



**Appraisal
Institute®**
*Professionals Providing
Real Estate Solutions*

The logo for the American Society of Appraisers (ASA), featuring a blue triangle with a white scale of justice inside.
**American
Society of
Appraisers**
ASA
The International Society of Professional Valuers

Property Economics Professionals
The logo for the American Society of Farm Managers and Rural Appraisers (ASFMRA), featuring green wavy lines above the text.
ASFMRA
A circular seal for the American Society of Farm Managers and Rural Appraisers, with the text "AMERICAN SOCIETY OF FARM MANAGERS AND RURAL APPRAISERS" around the perimeter.



June 14, 2007

Honorable Ben S. Bernanke
Chairman
Board of Governors of the
Federal Reserve System
20th and Constitution Ave., N.W.
Washington, D.C. 20551
Docket No. OP-1288

Dear Chairman Bernanke:

On behalf of the 30,000 members of our respective professional organizations, thank you for hosting the hearing on HOEPA. This letter is to share our concerns about abusive lending practices in the mortgage market with you.

Our organizations are deeply concerned about predatory lending and mortgage fraud. Mortgage fraud losses are skyrocketing according to the Federal Bureau of Investigation, and abuses in the subprime lending industry are well documented in how they have hurt borrowers, financial institutions and investors alike.

One issue that we find does not receive enough attention is the collateral management process within financial institutions. While the federal bank regulators have appraisal independence requirements, these are often ignored by federally regulated institutions. We trust that you will accept this premise given that the federal regulatory agencies reissued statements on appraisal independence in recent years in reaction to widespread breakdowns in appraisal independence found during bank examinations. More frustrating for us, however, is that there is an entire sect of the mortgage industry controlling the appraisal process and appraisal management, without any oversight in the appraisal management area. Non-bank mortgage lenders and mortgage brokers are given the privilege of ordering appraisals with virtually no rules and regulations on how to conduct these practices. Conflicts of interest result between parties with vested interests in transactions controlling what is supposed to be an independent appraisal process.

This problem stacks the deck against honest and professional appraisers, who face pressure, intimidation, and even coercion from clients to inflate appraisals to facilitate transactions. A recent study found that 90 percent of appraisers were pressured by mortgage brokers, realty agents and others to raise property valuations to enable deals to go through, nearly double the findings of a similar study three years ago. Moreover, the survey found that 75 percent of appraisers reported "negative ramifications" if they did not cooperate, alter their appraisal, and provide a higher valuation. The appraiser must be a vital independent service provider in any mortgage transaction. Through this independence, competent and qualified real estate appraisers are a

crucial safeguard to American homeowners and to the safety and soundness of primary and secondary mortgage markets.

In a recent address, you mentioned the Fed Board may offer guidance to financial institutions abusive lending practices. We support this endeavor and ask that you include appraiser coercion and intimidation under the definitions found in the Truth in Lending Act. Specifically, we would like to call attention to U.S. Code Title 15, Chapter 41, Subchapter I, Part B, section 1639, which states:

(2) Prohibitions

The Board, by regulation or order, shall **prohibit acts or practices** in connection with—

(A) Mortgage loans that the Board finds to be unfair, deceptive, or designed to evade the provisions of this section; and

(B) Refinancing of mortgage loans that the Board finds to be associated with **abusive lending practices**, or that are otherwise not in the interest of the borrower. ‘

Our organizations believe the cited regulation gives the Fed Board the jurisdiction to punish the bad actors in the mortgage lending industry, and with the Senate not likely to legislate a solution, we encourage you use this guidance to protect consumers and honest mortgage professionals from abusive lending practices in all types of mortgage loans. Moreover, with the rising numbers of appraisers subjected to pressure during the mortgage process, we would like you to include “appraiser coercion” on the list of prohibited practices in the Truth in Lending Act.

Several states have laws banning appraiser pressure, and recently, the Attorneys General of Ohio and New York have subpoenaed mortgage brokers, lenders and appraisers in ongoing investigations, for improperly pressuring appraisers to inflate home values.

In addition to considering inclusion of appraisal independence matters as part of new guidelines on abusive lending practices, we would like to offer the assistance of our organizations to help educate the Board of Governors and your regulated institutions about the appraisal process and the importance of appraisal independence. This might be accomplished well through an “Appraiser Roundtable,” hosted by the Federal Reserve, and made up of appraisal professionals and financial institutions that could meet annually to debate and advise the Board on issues and regulations that affect the U.S. financial system and the appraisal industry.

Thank you for your consideration, and we look forward to working with you on this critical issue. Please call Don Kelly, Chief External Relations Officer for the Appraisal Institute, at 202-292-5583 or dkelly@appraisalinstitute.org, should you have any questions.

Sincerely,

Appraisal Institute
American Society of Appraisers
American Society of Farm Managers and Rural Appraisers
National Association of Independent Fee Appraisers