

Congress of the United States  
Washington, DC 20515

February 6, 2020

Gene L. Dodaro  
Comptroller General  
Government Accountability Office  
441 G St., NW  
Washington, DC 20548

Dear Comptroller General Dodaro:

We write to request that you undertake a comprehensive study of the implementation of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) by the relevant federal agencies. We are concerned about dilution of the original Congressional intent of Title XI of FIRREA through various exemptions from the requirement to obtain an appraisal. We are also concerned that the current rules implementing the appraisal requirement may be insufficient to protect homeowners from the risks associated with an inaccurate home valuation. We respectfully request a Government Accountability Office (GAO) study regarding these issues, including recommendations for how to ensure that the safety and soundness of our financial system is preserved and that homeowners are protected from mortgages with inaccurate valuations.

Title XI was enacted by Congress in response to the numerous valuation related issues that came to light as a result of investigations and hearings into the causes of the savings and loan crisis of the mid-1980s. These appraisal regulatory provisions were enacted to help ensure the future stability of the deposit insurance fund. While Congress envisioned that most real estate related transactions would be covered by Title XI, that is no longer the case. The Appraisal Subcommittee (ASC), the entity created and charged under Title XI to monitor the appraisal related actions of the Federal financial institutions regulatory agencies (Agencies), estimated in its 2018 report to Congress that *“at least 90 percent of residential mortgage loan originations are not subject to the Title XI appraisal regulations.”*

Over the past few decades, however, the federal agencies charged with implementing Title XI of FIRREA have taken steps to limit the number of transactions for which an appraisal is required.

**Threshold Increases:** The de minimis threshold, the amount of the transaction below which an appraisal is not required, has been increased numerous times. The agencies quickly raised the amount from \$50,000 to \$100,000 and then again to \$250,000. Earlier this year the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC) and the Board of Governors of the Federal Reserve System (FRB) all increased the threshold to \$400,000. The National Credit Union Administration (NCUA) has also recently proposed the same increase. According to the National Association of Realtors (NAR) the average sales price of an existing home in October of this year was \$270,900.

**Regulatory Exemptions:** The Federal financial regulatory agencies have adopted thirteen regulatory “carve-outs” to reduce the number of transactions that are classified as federally regulated transactions and thereby covered by the provisions of Title XI. One major exemption is

*a residential real estate transaction in which the appraisal conforms to the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation appraisal standards applicable to that category of real estate.*

Even though such transactions remain in the lending institution’s portfolio and are covered by the deposit insurance fund, under this exemption they are not considered federally related transactions subject to the protections of Title XI.

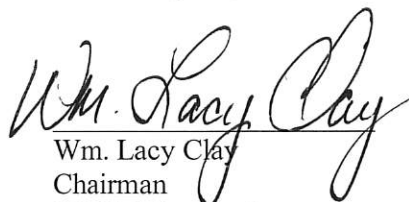
**Appraisal Waivers:** Title XI contains a provision for the ASC to grant temporary waivers if it is determined that there is a scarcity of appraisers. That waiver language was intended for initial transition purposes only, not for use thirty years after the implementation. Additionally, the waiver for the state of North Dakota granted this year by the ASC, the majority of its members appointed by the Agencies, was approved despite the absence of data indicating that a scarcity of appraisers existed.

**Evaluations as a substitute for appraisals:** The current regulations allow the use of “evaluations” instead of appraisals for transactions below a specified threshold.<sup>1</sup> The agencies’ guidance for conducting evaluations contains no requirements and no standardized methodology; and there is no education requirement for the person conducting the evaluation. Because the agencies’ provisions for evaluations have been issued as guidance, it is not even clear to what extent they are mandatory. It is likely that evaluations will rely heavily on automated valuation models (AVMs). But the agencies have not yet promulgated regulations mandated by the Dodd-Frank Act to implement quality control standards for AVMs.

We request that you conduct a review of the impact of these changes, including the potential risks that they pose to homeowners and the safety and soundness of our financial system. If you have any questions about this letter, please contact Darrell “Rico” Doss in Congressman Clay’s office at [darrell.doss@mail.house.gov](mailto:darrell.doss@mail.house.gov), or 202.225.2406.

cc:

Sincere regards,



Wm. Lacy Clay  
Chairman  
HCDI Subcommittee



Maxine Waters  
Chairwoman  
Financial Services Committee

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<sup>1</sup> See, e.g., 12 C.F.R. § 323.3(b) (2018) (FDIC regulations; “For a transaction that does not require the services of a State certified or licensed appraiser under . . . this section, the institution shall obtain an appropriate evaluation of real property collateral that is consistent with safe and sound banking practices.”).