate C & R fees under provisions of TILA 129(e).
- 2) By allowing the "free market" to dictate fees, consumers would save money.

Seeds of the above arguments have now fallen on infertile ground. The Final Federal Rules becoming effective earlier this year clarified that individual states do in fact have the authority and responsibility to regulate C & R Fees. Random checks of Hud-1 closing statements confirm that although appraiser fees have been cut by up to 50%, we have found not a single instance where a consumer is being charged less than the amount they paid in 2010 for a required appraisal.

Louisiana values broad participation of appraisal management companies in our industry and has worked quietly with many entities in bringing them into compliance with our regulatory requirements. Our primary goal is compliance versus confrontation and adherence to our rules versus adjudication. However, it is not fair to the majority of our 140 quality AMCs doing business here to allow the few who choose to ignore or flaunt our requirements to continue business as usual. Consequently, we have recently signed off on a stipulation order with one AMC and now have seven active AMC investigations moving toward formal adjudication.

The effects of unregulated AMC activity in Louisiana are both significant and measurable. In 2010, Louisiana licensed 528 appraiser trainees. Today this number stands at 196. The average age of current residential appraisers in Louisiana is approaching 60. Appraiser income has been slashed by up to 50% by certain AMCs which are now the focus of compliance efforts. Many experienced residential appraisers have turned their back on doing AMC administered work leaving less experienced and less geographically competent appraisers accepting AMC assignments.

In charting new territory in AMC regulation, Louisiana is well aware that new technical and legal challenges to our enforcement efforts will no doubt arise. However, the stakes are too high and the cost to our real estate industry is too dear to shrink from this task.

CX0278

From: Joseph Mier <joe@jmappraisers.com>
Sent: Monday, December 14, 2015 2:41 PM
To: tammy.pleski@valocity.com
Subject: R&C Fees for Valocity Appraisal Management Services
Attach: FDIC final ruling.pdf

Dear Mrs. Pleski,

There is an issue with this appraisal request File # V-42228-15 to be in compliance with the AMC rules and regulations of The Louisiana Real Estate Appraisers Board that needs to be reviewed before the acceptance of this assignment.

1) The fee that Valocity is indicating for this appraisal assignment is not meeting a reasonable and customary fee according to the recent fee survey that the Louisiana Real Estate Appraisers Board has published. I am requesting that your company provide the presumption of compliance that is being used to determine at a minimum a reasonable and customary fee according to Dodd/Frank and Louisiana Laws for this assignment.

I am providing a link to the latest fee survey that the Louisiana RE Appraisers Board has provided to use as a guide to be in compliance under the appropriate presumption of compliance.

<http://www.reab.state.la.us/forms/Louisiana%20Residential%20Real%20Estate%20Appraisal%20Fees%202014.pdf>

The Louisiana Real Estate Appraisers Board is taking these issues very seriously. I have been requested by LREAB to be CC'd on this email to our state appraisal board contacts Mr. Henk VanDuyvendijk Chief Investigator and Mr. Bruce Unangst, Executive Director of the LAREAB in case there are any additional questions on the Rules and Regulations in Louisiana. Mr. Unangst email address is BUunangst@lrec.state.la.us and Mr. Vanduyvendijk email address is henk@lrec.state.la.us or you may contact them by phone 1-800-821-4529.

There was a recent administration hearing on Dec. 8th about an AMC (IMortgage AMC) for not paying R&C fees according to Dodd/Frank and the Louisiana Rules and regulations. They were found to be in violation. They received a penalty of a 6-month suspension (on hold), a fine of \$10,000, all adjudication costs and must submit a plan of compliance by March 2016 or the six-month suspension will go into affect.

I am requesting a fee increase to \$450 which is the R&C fee that is indicated in the fee survey for this type of product which is an accepted means of being in compliance according to the presumptions of compliance.

Louisiana AMC rules and regulations state:

Fees; customary and reasonable

A. An appraisal management company shall compensate appraisers at a rate that is customary and reasonable for appraisals being performed in the market area of the property being appraised, consistent with the presumptions of compliance under federal law.

Competency:

Prior to making an assignment to a real estate fee appraiser, AMC licensees shall have a system in place to verify that the appraiser holds a license in good standing in this state pursuant to the Louisiana Real Estate Appraisers Law, R.S. 37:3391 et seq. Licensees may rely on the National Registry of the Appraisal Subcommittee for purposes of appraiser license verification. Before or at the time of making an assignment to a

real estate fee appraiser, licensees shall obtain a written certification from the appraiser that he or she:

1. Is competent in the property type of the assignment;
 2. Is competent in the geographical area of the assignment;
 3. Has access to appropriate data sources for the assignment;
 4. will immediately notify the licensee in writing if the appraiser later determines that he or she is not qualified to complete the assignment; and
 5. is aware that misrepresentation of competency may be subject to the mandatory reporting requirement in the most current version of the Uniform Standards of Professional Appraisal Practice (USPAP).
- B. Subsequent to a completed appraisal being submitted to the assigning licensee, any request for additional information that may impact or alter the opinion of value stated therein shall be made by the certified appraiser completing the appraisal review.

The Federal Reserve final ruling has also been published recently and states:

Reasonable Compensation

All creditors and their agents are required to compensate fee appraisers (appraisers that are not their employees) at a rate that is "customary and reasonable for appraisal services in the market area of the property being appraised.

The statute states that evidence for reasonable and customary fees may be established by objective third-party information, such as government agency fee schedules, academic studies, and independent private sector surveys. "The Veterans Administration appraiser fee schedule was identified as a source to consider to establish the proper fee."

The customary and reasonable fee may reflect the increased time, difficulty, and scope of the work required for such an appraisal and may include an amount over and beyond the reasonable and customary fee for non-complex assignments.

Appraisal assignments vary, and appraisers have different skills and experience, and these variations and differences may legitimately contribute to determining what level of compensation for a particular assignment is reasonable. While the Fed realizes it cannot recognize all the factors it has identified the following six factors.

1. Type of property
2. Scope of work
3. Time in which the appraisal services are required to be performed.
4. Fee appraiser's qualifications.
5. Fee appraiser's experience and professional record.
6. Fee appraiser's work quality

I am also attaching the final ruling from the Federal Reserve Final Rule Appraiser Independence.

According to Dodd/Frank Law an AMC can also use the VA Fee Schedule as a guide to determining R&C fees. Please see below for the fees for Louisiana

Effective January 1, 2016					
	Single Family*	Duplex	Triplex	4plex	Condo
					\$475
Louisiana	\$475	\$575	\$575	\$575	\$500

Please feel free to contact me or the Appraiser Board representatives to discuss these issues should you have any questions.

Sincerely,
Joseph A. Mier, SRA, AI-RRS, RAA, MNAA
Louisiana Certified Residential
Real Estate Appraiser#1016/Consultant



Joseph Mier & Associates
"Where Service Matters"
Your local appraisal professional for over 22 years
906 CM Fagan Dr. Ste 4A
Hammond, LA 70403
985-230-0730
Fax 985-230-0504
www.jmappraisers.com
www.joemier.com



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Summary: Federal Reserve Interim Final Rule – Appraisal Independence

Overview

The Federal Reserve (Fed), on October 28, published an “interim final rule” for real estate appraiser independence as required by the *Dodd-Frank Wall Street Reform and Consumer Protection Act* (Dodd-Frank Act), which was signed into law on July 21, 2010. As provided in Dodd-Frank, issuance of the Fed’s interim final rule replaces the Home Valuation Code of Conduct (HVCC), which was announced in December 2008 for mortgages purchased by Fannie Mae and Freddie Mac. The interim final rule incorporates key principles from the HVCC, but also attempts to clarify several areas of the HVCC that caused confusion and unintended consequences. The rule will take effect December 27, 2010, with the Fed accepting comments on the interim rule during this period. Compliance is voluntary until April 1, 2011.

The Dodd-Frank Act amended the Truth in Lending Act (TILA) by adding Section 129E, which establishes new requirements for appraisal independence for consumer credit transactions secured by the consumer’s principal dwelling. Dodd-Frank directed the Fed to issue interim final regulations to implement the appraisal independence requirements within 90 days of enactment. The Dodd-Frank Act also mandated that the HVCC shall have no effect once the Fed issued the interim final rule.

The interim final rule applies to a person who extends credit or provides services in connection with a consumer credit transaction secured by a consumer’s principal dwelling. Thus, the interim final rule applies to creditors, appraisal management companies, appraisers, mortgage brokers, realtors, title insurers and other firms that provide settlement services.

The interim final rule addresses the following appraisal independence provisions in the Dodd-Frank Act:

- Prohibit coercion, bribery and other similar actions designed to cause an appraiser to base the appraised value of the property on factors other than the appraiser’s independent judgment;
- Prohibit appraisers and appraisal management companies from having a financial or other interest in the property or the credit transaction;
- Prohibit a creditor from extending credit if it knows, before consummation, of a violation of the prohibition on coercion or of a conflict of interest;
- Mandate that the parties involved in the transaction report appraiser misconduct to state appraiser licensing authorities;
- Mandate the payment of reasonable and customary compensation to a “fee appraiser” (e.g., an appraiser who is not the salaried employee of the creditor or the appraisal management company hired by the creditor); and
- Provide that when the Fed promulgates the interim final rule, the Home Valuation Code of Conduct, the current standard for appraisal independence for loans purchased by Fannie Mae and Freddie Mac, will have no further force or effect.

Summary: Federal Reserve Interim Final Rule – Appraisal Independence

Key Areas of Interest for Home Builders

The following are provisions in the interim final rule that address key areas of interest to home builders.

Communication

Allowable communication is addressed in TILA Section 129E(c) by providing that TILA Section 129E(b) shall not be construed as prohibiting a mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, consumer, or any other person with an interest in a real estate transaction from asking an appraiser to:

1. Consider additional, appropriate property information, including information regarding additional comparable properties to make or support an appraisal;
2. Provide further detail, substantiation, or explanation for the appraiser's value conclusion; or
3. Correct errors in the appraisal report.

Reasonable Compensation

Creditors and their agents are required to compensate fee appraisers (appraisers that are not their employees) at a rate that is “customary and reasonable for appraisal services in the market area of the property being appraised.”

The statute states that evidence for reasonable and customary fees may be established by objective third-party information, such as government agency fee schedules, academic studies, and independent private sector surveys. The Veterans Administration appraiser fee schedule was identified.

The customary and reasonable fee may reflect the increased time, difficulty, and scope of the work required for such an appraisal and may include an amount over and beyond the reasonable and customary fee for non-complex assignments.

Appraisal assignments vary and appraisers have different skills and experience, and these variations and differences may legitimately contribute to determining what level of compensation for a particular assignment is reasonable. While the Fed realizes it cannot recognize all the factors it has identified the following six factors.

1. Type of property
2. Scope of work
3. Time in which the appraisal services are required to be performed.
4. Fee appraiser's qualifications.
5. Fee appraiser's experience and professional record.
6. Fee appraiser's work quality.

Mandatory Reporting

The interim final rules require certain persons to report an appraiser to the applicable state appraiser certifying and licensing agency if the person has a reasonable basis to believe the appraiser is failing to comply with USPAP, is violating applicable laws, or is

Summary: Federal Reserve Interim Final Rule – Appraisal Independence

otherwise engaging in unethical or unprofessional conduct. This provision applies to creditors, mortgage brokers, real estate brokers, appraisal management companies, and any other persons providing a service for a covered transaction.

Example of material failure to comply:

1. Materially mischaracterizing the value of the consumer's principal dwelling.
2. Performing an appraisal in a grossly negligent manner and in violation of a USPAP rule.
3. Accepting an appraisal assignment on the condition that the appraiser will assign a value equal to or greater than the purchase price to the consumer's principal dwelling, in violation of a USPAP rule.

Important Definitions

"Fee Appraiser" is defined to mean (1) a natural person who is a state-licensed or state-certified appraiser and receives a fee for performing an appraisal, but who is not an employee of the person engaging the appraiser; or (2) an organization that, in the ordinary course of business, employs state-licensed or state-certified appraiser to perform appraisals and receives a fee for performing appraisals.

"Appraisal management company" is defined as any person authorized to do the following actions on behalf of the creditor – (1) recruit, select, and retain appraisers; (2) contract with appraisers to perform appraisal assignments; (3) manage the process of having an appraisal performed, including providing administrative duties such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and underwriters, collecting fees from creditors and underwriters for services provided, and compensating appraisers for services performed; or (4) review and verify the work of appraisers.

"Affiliate" is defined as any company that controls, is controlled by, or is under common control with, another company.

Comments Solicited

The Fed seeks comment on all aspects of the interim final rule and specifically requests comment on the following topics:

- *Whether some settlement service providers should be exempt from some or all of the interim final rule's requirements.* Examples of "Covered persons" include creditors, mortgage brokers, appraisers, appraisal management companies, real estate agents, title insurance companies, and other persons that provide "settlement services" as defined under RESPA.
- *The Fed solicits comment of the exclusion of automated valuation models from the definition of "valuation."* "Valuation" means an estimate of the value of the consumer's principal dwelling in written or electronic form, other than one produced solely by an automated model or system. This definition is consistent with USPAP.
- *Whether creditors or other persons exercise or attempt to exercise improper influence over persons that develop an automated model or system for estimating the value of the consumer's principal dwelling.*

Summary: Federal Reserve Interim Final Rule – Appraisal Independence

- *Whether the \$250 million asset size threshold, some other asset size threshold, or other factors are appropriate for applying the different safe harbor conditions to different types of institutions.*
- *The Fed requests comment on the appropriateness of the three conditions to meet the safe harbor requirement. The three conditions are compensation of the person ordering the appraisal, reporting structure, and selection or influencing the person to perform a particular valuation.*
- *The Fed seeks comment of the appropriateness of the conditions under which persons preparing valuations or performing valuation management functions for a transaction in addition to performing another settlement service for the same transaction, or whose affiliate performs another settlement service for the same transaction, will be deemed in compliance with the prohibition on conflicts of interest.*
- *Whether the final rule should define “agent” to exclude fee appraisers or any other parties. The term agent is typically associated with staff appraisers and appraisers working for AMCs. They are fee appraisers but work in an environment where services are provided for them. Examples would be compensation paid on a hourly basis, employment benefits, and marketing services.*
- *Whether the Fed should specify particular types of contractual obligations that, if breached, would warrant withholding compensation without violating the rules. Currently the statute only addresses failing to meet contractual obligations such as failing to provide the appraisal report or violating state or federal appraisal laws in performing the appraisal.*
- *The Fed requests comment on whether additional guidance regarding how creditors may identify recent rates is needed, and solicits views on what guidance in particular may be helpful. Generally a rate would be considered “recent” if it had been charged within one year of the creditor’s or its agent’s reliance on this information.*
- *Whether the final rule should expressly prohibit an appraiser’s compensation on a appraiser’s membership in a particular appraisal organization.*
- *The Fed solicits comment on whether the factors in determining compensation are appropriate, and whether other factors should be included.*
- *Whether additional guidance is needed regarding anticompetitive acts that would disqualify a creditor or its agent from the presumption of compliance. Anticompetitive acts in violation were identified as (1) entering into any contracts or engaging in any conspiracies to restrain trade through methods such as price fixing or market allocation and (2) engaging in any acts of monopolization such as restricting any person from entering the relevant geographic market or causing any person to leave the relevant geographic market.*
- *The Fed requests comment on whether in determining customary and reasonable fees should studies and surveys be treated differently.*
- *The Fed solicits comment on whether and on what basis the final rule should give creditors or their agents a safe harbor for relying on a fee study or similar source of compiled appraisal fee information.*
- *What additional guidance may be needed regarding third-party rate information on which a creditor and its agents may appropriately rely to qualify for the presumption of compliance?*
- *Whether the interim final rule’s definition of “appraisal management company” is appropriate for the final rule.*
- *The Fed solicits comment on whether reporting should be required only if a material failure to comply causes the value assigned to the consumer’s principal dwelling to differ from the value that would have been assigned had the material failure to comply not occurred by more than a certain tolerance, for example, by 10 percent or more.*

Summary: Federal Reserve Interim Final Rule – Appraisal Independence

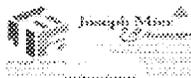
- *The Fed requests comment on what constitutes a reasonable period of time within which to report a material failure to comply with USPAP requirements. The rule does not establish a time period.*
- *Comment on any significant alternatives that would minimize the impact of the interim final rule on small entities.*
- *Comment on any costs, compliance requirements, or changes in operating procedures arising from the application of the interim final rule to small business.*

Potential Areas for NAHB Input for Improving New Home Valuations

- Identifying and avoiding unintended consequences.
- Appraisal standards and practices for distressed markets.
- Education, qualification, and licensing requirements for new home valuations.
- Communication between appraiser, client, and third parties.
- Reporting and enforcement of established regulations.
 - Substandard appraisals
 - Appeals process
- Recommendations for:
 - Seeking clarification of terms used in the interim final rule (for example, does consumers principal dwelling include second homes?)
 - Specific references to home building and home builders.

NAHB will be drafting a letter with comments on the Fed's interim final rule and encourages NAHB members to provide their input by Friday, December 3, 2010, to Steve Linville at slinville@nahb.org or call him at (202) 266-8597.

CX0295



Joseph Mier <joe@jmappraisers.com>

RE: Landsafe Appraisal Inquiry – Action Required

1 message

Rosalyn Bryant <rosalynb@bryantappraisalservices.com>

Wed, Mar 11, 2015 at 7:19 PM

To: "Travieso, Hector" <hector.travieso@landsafe.com>
Cc: "Hardy, Barbara" <barbara.hardy@landsafe.com>, "Howard, Pennie" <pennie.howard@landsafe.com>, "Tyler, Tameka" <tameka.tyler@landsafe.com>

\$245 is no where near customary and reasonable for this area.

Please see: http://www.reab.state.la.us/forms/REAB_FeeStudy.pdf

If you have any concerns about customary and reasonable fees for the state of Louisiana, please contact the Louisiana Real Estate Appraisal Board.

http://www.reab.state.la.us/AMC_license_law.html

Thank you,

Rosalyn Bryant

Louisiana State Certified Residential Real Estate Appraiser #R1179

Bryant Appraisal Services LLC
(504) 382-8470

www.bryantappraisalservices.com

From: Travieso, Hector [mailto:hector.travieso@landsafe.com]
Sent: Wednesday, March 11, 2015 6:31 PM
Cc: Hardy, Barbara; Howard, Pennie; Tyler, Tameka
Subject: Landsafe Appraisal Inquiry – Action Required

Good Evening
Order #: 21464953 Loan #: 22956636:

PLEASE REPLY TO ALL

I have a Pre-Foreclosure Manufactured Home 1004C located at 37523 LOPEZ ST , Slidell, LA 70458-8736 with a due date of 3/18/2015. The fee for the order is \$245. Are you able to accept this order? If so, would you be able to accept the assignment through AppraisalPort® or would you like us to accept the assignment on your behalf? If a different fee or due date is needed, please justify or document the reason.

We appreciate your prompt response to this matter. Please let us know if you have additional questions or concerns.

Please be sure to include the Valuation Services group inbox on all correspondence in the event one of our team members are unexpectedly unavailable or out of the office. The email address is: DG.LSValuationservices@landsafe.com

Héctor Alejandro Travieso
Settlement Services Specialist II
LandSafe, a Bank of America Company
Mortgage Operations
7105 Corporate Dr., Plano, TX 75024
Phone: 800-641-5898 Ext. 145-4578

At LandSafe, we are committed to providing truly outstanding customer service. If you would like to provide feedback on my customer service, please contact my manager, robert.guess@landsafe.com .

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Checked by AVG - www.avg.com
Version: 2014.0.4800 / Virus Database: 4257/9278 - Release Date: 03/11/15

CX0308



March 15, 2016

Mr. Bruce Unangst, Executive Director
Louisiana Real Estate Appraisers Board
P. O. Box 14785
Baton Rouge, LA 70898-4785

Re: REAB v. iMortgage Services, LLC
Case #2014-1500 – iMortgage Services, LLC Revised Compliance Plan

Dear Mr. Unangst:

iMortgage Services, LLC (“iMortgage”) received correspondence from the Louisiana Real Estate Appraisers Board (the “Board” or “LREAB”) dated March 10, 2016, regarding the compliance plan proposed by iMortgage on February 26, 2016. iMortgage was both surprised and disappointed with the Board’s rejection as the proposed plan fully satisfies the second presumption of compliance under federal law, as well as the Louisiana Real Estate Appraisers Law and Rules.

With respect to the Board’s request to review the data contained in the lender fee study used by iMortgage, the data will not be provided to LREAB. Such data and methodology belongs to a federally chartered institution and therefore is not subject to review by a state regulatory body as it has already been reviewed and accepted by the institution’s federal regulator, the Office of the Comptroller of the Currency (“OCC”). iMortgage also disagrees with the Board’s assertion that using actual experienced rates does not meet the federal presumptions of compliance as the Final Rule permits the use of actual rates of compensation experienced by appraisal management companies (“AMC”) as long as the AMC does not participate in anti-competitive activities. See 12 C.F.R. § 1026.42(f)(2). iMortgage has neither participated in any anti-competitive activities, nor have there been any relevant allegations asserting same.

That being said, iMortgage would like to move forward with its ability to conduct appraisal business in Louisiana. Consistent with the Board’s Order requiring an approved compliance plan in place by March 21, 2016, iMortgage will submit a revised compliance plan that satisfies the presumption of compliance under La Admin Code. Tit. 46, pt. LXVII §31101 utilizing the most recent Fee Study conducted by Southeastern Louisiana University Business Research Center and commissioned by the Board (the “Fee Study”). iMortgage will commit to

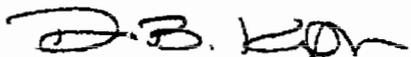
2570 Boyce Plaza Road, Pittsburgh, PA 15241
888-575-8555

pay the appraisal fees contained in the Fee Study for covered transactions, as defined by 12 C.F.R. § 1026.42.

As the Board is aware, based on the testimony at the December 8, 2015 hearing, iMortgage views the Fee Study as fundamentally flawed based on the fact that the data is self-reported, subjective, for an unknown scope of work, and therefore unable to be audited by a third party to verify its results.

iMortgage's agreement to pay appraisal fees based on the Fee Study should satisfy the Board as an acceptable compliance plan. The fine will be remitted, per the Board's Order under separate cover in advance of the March 21, 2016 deadline.

Sincerely,



Dean B. Kelker
Senior Vice President – Chief Risk Officer
iMortgage Services, LLC

2570 Boyce Plaza Road, Pittsburgh, PA 15241
888-575-8555

CX0370

From: Bruce Unangst <bunangst@lrec.state.la.us>
Sent: Monday, February 29, 2016 3:20 PM
To: Roland Hall, Sr. <rhallsra@bellsouth.net>
Cc: Summer Mire <smire@lrec.state.la.us>; Robert Maynor <rmaynor@lrec.state.la.us>; Henk VanDuyvendijk <henk@lrec.state.la.us>
Subject: FW: Case #2014-1500 - iMortgage Services Compliance Plan
Attach: Compliance Plan - LA 0216.pdf

Roland,
After you have a chance to review, let's discuss this.

Bruce Unangst
Executive Director
Louisiana Real Estate Commission
Louisiana Real Estate Appraisers Board
Post Office Box 14785-4785
Baton Rouge, LA 70898-4785
(225) 925-1923 Ext. 236
(800) 821-4529 (in state only)
bunangst@lrec.state.la.us



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From: Dean Kelker [mailto:DKelker@imortgageservices.com]
Sent: Friday, February 26, 2016 3:03 PM
To: Bruce Unangst
Cc: Robert L. Rieger, Jr.
Subject: Case #2014-1500 - iMortgage Services Compliance Plan

Mr. Unangst,

In accordance with the Board's Order, iMortgage submits the attached plan for compliance with the Louisiana Real Estate Appraisers Law and Rules. Please notify me of the Board's determination so that iMortgage may ensure compliance with the Order. Thank you in advance for your consideration.

Dean B. Kelker
Senior Vice President - Chief Risk Officer
iMortgage Services
2570 Boyce Plaza Rd.
Pittsburgh, PA 15241
Office: 888.575.8555 ext 1107
Cell: 215.432.2767
dkelker@imortgageservices.com



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Confidential, Propriety, and Trade Secret Information Exempt From Disclosure Under Louisiana Public Records Law. Submitted For Settlement Discussion Purposes Only.



26 February 2016

Mr. Bruce Unangst, Executive Director
Louisiana Real Estate Appraisers Board
P. O. Box 14785
Baton Rouge, LA 70898-4785

Re: Case #2014-1500 – iMortgage Services Compliance Plan

Dear Mr. Unangst:

A formal adjudicatory hearing was conducted by the Louisiana Real Estate Appraisers Board ("LREAB" or the "Board") on December 8, 2015 in Case No. 2014-1500. The Board issued an Order dated December 14, 2015, directing iMortgage Services, LLC ("iMortgage") to submit a compliance plan to the Board for review and approval prior to March 21, 2016.

In accordance with the Board's Order, iMortgage submits the attached plan for compliance with the Louisiana Real Estate Appraisers Law and Rules. Please notify me of the Board's determination so that iMortgage may ensure compliance with the Order. Should you or any members of the Board have any questions, please do not hesitate to contact me. Thank you in advance for your consideration.

Sincerely,

Dean Kelker

Digitally signed by Dean Kelker
DN: cn=Dean Kelker, o=iMortgage Services,
ou=Valuations,
email=dkelker@mortgageservices.com, c=US
Date: 2016.02.26 14:41:45 -0500

Dean B. Kelker
Senior Vice President – Chief Risk Officer

Attachment

cc: Robert L. Rieger, Jr.

Confidential, Propriety, and Trade Secret Information Exempt From Disclosure Under Louisiana Public Records Law. Submitted For Settlement Discussion Purposes Only.

iMortgage Services, LLC Proposed Louisiana Compliance Plan

The iMortgage Services, LLC (“iMS”) Compliance Plan applies to those consumer credit transactions secured by the consumer's principal dwelling, as defined in 12 C.F.R. § 1026.42(a). iMS’ Compliance Plan is also based on the Louisiana Real Estate Appraisers Law and Rules. See La. R.S. 37:3415.15 and La. Admin. Code tit. 46, pt. LXVII, § 31101. Specifically, iMS will compensate fee appraisers at a rate that is customary and reasonable for appraisal services performed in the market area of the property being appraised, as determined by the six factors contained in the Louisiana Rules governing appraisal management companies. See La. Admin. Code. tit. 46, pt. LXVII, § 31101(A)(3). Those factors are:

1. the type of property for each appraisal performed;
2. the scope of work for each appraisal performed;
3. the time in which the appraisal services are required to be performed;
4. fee appraiser qualifications;
5. fee appraiser experience and professional record; and
6. fee appraiser work quality.

iMS recognizes and documents these six factors in its vendor management and order management processes. Below is a summary of how the six factors are intertwined throughout iMS’ processes and how the six factors form the basis for iMS’ fee determinations.

Appraiser Qualification Methodology

Beginning with iMS’ appraiser qualification process, each appraiser on the iMS fee panel must meet certain minimum requirements. These include at least three years of active licensed/certified experience after the appraiser’s training period. Additionally, the appraiser must provide a resume and references for evaluation. iMS performs a thorough background check, and verifies the appraiser’s license and certification information with the ASC as well as the state(s). The license and certification verification process also includes a disciplinary check with each state to ensure that the appraiser has not been subject to a disciplinary action. All of this information is documented in the appraiser’s file and satisfies factors #4 and #5, fee appraiser qualifications and fee appraiser experience and professional record, respectively.

Appraiser Scoring Methodology

A key component of iMS’ appraiser management process includes a scoring methodology. iMS’ appraiser scoring methodology measures a number of metrics that include service times, pre-delivery defects, and post-delivery re-work. iMS’ scoring

Confidential, Propriety, and Trade Secret Information Exempt From Disclosure Under Louisiana Public Records Law. Submitted For Settlement Discussion Purposes Only.

metrics are weighted to emphasize the quality component over the service time component. Additionally, within the quality scoring component, the nature of the valuation defect is further weighted based on its overall impact on the valuation process. In this case, a valuation issue such as a missed adjustment or a reversed adjustment has a greater impact on an appraiser's quality score than a clerical issue such as a missed checkbox. iMS' scoring methodology is a real-time activity, allowing iMS' records to reflect the appraiser's most recent work product. iMS' scoring methodology also breaks down the appraiser's score for each product type that an appraiser performs for iMS. This methodology allows iMS to rank and maintain records for each appraiser by his or her current product quality and service. This portion of our process addresses factor #6, fee appraiser work quality.

Order Assignment

iMS' order assignment process employs both the appraiser's qualifications and scoring methodology, addressing the remaining three factors used to assign and price appraisal assignments. As discussed in previous communications with the Board, iMS uses two basic methodologies to assign orders to appraisers, which are set forth in detail below.

(1) Auto Offer Assignment Methodology:

The first assignment methodology is an auto offer methodology, which employs a number of metrics based on iMS' customer requirements, product requirements, and appraiser's metrics to systemically place an order with an the appropriate appraiser. Under this scenario, the system looks at product type and location to select an appraiser from those in proximity to the subject property. The system takes into account the current workload of each appraiser, the appraiser's proximity to the subject property, the appraiser's performance score, and the appraiser's years of experience before offering the order to a specific appraiser. The assignment offer generally contains information regarding the subject property type, the scope of work for the assignment, and a due date for the assignment. The offer documents information required to meet factors #1, #2, and #3, which include the type of property for each appraisal performed; the scope of work for each appraisal performed; and the time in which the appraisal services are required to be performed.

(2) Manual Assignment Methodology:

When the auto offer is not possible due to specific requirements of iMS customers, product specification issues, or the availability of appraisers, an iMS representative assigns the order manually. Manual assignment of the order employs the same process that is utilized by the auto offer methodology. The appraiser is selected from those that are available, are proximate to the property, and have the highest performance score. Records are maintained for each manual

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assignment, meeting the requirements for factors #1, #2, and #3, as detailed above. The vendor management process accounts for factor #4 and the appraiser performance score process accounts for factors #5 and #6.

Fee Determination

iMS employs two methodologies to determine fees offered to the appraiser, both of which comply with federal and Louisiana laws.

(1) Lender Developed Fee Study:

The first methodology is based on a lender developed fee study constructed using the lender's own fee experience integrated with independent fee data purchased from a third party. The fee data in the study is managed on a county or parish level and represents the minimum fee that an appraiser may be paid for an assignment performed for the specific client. This pricing methodology is a cost plus process with iMS on a fixed margin regardless of the appraiser's fee. Should the appraiser, based on any of the six factors, request a fee greater than the fee offered pursuant to the client fee study, iMS passes on the request to the client for approval and, if approved, the revised fee is paid for the assignment.

iMS' lender developed fee study methodology is consistent with the methodology identified in the TILA and the Dodd-Frank Act, in the context that it is married to a cost plus pricing structure for iMS. Since iMS' margin is fixed at a specific dollar amount rather than a percentage, there is no benefit for iMS to suppress fees to the appraiser. Additionally, the specific client that mandates iMS' use of this methodology is regulated by the Office of the Comptroller of the Currency ("OCC"). As such, the lender developed fee study was reviewed by the OCC and found to be compliant with customary and reasonable fee requirements mandated by the TILA and the Dodd-Frank Act.

(2) Market Based Fee Methodology:

When the client is not using a fee study based appraisal fee methodology, iMS uses a second methodology, which employs a market based process to determine appraisal fees in compliance with the six factors. Under this methodology, iMS uses its actual appraiser fee experience data to determine the customary and reasonable rate for specific appraisal services performed in the market area of the property being appraised. iMS' appraiser fee experience is based on actual transaction values for specific markets, which are primarily driven by the marketplace and the fees quoted by appraisers in the context of the six factors.

When an assignment is offered to an appraiser, he/she is able to provide feedback to iMS based on their interpretation of the six factors in the context of our internal metrics derived from iMS' records on each appraiser, which are detailed above.

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If the appraiser provides relevant information regarding the subject property to iMS that was unavailable at the time of the offer, iMS will make any necessary adjustment to the proposed fee for the appraiser. Therefore, iMS' fee determination practices and records include consideration of the six factors by both the appraiser and iMS on each and every assignment.

iMS' market based fee methodology is consistent with the methodology identified in the TILA and the Dodd-Frank Act, as well as the Louisiana Real Estate Appraisers Law and Rules regarding the market driven presumption of compliance. iMS qualifies for the use of this methodology because iMS does not participate in any anti-competitive activities in the development of appraisal fees.

Conclusion

iMS appreciates the opportunity to work with the LREAB in submitting this compliance plan for the Board's review and approval. iMS is confident that by following the methodologies and processes detailed above, iMS will maintain compliance with the Board's interpretation of the Louisiana Real Estate Appraisers Law and Rules relative to customary and reasonable compensation of fee appraisers.

CX0521

Henk VanDuyvendijk

From: Joseph Mier [joe@jmappraisers.com]
Sent: Wednesday, July 08, 2015 8:53 AM
To: Henk VanDuyvendijk
Subject: Fwd: NVS - Appraisal Assignment for Joseph Mier & Associates - 60 minute response suggested

Less than R&C Fee for Condo

Thanks
Joe

----- Forwarded message -----

From: <NVSPlacement@nationsvs.com>
Date: Tue, Jul 7, 2015 at 1:40 PM
Subject: NVS - Appraisal Assignment for Joseph Mier & Associates - 60 minute response suggested
To: joe@jmappraisers.com



Joseph Mier & Associates, this offer is available to you and additional preferred appraisers.

Prior to submitting a response to NVS, please research the subject property to ensure an accurate turn time and reasonable and customary fee quote is provided to NVS for this assignment. Your response will be reviewed by NVS prior to assignment. Please be advised, approval from the client may be required. NVS will follow up with you for an updated turn time if your response cannot be accepted within 24 hours.

Product: 1073 Full Condo
Assignment Type: Purchase
Lender: STATE FARM BANK
Borrower(s): Paul T Williams, Judith M Williams
Address:
10444 JEFFERSON HWY
BATON ROUGE, LA 70809
NVS Order: 15VS99988

Requested Appraisal Due Date: 07/10/15 2:00 PM CST

Please click the links below to visit our website and provide a quote or decline this assignment.

- [Joseph Mier](#) - \$352.00

CX0659

From: Bruce Unangst </O=LREC/OU=LREC/CN=RECIPIENTS/CN=BUNANGST>
Sent: Monday, September 23, 2013 9:52 AM
To: Tad Bolton <tbolton@lrec.state.la.us>
Cc: Robert Maynor <RMaynor@lrec.state.la.us>; Summer Mire <SMire@lrec.state.la.us>
Subject: FW: New Order Available for Acceptance - Valuation Partners

Tad,
Please draft standard letter for Robert and I to review and send to these miscreants. Thx.
Bruce

From: Joseph Mier 985-230-0730 [mailto:joe@jmappraisers.com]
Sent: Friday, September 20, 2013 3:29 PM
To: Bruce Unangst
Subject: FW: New Order Available for Acceptance - Valuation Partners

Bruce,

Hope all is well in Tiger Town!!

This is another company that continues to pay way below R&C fees.

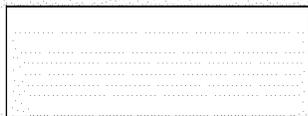
Please open case with them and contact them to verify how they are determining the R&C fee.

Thanks
Joe

Joseph Mier, SRA, MAA
Louisiana Certified Residential
Real Estate Appraiser#1016/Consultant

Joseph Mier & Associates
"Where Service Matters"
906 CM Fagan Dr. Ste 4A
Hammond, LA 70403
985-230-0730
Fax 985-230-0504
www.jmappraisers.com
www.joemier.com

From: appraisal@valuationpartners.com [mailto:appraisal@valuationpartners.com]
Sent: Friday, September 20, 2013 3:02 PM
To: joe@jmappraisers.com
Subject: New Order Available for Acceptance - Valuation Partners



Joseph Mier (vJoseMier):

A new order (VP29247425) is available for acceptance on the Valuation Partners website. This available assignment must be accepted via the web platform to be assigned.

Please Note: Pending orders are only displayed until accepted by a qualified vendor.

Please go to <http://www.valuationpartners.com/vendors/> to accept and view details of the order.

Order Details

Order Number	VP29247425
Client File Number	16705838
Client Case Number	221-5077252-703
Date Ordered	9/20/2013
Date Due	9/26/2013
Product #1	1004HUD - Single Family (FHA)
Vendor Fee Split	\$250.00

Property Details

Property Address	22413 Gemstone Place Robert, LA 70455
Property County	TANGIPAHOA

Special Instructions

Special Instructions

AMC State License Numbers: AL-AL0049; AR-AMR; AZ-40023; CA-AMC1370; CO-AMC20131025; CT-AMC.0000036; FL-MC40; GA-23; IL-55800139; IN-AMC1100079; KS-KS049; KY-55; LA-AMC.000000036; MD-31413; MN-AS; MO-2013027877; MT-REA; NC-NC; NE-NE2012027; NM-AMC1016; NV-AMC.0000274 (TX)/AMC.0000275; OK-60041AMC; OR-AM; SD-AMC; TN-00000072; TX-2000028; UT-7514061; VT-077.0069233; WA-3000036; WY-AMC-28;

No virus found in this message.

Checked by AVG - www.avg.com

Version: 2013.0.3408 / Virus Database: 3222/6684 - Release Date: 09/20/13

CX3013

From: Herb Holloway <herbert.holloway@selu.edu>
Sent: Monday, January 6, 2014 4:34 PM
To: William Joubert <wjoubert@selu.edu>
Cc: ajamal@selu.edu
Subject: Fwd: RE: Fee Survey

Bill,

Thought you would like to see Bruce Unangst's comments about the report we did for them last year.

We will be starting on the annual update shortly.

Herb

----- Original Message -----

Subject: RE: Fee Survey

Date: Mon, 6 Jan 2014 15:25:35 -0600

From: Bruce Unangst <BUnangst@rec.state.la.us>

To: Herb Holloway <Herb.Holloway@selu.edu>

Herb,

The fee survey has been recognized throughout the country as the best of its kind! We have posted online for use by any AMC wishing to use as a presumption of compliance with our C & R law and rules, and we point AMC's to this schedule for their consideration in setting their own policies. The schedule is also being used by La. appraisers as a guide to setting their own fee schedules. Our new rules addressing the C & R fee issue became effective upon final publication in the La. Register on 11/20/2012. Since that time we have anecdotal evidence of some AMC's converting to a "cost plus" business model, and one major national AMC announcing they were changing the way they calculate C & R fees, which appears to be the result of our new rules and published fee schedule. An overall increase in fees paid to La. appraisers has been reported to us. Overall, the LREAB and our in state stakeholders could not be more pleased with the results.

I was going to contact you anyway, as it is time to update the survey conducted last year. I don't believe we will see any changes in C & R fees, but Federal Interim Rules define "current fees paid" to those paid in the last 12 months.

Therefore, we need to finalize plans to update. Here's to a great 2014!

Bruce

From: Herb Holloway [mailto:herbert.holloway@selu.edu]

Sent: Monday, January 06, 2014 3:09 PM

To: Bruce Unangst

Subject: Fee Survey

Bruce,

Just curious if the appraisal fee survey has actually been used by LREAB to this point, and how the AMC community has responded.

I received a call a while back from an AMC wanting to see the data from the survey (I referred them to you), so I assumed it must be having some impact.

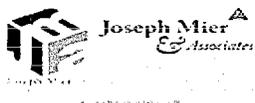
Thanks,
Herb

Herb Holloway
Research Economist
Southeastern Louisiana University Business Research Center
1514 Martens Drive
Hammond LA 70401
(985) 549-3199
FAX (985) 549-2127

CX3041

5/6/2016

Joseph Mier & Associates Mail - R&C Fees & Paying on time



Joseph Mier <joe@jmappraisers.com>

R&C Fees & Paying on time

5 messages

Joseph Mier <joe@jmappraisers.com>

Sun, Feb 8, 2015 at 11:51 AM

Bcc: "Mr. Buck Maurin" <buckmaurin@bellsouth.net>, chrisj@murphyappraisal.com, David Olivier <dso123@aol.com>, David Winstead <dwinstea@bellsouth.net>, Me Mier <joe@jmappraisers.com>, Larry Wilson <rappraiser@bellsouth.net>, Larry Wilson <rappraiser@charter.net>, Leslie Levens Jr <levens@acadiacom.net>, Mike Bohning <mike@bohningappraisals.com>, Pamela Hartzog <shartzog@bellwouth.net>, Paul Vidal <paulvidal@att.net>, Rick Murphy <rickm@murphyappraisal.com>, Robin Smith <robsmith@robcentral.biz>, Todd F <toddf@murphyappraisal.com>, Todd LeBourgeois <todd@lebourgeoisandassociates.com>, Tommie McMorris <tommieap@charter.net>, Roland Hall <rhallsra@bellsouth.net>, Bill Cobb <fastvalue@cox.net>, Chris Smiroldo <chriss@murphyappraisal.com>

Fellow Appraisers,

As the fight for R&C fees for Louisiana continues I am asking for some help.

If you get a request from any AMC that is not indicating a R&C fee for a full appraisal \$425 or more can you do me a favor and forward that to me?

After you forward the original request to me you can do whatever you want with itdecline it, accept it, ask for a fee increase whatever you want.

Also I am looking for engagement letters from National banks like Chase, BOA, Wells Fargo prior to Dodd/Frank that shows they were paying a R&C fee for a full appraisal before they started using AMC's. Lastly any engagement letters from any AMC's that are or were owned by Chase, BOA/Landsafe, Wells Fargo etc that were sending out requests without a R&C Fee after 2009 and Dodd/Frank.

I am trying to help our industry and I am seeing some AMC's increase their fees to R&C so we are making headway and cannot stop now but.....I need your help to keep it going.

Thanks
Joe

Sincerely,
Joe

906 CM Fagan Dr. Ste 4A
Hammond, LA 70403
985-230-0730
Fax 985-230-0504
www.jmappraisers.com

5/6/2016

Joseph Mier & Associates Mail - R&C Fees & Paying on time

www.joemier.com**CONFIDENTIALITY NOTICE:**

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Todd Fitzmorris <toddf@murphyappraisal.com>

Mon, Feb 9, 2015 at 10:31 AM

To: Joseph Mier <joe@jmappraisers.com>

Cc: Rick Murphy <RickM@murphyappraisal.com>, Rachael Couvillion <RachaelC@murphyappraisal.com>, Cindy Caruso <cindyc@murphyappraisal.com>, JOLIE BREAUUX <jolieb@murphyappraisal.com>

Joe,

I truly appreciate your hard work and I believe in everything you are fighting for, however I do not have any clients including AMC's paying me \$425 or more for a full appraisal.

Most banks and any mortgage companies who do not use an AMC pay \$400 for full appraisals. The only time I get paid more than \$400 is when it is a high end home, very large home or rural property on lots of acreage or an extreme remote area then I request \$450 to \$550 and typically they agree to this increase.

I do not do a whole lot of AMC work unless they pay at least \$350/appraisal. The few AMC's I do work for pay \$350 to \$375. One recently increased their fee from \$350 to \$375 at the first of the year.

Typically my rule is I will not do any mortgage or bank full appraisals for any less than \$350, however I do have one AMC which is owned by a local appraiser in our area that was paying \$350 when he first opened last summer, but is now only paying \$325 which I have called him out on it and he would not reply to my email. I have asked other appraisers to call him out on it too.

5/6/2016

Joseph Mier & Associates Mail - R&C Fees & Paying on time

The only other work I do for less than \$350 is sometimes I will do a 704 report for \$300-325 for real estate agents or individuals, but it is a quick super easy report without stips from an underwriter or having to meet FNMA guidelines and I do these at discounted rate for agents to build up my referral business.

Thank You and Keep up the good work.....

Todd Fitzmorris

Murphy Appraisal Services

19411 Helenberg Rd. Suite 204

Covington, LA 70433

985-626-4115 ofc

985-626-4116 fax

504-382-2652 cell

toddf@murphyappraisal.com

www.murphyappraisal.com

From: Joseph Mier [mailto:joe@jmappraisers.com]

Sent: Sunday, February 8, 2015 11:52 AM

To: undisclosed-recipients:

Subject: R&C Fees & Paying on time

[Quoted text hidden]

Joseph Mier <joe@jmappraisers.com>

Mon, Feb 9, 2015 at 11:51 AM

To: Todd Fitzmorris <toddf@murphyappraisal.com>

Cc: Rick Murphy <RickM@murphyappraisal.com>, Rachael Couvillion <RachaelC@murphyappraisal.com>, Cindy Caruso <cindyc@murphyappraisal.com>, JOLIE BREAUX <jolieb@murphyappraisal.com>

Todd,

Thank you for your response and while I agree that \$425 is a premium fee right now that is just with the state survey reflects.

I am looking for AMCs that are blasting out emails with fees less than \$350 for a full appraisal.

These are the ones that need to called onto the carpet. If you get those types of request and would like to send them to me I would appreciate it. Regardless if you accept them or not..... Like me you probably just delete the email when the fee is that low.

Thanks

5/6/2016

Joseph Mier & Associates Mail - R&C Fees & Paying on time

Joe

Joe

Joseph A. Mier, SRA, AI-RRS, MAA
Joseph Mier & Associates
Real Estate Appraisal Services &
Real Estate Consultants
Office 985-230-0730
Cell 985-634-2910
www.joemier.com

Please disregard any mis spellings as this was sent from my iPhone on a mini keyboard
[Quoted text hidden]

Todd Fitzmorris <toddf@murphyappraisal.com>
To: Joseph Mier <joe@jmappraisers.com>

Mon, Feb 9, 2015 at 2:17 PM

Joe,

Give me a call at the office when you have time. I will be here until 3:30 today and will be in all morning tomorrow.

Todd Fitzmorris

Murphy Appraisal Services

19411 Helenberg Rd. Suite 204

Covington, LA 70433

985-626-4115 ofc

985-626-4116 fax

504-382-2652 cell

toddf@murphyappraisal.com

www.murphyappraisal.com

From: Joseph Mier [mailto:joe@jmappraisers.com]
Sent: Monday, February 9, 2015 11:52 AM
To: Todd Fitzmorris
Cc: Rick Murphy; Rachael Couvillion; Cindy Caruso; JOLIE BREAUX
Subject: Re: R&C Fees & Paying on time

[Quoted text hidden]

5/6/2016

Joseph Mier & Associates Mail - R&C Fees & Paying on time

Todd Fitzmorris <toddf@murphyappraisal.com>
To: Joseph Mier <joe@jmappraisers.com>

Mon, Feb 9, 2015 at 3:18 PM

Here are the two from Trae's AMC – Pelican Appraisal Management which I did accept at \$325. I emailed him asking why only \$325 and not \$350 with no response from him. He was paying \$350 in the beginning when he first started this AMC last summer. One of them he changed it from conventional to RD after I accepted it at \$325. This change took place before I inspected it so I charged \$25 more without asking for permission. It was a recent job so I don't know if he will pay us \$325 or \$350. Anyway, I accepted these two jobs at \$325 since I was questioning him about the amount of work I get through his AMC for a particular lender who told me they send 99% of their work to Trae. This lender does quit of bit of work and many of the real estate agents refer work to this lender. I assume Trae is not sending them to me b/c I want \$350 or more or he is not fairly rotating jobs. The sad part is his client being the mortgage company who is also my client would like me to perform appraisals for them so now I have to get the mortgage company to question Trae too why I am not getting work from him.

I blacked out my name on the order and the lenders name. I don't care to file a complaint against PAC as it's not really a whole lot of work I am loosing and I don't want to create any problems as this is a small town where we all know each other, but maybe this can help you some to build a case to use an example how much is being collected from the borrower, how much the AMC gets and how much the appraiser is paid.

Besides this I do not accept any AMC work below \$350 nor do I get the blast emails at the super low fees you speak of. I asked Rachael to keep an eye out for ridiculous low stuff. She automatically requests a higher fee if she gets low ball bids.

Good talking to you today. I appreciate you fighting for us.

Todd Fitzmorris

Murphy Appraisal Services

19411 Helenberg Rd. Suite 204

Covington, LA 70433

985-626-4115 ofc

985-626-4116 fax

504-382-2652 cell

toddf@murphyappraisal.com

www.murphyappraisal.com

5/6/2016

Joseph Mier & Associates Mail - R&C Fees & Paying on time

From: Joseph Mier [mailto:joe@jmappraisers.com]
Sent: Monday, February 9, 2015 11:52 AM
To: Todd Fitzmorris
Cc: Rick Murphy; Rachael Couvillion; Cindy Caruso; JOLIE BREAU
Subject: Re: R&C Fees & Paying on time

[Quoted text hidden]

 **pac2_20150209161213.pdf**
88K

CX3236



Mark Schiffman <mark.schiffman@revaa.org>

Follow-up on Discussion

Bruce Unangst <bunangst@irec.state.la.us>
To: Mark Schiffman <mark.schiffman@revaa.org>

Thu, Dec 17, 2015 at 2:46 PM

Mark,

I absolutely understand the concerns of your membership about proprietary information being made available to the general public. I consulted our attorney and have verified that specific language exists in our Public Records Act that would allow our entering into written confidentiality agreements to protect trade secret and proprietary info when conducting investigative inquiries. We would simply need a written request from the specific AMC requesting certain information be protected as being proprietary. As long as the request was reasonable, and would not violate the spirit and intent of our PRA, I believe this is a common sense solution.

With regard to "market participants" comprising a Board majority, please know that no Board member in La. is privy to any information regarding any ongoing investigation. We have one certified appraiser on staff who is precluded from active market participation by virtue of his position. Of the ten (10) authorized seats on our Board, there are currently only three (3) certified residential appraisers who are active in the residential appraisal business. We have two (2) members employed by banks and nominated by the La. Bankers Association, and an additional member who holds a residential certification but is employed in risk management for a La. Bank. One (1) seat is specifically set aside for an AMC representative. The balance are "Certified General Appraisers" who to my knowledge do little if any residential appraising. Further, our Board is subject to legislative and Executive oversight that is consistent with FTC guidelines.

Regarding the problem of a lender requiring an AMC to use their fee schedule but unwilling to provide information and/or back up methodology to us, I don't see a simple or painless solution. Our Board could always promulgate a rule precluding an AMC from using a lender fee study/schedule unless the schedule and its back up methodology was available for review, however, I believe there has got to be a reasonable solution short of another rule.

At this point, La. Does not mandate or set individual and specific C & R fees. As a courtesy and safe harbor, our Board engages Southeastern La. University Business Center to conduct an annual survey of lenders and appraisers as to the C & R fees in their market area. However, our rules set forth how an AMC might select another independent 3rd party survey to rely upon. Should an AMC choose not to use an independent 3rd party survey, an AMC would be required to evaluate the six (6) factors identified in the rules on each assignment in arriving at the C & R fee for each assignment. It is our belief that an AMC utilizing sound methodology and analytics coupled with accurate market data should result in C & R fees that reasonably reflect what we see in the federal VA schedule and our own University data. When trying to identify what is or isn't a C & R fee on any specific assignment, I'm reminded of what one of our Supreme Court Justices responded when asked to define pornography. He simply stated that he would know it when he saw it! Uncertainty is our mutual enemy and I believe further open dialog with your organization on this subject is both healthy and overdue.

What is not in the public discourse is the fact we have quietly opened, investigated, resolved, and closed eight (8) AMC investigations on this issue in the recent past without formal hearings, public proceedings or fanfare. With

regard to the iMortgage Services case, I agree they are going to have to make their own determination as to how they proceed. They have excellent legal counsel and am certain they will take whatever steps they feel are in their best interest.

I offer the above comments as my opinion in my role as the Executive Director. Please know that policy and rulemaking are set by our Board, but I believe the above fairly represents our Board's consensus on the issues.

Bruce Unangst

Executive Director

Louisiana Real Estate Commission

Louisiana Real Estate Appraisers Board

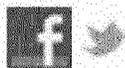
Post Office Box 14785-4785

Baton Rouge, LA 70898-4785

(225) 925-1923 Ext. 236

(800) 821-4529 (in state only)

bunangst@lrec.state.la.us



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From: Mark Schiffman [mailto:mark.schiffman@revaa.org]

Sent: Wednesday, December 16, 2015 6:38 PM

To: Bruce Unangst

Subject: Follow-up on Discussion

Hi Bruce - thank you for the call the other day.

I've had a chance to discuss your idea with our members and the REVAA board today. They were very appreciative of your outreach and clearly see the benefit in a confidentiality agreement when reviewing fee surveys or other sensitive trade secrets during LREAB investigations as a step in the right direction.

As I mentioned, AMCs know they have to comply with LREAB but are private businesses and competitors, which raises great concern and apprehension about having this type of sensitive, proprietary information made publicly available - both from the competition perspective with other AMCs and a precarious regulatory perspective when the body is comprised of

a majority of market participants with whom they work.

What is unknown is the reaction from lenders. We'd hope this would help them be more willing to share their info but it is a question each will have to ultimately answer for themselves. An AMC couldn't share a proprietary fee survey from a client without their express permission. So, in this scenario, the fate of the AMC under Louisiana law / regulation is reliant on a willing lender that can't be compelled to comply with LREAB. So, even if an AMC is absolutely spot on and has met the burden of proof on C&R, they can't be successful in Louisiana if the lender objects.

I have a question for your interpretation so I know what to tell my members. When LREAB is looking at C&R, regardless of presumption, is the burden of proof an actual dollar amount or is that the AMC has a reasonable process in place to prove that whatever the rate they paid, it is C&R based on their methodology/analytics? As you can see, from a regulatory interpretation perspective, this could mean more than one thing and I'd like to know what burden our members will be seeking to satisfy in Louisiana in the future.

Finally, as it pertains to our member iMortgage Services, they are really going to have to make their own determination about next steps. I'd suggest Arlene reach out to Rob if you think there are some additional things he and Mr. Simon should consider.

Thank you,

Mark

Mark A. Schiffman

Executive Director

Real Estate Valuation Advocacy Association (REVAA)

www.revaa.org

(512) 716-1812

CX3245

STIPULATIONS AND ORDER

The Stipulations and Order between Coester Appraisal Management Group and the Louisiana Real Estate Appraisers Board have been executed pursuant to Section 955 (D) of the Louisiana Administrative Procedures Act and Section 30901 of the Rules and Regulations of the Board to informally dispose of violations alleged as a result of an investigation conducted in Case Number 2013-2070, as specified in the written complaint.

STIPULATIONS

The Louisiana Real Estate Appraisers Board and Coester Appraisal Management Group stipulate:

1. That written notice of these proceedings was mailed to Coester Appraisal Management Group on November 24, 2014, with an additional notice of April 30, 2015.
2. That the notice included a copy of the written complaint in Case Number 2013-2070 and advised that the hearing was scheduled for June 4, 2015.
3. That the informal proceedings were initiated pursuant to Coester Appraisal Management Group agreeing in writing to conclude action in Case Number 2013-2070 informally.
4. That Coester Appraisal Management Group voluntarily participated in these proceedings for the purpose of resolving the dispute concerning Case Number 2013-2070.
5. That the proceedings were conducted on May 28, 2015 by telephone with the below listed persons participating:

Arlene C. Edwards, Hearing Officer
Robert L. Rieger, Jr., Adams and Reese LLP
Counsel for Coester Appraisal Management Group
6. That Coester Appraisal Management Group was licensed as an Appraisal Management Company (AMC#0153) for the period November 1, 2011 through 2015, and is currently in good standing.
7. That pursuant to LSA-R.S. 37:3415.15 and Section 31101.A, an Appraisal Management Company shall compensate appraisers at a rate that is customary and reasonable for the appraisals being performed in the market area of the property being appraised, consistent with the presumptions of compliance under federal law. Section 31101.A also sets forth that if electing to compensate fee appraisers on any basis other than an established fee schedule, the licensee shall, at a minimum, review factors listed in Section 31101.B 1-6 on each assignment made, and make appropriate adjustments to recent rates paid in the relevant geographic

market necessary to ensure that the amount of compensation is reasonable. Further, licensees, shall maintain written documentation that describes or substantiates all methods, factors, variations, and differences to determine the customary and reasonable fee for appraisal services conducted in the geographic market of the appraisal assignment. The rule sets forth the minimum elements that must be included. Coester Management Group alleges that it complied with the federal law, and as such, it was in compliance with Louisiana law. The Board alleges that Coester Appraisal Management Group did not use established fees set by an objective third party or to use the factors set forth in Section 31101, in violation of LSA-R.S.37:3415.19. (1) and (2), LSA-R.S.37: 3415.15 and Section 31101 of the Rules and Regulations of the Louisiana Real Estate Appraisers Board.

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ORDER

In conjunction with the foregoing Stipulations, Coester Appraisal Management Group agrees not to contest Case Number 2013-2070, and agrees to pay administrative costs of the informal proceeding in the amount of \$5,000.00 and further, the Board will accept Coester Appraisal Management Group's proposal to follow the current Louisiana fee schedule for a period of twelve (12) months beginning 30 days after the effective date of this Order. Coester Appraisal Management Group also agrees to submit a quarterly report to the Board, for a period of twelve (12) months, beginning 60 days after the end of the quarter beginning July 1, 2015, which lists all appraisal orders in Louisiana, the fee paid and the date payment was made to the appraiser. Such reports will be kept confidential by the Board.

CERTIFICATE

Coester Appraisal Management Group does hereby consent to executing this document in lieu of a formal adjudicatory proceeding in Case Number 2013-2070. Coester Appraisal Management Group understands that this Order is subject to approval by the Louisiana Real Estate Appraisers Board at a regular meeting and that, if approved, will be effective and executory on the date approved by the Board. If this Order is not approved by the Board, Case Number 2013-2070 will be scheduled for a public adjudicatory hearing.

Coester Appraisal Management Group freely and voluntarily waives any right pursuant to LSA-R.S. 49:959 regarding reopening, rehearing or reconsideration by the Board of the informal proceeding conducted in Case Number 2013-2070, and the right to a judicial review of these informal proceedings pursuant to LSA-R.S. 49:964.

 Robert L. Rieger, Jr.
 Adams and Reese LLP
 Counsel for Coester Appraisal Management Group

May 28, 2015
 Date

 Arlene C. Edwards, Hearing Officer
 Louisiana Real Estate Appraisers Board

May 28, 2015
 Date

Emily Spence

From: Brian C. Coester <bcoester@coesterappraisals.com>
Sent: Thursday, May 28, 2015 2:27 PM
To: Scott Levy
Cc: Robert Rieger; James Milano
Attachments: Coester - Stipulations and Order (2).docx

Jim -

I have read the Stipulations and Order in Case No. 2013 - 2070 and I authorize my counsel, Rob Rieger, to sign on the company's behalf.

--



Brian C. Coester
Chief Executive Officer

Coester Valuation Management Service
7529 Standish Place, Suite 200
Rockville, MD 20855

Office: 888-485-1999 ext 694
Direct: 240-667-7694
E-mail: bcoester@coestervms.com

Website: www.coestervms.com
Blog: www.briancoester.com
LinkedIn: <http://www.linkedin.com/in/briancoester>
Charitable Organization: www.comfortcases.org

CoesterVMS, the way valuations should be

CX3269

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Appraisal Subcommittee

Federal Financial Institutions Examination Council

April 28, 2017

Ms. Roberta Ouellette
 Assistant Attorney General
 North Carolina Appraisal Board
 5830 Six Forks Road
 Raleigh, NC 27609

Dear Ms. Ouellette:

We appreciate the opportunity to comment on House Bill 829 and its impact on North Carolina's compliance with the Truth in Lending Act (TILA), especially 129E(i) of TILA (15 U.S.C. §1601 et seq.) and regulations promulgated thereunder. First and foremost, it is important to understand that the Appraisal Subcommittee (ASC) has no authority to require States to enforce provisions of TILA, which include the customary and reasonable fee provisions. Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act), a State may enforce customary and reasonable fees if they choose to do so.

With regard to House Bill 829, we provide general comment below concerning State registration and supervision of AMCs and compliance with minimum federal requirements. We decline, however, to comment specifically with regard to the impact of House Bill 829 on a State that chooses to enforce TILA provisions because we are not the federal agency responsible for enforcement of TILA. The appropriate agencies to address issues concerning a creditor's compliance with TILA, including the requirement for the creditor or the creditor's agent (includes AMCs) to pay an appraiser a customary and reasonable fee, is the agency that enforces TILA with respect to the creditor. It is apparent, however, that House Bill 829 does not reflect the provisions within TILA fully or accurately.

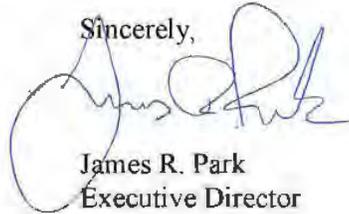
One of the ASC's core functions is to monitor the requirements established by States that elect to register and supervise the operations and activities of appraisal management companies (AMCs). States with an AMC regulatory program (AMC Program) are evaluated by the ASC to determine compliance or lack thereof with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as amended (Title XI), and to assess implementation of the minimum requirements for State registration and supervision of AMCs as established by the AMC Rule.¹ Specific to TILA, the AMC Rule requires States to "[i]mpose requirements on AMCs . . . to: (5)

¹ The Dodd-Frank Act required the Office of the Comptroller of the Currency; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; National Credit Union Administration; Bureau of Consumer Financial Protection; and Federal Housing Finance Agency to establish, by rule, minimum requirements to be imposed by a participating State appraiser certifying and licensing agency on AMCs doing business in the State. (Title XI § 1124 (a), 12 U.S.C. 3353(a)). Those rules were finalized and published on June 9, 2015, at 80 *Federal Register* 32658 with an effective date of August 10, 2015. (12 CFR 34.210 – 34.216; 12 CFR 225.190 – 225.196; 12 CFR 323.8 -323.14; 12 CFR 1222.20 – 1222.26.)

[e]stablish and comply with processes and controls reasonably designed to ensure that the AMC conducts its appraisal management services in accordance with the requirements of section 129E(a) through (i) of the Truth in Lending Act [TILA], 15 U.S.C. 1639e(a) through (i), and regulations thereunder.” **So long as a State imposes this requirement on AMCs, they will be compliant with this minimum requirement of the AMC Rule.** Whether a State chooses to expand its authority to enforce TILA provisions on customary and reasonable fees is entirely up to the State. Therefore, it may be within the purview of the State to take action against an AMC that violates the State law requiring compensation of appraisers in accordance with TILA, depending on authority vested in the State by State law. Enforcement authority may occur at either the federal level or by States’ attorneys general.

Again, we appreciate the opportunity to comment. Please do not hesitate to contact us if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "James R. Park", is written over a faint, circular watermark or stamp.

James R. Park
Executive Director

CERTIFICATE OF SERVICE

I hereby certify that on March 26, 2021, I filed the foregoing document electronically using the FTC's E-Filing System and served the following via email:

April Tabor
Acting Secretary
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-113
Washington, DC 20580
ElectronicFilings@ftc.gov

The Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-110
Washington, DC 20580

I also certify that I delivered via electronic mail a copy of the foregoing document to:

W. Stephen Cannon
Seth Greenstein
Richard Levine
James Kovacs
Allison Sheedy
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asheedy@constantinecannon.com
wfore@constantinecannon.com

*Counsel for Respondent Louisiana Real Estate
Appraisers Board*

Dated: March 26, 2021

By: s/ Patricia M. McDermott
Patricia M. McDermott, Attorney

CERTIFICATE FOR ELECTRONIC FILING

I certify that the electronic copy sent to the Secretary of the Commission is a true and correct copy of the paper original and that I possess a paper original of the signed document that is available for review by the parties and the adjudicator.

Dated: March 26, 2021

By: s/ Patricia M. McDermott
Patricia M. McDermott, Attorney