United States Government Accountability Office

Report to the Chairwoman, Committee on Financial Services, House of Representatives

November 2021

REAL ESTATE APPRAISALS

Most Residential Mortgages Received Appraisals, but Waiver Procedures Need to Be Better Defined

A Century of Non-Partisan Fact-Based Work

GAO-22-104472

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Highlights

Highlights of GAO-22-104472, a report to the Chairwoman, Committee on Financial Services, House of Representatives

Why GAO Did This Study

Congress enacted Title XI in the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 to require regulated lenders to obtain appraisals for residential mortgages from state-approved appraisers, unless eligible for one of its exemptions. Title XI also created ASC to monitor Title XI-related activities and authorized it to grant waivers related to appraiser credentialing requirements. In late 2019 and early 2020, federal regulators raised the threshold under which lenders can (but do not have to) obtain an evaluation instead of an appraisal for mortgages to $400,000 or less. Also, in 2018, North Dakota requested a temporary waiver, citing delays in appraisals because of a scarcity of appraisers.

GAO was asked to review Title XI exemptions. This report examines the extent to which (1) Title XI appraisal exemptions increased risks for federally regulated lenders and homebuyers, and (2) ASC followed its waiver review process or faced challenges when it granted North Dakota a temporary waiver.

GAO reviewed and analyzed Title XI and related regulations, most recently available mortgage data, research on appraisals, and ASC records, and interviewed federal agencies and industry stakeholders.

What GAO Recommends

GAO recommends that ASC define appraiser scarcity and significant delay in measurable ways and establish standards that ASC can use to objectively determine whether these conditions exist. ASC generally agreed with the recommendation.

View GAO-22-104472. For more information, contact John H. Pendleton at (202) 512-8678 or pendletonj@gao.gov.

November 2021

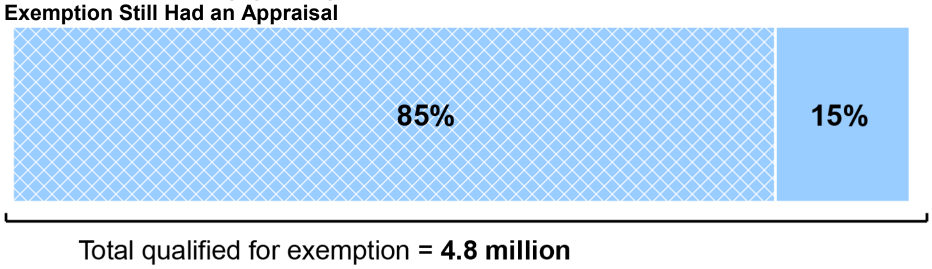
REAL ESTATE APPRAISALS

Most Residential Mortgages Received Appraisals, but Waiver Procedures Need to Be Better Defined

What GAO Found

Although Title XI permits federal regulators to exempt certain mortgages from an appraisal requirement, such exemptions likely have not increased overall risks for regulated lenders (e.g., banks and credit unions) and homebuyers. This is because GAO estimates the lenders obtained appraisals for around 85 percent of the mortgages eligible for an exemption in 2018–2019 (see figure). An appraisal of a home's market value can help lenders mitigate the risk of loss and homebuyers mitigate the risk of overpaying. Regulated lenders obtained appraisals even when not required by Title XI for various reasons. For example, Fannie Mae and Freddie Mac generally require appraisals for mortgages they purchase from lenders, so lenders obtained appraisals in order to sell mortgages to them. In addition, regulated lenders typically obtained appraisals for mortgages of $250,000 or less, although they were permitted to use an evaluation (an estimate of a home's market value not conducted by a state-approved appraiser) in place of an appraisal.

Most Residential Mortgages Originated in 2018–2019 That Qualified for a Title XI Appraisal Exemption Still Had an Appraisal



Source: GAO analysis of Home Mortgage Disclosure Act, Fannie Mae, Freddie Mac, and federal agency data. | GAO-22-104472

Note: Although federal regulators increased the Title XI appraisal threshold from $250,000 to $400,000 in late 2019, GAO's analysis assumed the $250,000 threshold was in effect throughout 2019.

The Appraisal Subcommittee (ASC) followed its process in granting a waiver to North Dakota in 2019 but faced challenges in making the determination. ASC may temporarily waive the requirement that only state-approved appraisers perform Title XI appraisals if it determines a scarcity of appraisers led to a significant delay in obtaining appraisals. However, ASC's regulations and guidance for processing temporary waiver requests do not define scarcity and significant delay or establish standards to determine when these conditions exist. For North Dakota's request, the absence of such standards led different stakeholders to use different definitions and data to prove or disprove the conditions existed—creating challenges for ASC in making its determination. Defining the key terms in measurable ways and establishing standards to determine if such conditions exist would better ensure that ASC has a consistent and objective process for reviewing and granting future waiver requests.

Contents

Abbreviations

ASC	Appraisal Subcommittee
AVM	automated valuation model
CFPB	Consumer Financial Protection Bureau
Dodd-Frank Act	Dodd-Frank Wall Street Reform and Consumer Protection Act
FDIC	Federal Deposit Insurance Corporation
federal regulators	federal financial institution regulators
FHA	Federal Housing Administration
Federal Reserve	Board of Governors of the Federal Reserve System
enterprises	government-sponsored enterprises
HMDA	Home Mortgage Disclosure Act
NCUA	National Credit Union Administration
OCC	Office of the Comptroller of the Currency
Title XI	Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989
USPAP	Uniform Standards of Professional Appraisal Practice

441 G St. N.W.
Washington, DC 20548

November 24, 2021

The Honorable Maxine Waters
Chairwoman, Committee on Financial Services
House of Representatives

Dear Madam Chairwoman:

Recent regulatory and industry changes have narrowed the conditions under which lenders must obtain appraisals when originating residential mortgages—possibly increasing risks for lenders and homebuyers. By providing an independent opinion on a home's market value, real estate appraisals can help lenders make informed lending decisions and mitigate credit risk (that borrowers will be unable to repay loans). Similarly, appraisals can help homebuyers make informed borrowing decisions and mitigate the risk of overpaying for a home.

To promote safe and sound lending, Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI) generally requires banks and credit unions to obtain appraisals for "federally related transactions," which include certain residential mortgages they originate.[1] It also authorizes the federal financial institution regulators (federal regulators) to exempt certain categories of transactions from the requirement.[2] The federal regulators have exercised this authority by exempting several categories of residential mortgages from the appraisal requirement. For example, the regulators recently revised Title XI regulations to allow (but not require) banks and credit unions to use an

[1]12 U.S.C. §§3331-3356. Federally related transactions are those that require the services of an appraiser and involve federally regulated financial institutions (including banks, thrifts, and credit unions). Real estate transactions of mortgage bankers, brokers, pension funds, and insurance companies are not included.

[2]The regulators are the Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, National Credit Union Administration, and Office of the Comptroller of the Currency.

evaluation in lieu of an appraisal for residential mortgages with a transaction value of $400,000 or less.[3]

In addition, Title XI created a regulatory structure, including a federal entity called the Appraisal Subcommittee (ASC), to monitor and oversee the real estate appraisal industry. In 2019, ASC granted a request from North Dakota for a temporary waiver from certain appraiser credentialing requirements, because it determined a scarcity of appraisers existed in the state that was leading to a significant delay in appraisals for federally related transactions.[4]

Concerned about the effects of appraisal exemptions and the temporary waiver, you asked us to review the implementation of Title XI's appraisal regulations for residential real estate mortgages. This report evaluates the extent to which (1) Title XI appraisal exemptions have increased risks for federally regulated lenders and homebuyers, and (2) ASC followed its waiver review process or faced challenges when it granted North Dakota a temporary waiver in 2019.

For the first objective, we reviewed Title XI and its implementing appraisal regulations, interagency guidance on appraisals and evaluations, and other agency materials, including examination manuals and guidance on real estate mortgage lending. To estimate the number and percentage of

[3]Evaluations are written reports containing estimates of market value that do not have to be performed by a state-licensed or -certified appraiser. Real Estate Appraisals, 84 Fed. Reg. 53579 (Oct. 8, 2019)—Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Office of the Comptroller of the Currency—and Real Estate Appraisals, 85 Fed. Reg. 23909 (April 30, 2020) for the National Credit Union Administration. Each regulator set its rule's threshold at $400,000 or less, except for the National Credit Union Administration, which set it at less than $400,000. Exemption eligibility does not preclude an appraisal being performed. But if these properties do not receive an appraisal, they instead must receive an evaluation, which we discuss in this report.

[4]Appraisal Subcommittee; Final Order Granting in Part Temporary Waiver Relief, 84 Fed. Reg. 38630 (Aug. 7, 2019). ASC may waive by order, on a temporary basis and with concurrence of the Federal Financial Institutions Examination Council, any requirement relating to certification or licensing of persons eligible to perform appraisals for federally related transactions. (ASC was established within the Council, which is a formal interagency body empowered to prescribe uniform principles, standards, and report forms for the federal examination of financial institutions.) Such an order requires ASC's written determination that there is a scarcity of certified or licensed appraisers to perform appraisals in connection with federally related transactions in a state, or in any geographical political subdivision of a state, that has led to significant delays in the performance of such appraisals.

residential mortgages that regulated lenders originated in 2018–2019 and that qualified for Title XI appraisal exemptions, we analyzed Home Mortgage Disclosure Act (HMDA) data.[5] During our review, 2019 HMDA data were the most recently available. We reviewed documentation and performed electronic testing on the data to check for missing values and obvious errors, and corroborated the data with other available sources. We determined the data were sufficiently reliable for estimating the number of residential mortgages that regulated lenders originated and that qualified for a Title XI appraisal exemption.

To assess risks raised by Title XI appraisal exemptions, we reviewed Title XI regulations, including proposed revisions to the regulations in 2018 and 2019 and related comment letters, and academic and industry research we identified through internet searches. We also reviewed appraisal and related requirements established by Fannie Mae and Freddie Mac, which are government-sponsored enterprises (enterprises), as well as those of federal agencies that insure or guarantee mortgages. Finally, we interviewed representatives of the federal regulators, Consumer Financial Protection Bureau (CFPB), federal agencies that insure or guarantee mortgages, the enterprises, and industry associations.

For the second objective, we reviewed ASC's regulations for granting temporary waiver requests and related guidance. To determine if ASC followed its regulations in granting North Dakota's request for a temporary waiver, we analyzed ASC's response to the request; the Federal Register notice for comment, including comment letters; meeting minutes involving the request; and the final order granting the request. To identify and analyze challenges ASC faced in granting the waiver, we interviewed ASC staff, analyzed information they provided and that parties submitted to ASC in response to North Dakota's request, and reviewed ASC documents on an earlier temporary waiver request that ASC denied. For more detailed information about our scope and methodology, see appendix I.

We conducted this performance audit from August 2020 to November 2021 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for

[5]HMDA data are the only publicly available source of nationwide loan-level data on the supply and demand for mortgage credit. We focused primarily on purchase and refinance mortgages for single-family (1–4 unit) residences.

our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Title XI Appraisal Regulatory Structure

Title XI's purpose is to protect the federal financial and public policy interests in real estate-related transactions by requiring that appraisals performed for federally related transactions are done in writing, in accordance with uniform professional standards, and by individuals whose competency has been demonstrated and whose professional conduct is subject to effective supervision.[6] Private, state, and federal entities have roles in the Title XI regulatory structure:

- **The Appraisal Foundation**. The Appraisal Foundation is a private, not-for-profit corporation comprising real estate industry groups. The foundation sponsors two independent boards with responsibilities under Title XI: (1) the Appraisal Standards Board, which issues industry standards—the Uniform Standards of Professional Appraisal Practice (USPAP)—for developing an appraisal and reporting its results; and (2) the Appraiser Qualifications Board, which establishes the minimum qualification criteria for state certification and licensing of appraisers.[7] Title XI requires all state-licensed and -certified appraisers to meet minimum education, experience, and examination requirements.[8]
- **State-level regulatory entities**. Title XI relies on the states to implement the certification and licensing of real estate appraisers and monitor and supervise appraisers' compliance with appraisal

[6] 12 U.S.C. §§ 3331, 3339-3345.

[7] Certified appraisers are one of two broad categories of appraisers in Title XI, the other being licensed appraisers. Certified appraisers are qualified to appraise properties of greater complexity and value than licensed appraisers and must meet higher education and experience requirements.

[8] The Appraisal Foundation also sponsored the Appraisal Practices Board, which was in existence from 2010 to 2017 and identified and issued opinions on recognized valuation methods and techniques. It did not have responsibilities under Title XI.

standards and requirements.[9] All 50 states, the District of Columbia, and four U.S. territories have adopted structures to regulate and supervise the appraisal industry.[10] These structures typically consist of a state regulatory agency coupled with a board or commission to establish education and experience requirements (consistent with or in excess of Appraiser Qualifications Board criteria), license and certify appraisers, and monitor and enforce appraiser compliance. These regulatory agencies generally oversee the activities of appraisers for all types of transactions, including those that are federally related.

- **Federal regulators**. Title XI places responsibility for regulating appraisals performed in federally related transactions with the Board of Governors of the Federal Reserve System (Federal Reserve), Federal Deposit Insurance Corporation (FDIC), National Credit Union Administration (NCUA), and Office of the Comptroller of the Currency (OCC). The regulators permit an institution to obtain an evaluation of real property collateral in lieu of an appraisal for certain exempted transactions. The federal regulators have established requirements for appraisals and evaluations through regulations, and they also jointly issued Interagency Appraisal and Evaluation Guidelines.[11] At a minimum, appraisals for federally related transactions must provide an estimate of market value, conform to USPAP, be conducted by a state-licensed or -certified appraiser, be in writing, and contain sufficient information and analysis to support the institution's decision

[9]The Dodd-Frank Wall Street Reform and Consumer Protection Act added a new section to Title XI that established minimum requirements to be applied by states in the registration and supervision of appraisal management companies. Pub. L. 111-203, § 1473, 124 Stat. 1376, 2192 (2010) (codified at 12 U.S.C. § 3353). Appraisal management companies are third parties that select appraisers for appraisal assignments on behalf of lenders and help ensure separation between individuals with an interest in the outcome or dollar amount of a mortgage transaction and the appraiser.

[10]The four U.S. territories are Guam, Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

[11]See Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, and National Credit Union Administration, *Interagency Appraisal and Evaluation Guidelines* (Washington, D.C.: December 2010). 75 Fed. Reg. 77450 (Dec. 10, 2010). The guidelines were issued after notice and comment.

to engage in the transaction.[12] The federal regulators examine the real estate lending activities of regulated institutions, including the completeness, adequacy, and appropriateness of their appraisal and evaluation policies and procedures.

- **Appraisal Subcommittee**. ASC of the Federal Financial Institutions Examination Council is tasked with several key functions relating to Title XI implementation.[13] ASC is responsible for monitoring the implementation of Title XI by the private, state, and federal entities discussed previously. Its responsibilities include (1) monitoring and reviewing the practices, procedures, activities, and organizational structure of the Appraisal Foundation; (2) monitoring state requirements for the certification and licensing of appraisers and registration and supervision of appraisal management companies; (3) monitoring federal requirements for appraisal standards for federally related transactions and determinations of which of these transactions will require the services of state-licensed or -certified appraisers; and (4) maintaining a national registry of state-licensed and -certified appraisers who may perform appraisals in connection with federally related transactions.[14] The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) also requires ASC to implement an appraisal management company registry and a national appraiser complaint hotline and provides ASC with limited rulemaking authority.[15]

  ASC has seven board member positions, five of which are designated by CFPB, FDIC, the Federal Reserve, NCUA, and OCC—which are members of the Federal Financial Institutions Examination Council. The Department of Housing and Urban Development and the Federal Housing Finance Agency designate the other two members. The board also hires an executive director, who leads ASC staff.

[12]The federal regulators define market value as the most probable price that a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. See, for example, 12 C.F.R. § 34.42(h).

[13]The Council is an interagency body that prescribes uniform principles, standards, and report forms for examination of financial institutions by CFPB, FDIC, the Federal Reserve, NCUA, and OCC and makes recommendations to promote uniformity in the supervision of financial institutions.

[14]12 U.S.C. § 3332.

[15]Pub. L. No. 111-203, § 1473. 124 Stat. 1376, 2190–98 (2010).

Residential real estate exemptions under Title XI regulations. Title XI authorizes the federal regulators to determine the real estate-related financial transactions that do not require Title XI appraisals.[16] The regulators have exercised this authority by exempting several categories of such transactions from their appraisal requirement, including residential mortgages that

- have a transaction value of $400,000 or less;[17]
- involve an existing extension of credit at the lending institution, provided generally that there are no obvious and material change in market conditions or physical aspects of the property that threatens the adequacy of the institution's real estate collateral protection after the transaction, even with the advancement of new monies, or there is no advancement of new money other than funds necessary to cover reasonable closing costs;
- are wholly or partially insured or guaranteed by a U.S. government agency or U.S. government-sponsored agency;
- qualify for sale to a U.S. government agency or U.S. government-sponsored agency or involve a transaction in which the appraisal conforms to Fannie Mae or Freddie Mac appraisal standards; or
- are exempted from the appraisal requirement pursuant to the rural residential exemption.[18]

Under the residential threshold, existing line of credit, and rural residential exemptions of Title XI regulations, if lenders do not obtain appraisals for exempted transactions, they must obtain an evaluation of the collateral that is consistent with safe and sound banking practices. Like an appraisal, an evaluation provides an estimate of a property's market value. Unlike an appraisal, an evaluation need not be conducted by a

[16]Under Title XI regulations, federally related transactions include certain residential real estate transactions and commercial real estate transactions. Our report covers only residential real estate transactions.

[17]As previously discussed, in 2019 FDIC, the Federal Reserve, and OCC increased the threshold exemption for residential mortgages from $250,000 or less to $400,000 or less. 84 Fed. Reg. 53579 (Oct. 8, 2019). In 2020, NCUA increased the threshold to less than $400,000. 85 Fed. Reg. 23909 (Apr. 30, 2020).

[18]In 2018, Congress amended Title XI to add a rural residential appraisal exemption. Pub. L. 115-174, § 103, 132 Stat. 1296, 1299 (2018), codified at 12 U.S.C. § 3356. Under this exemption, a financial institution need not obtain a Title XI appraisal if, among other things, the property is located in a rural area, the transaction value is less than $400,000, and the financial institution retains the loan in portfolio, subject to exceptions.

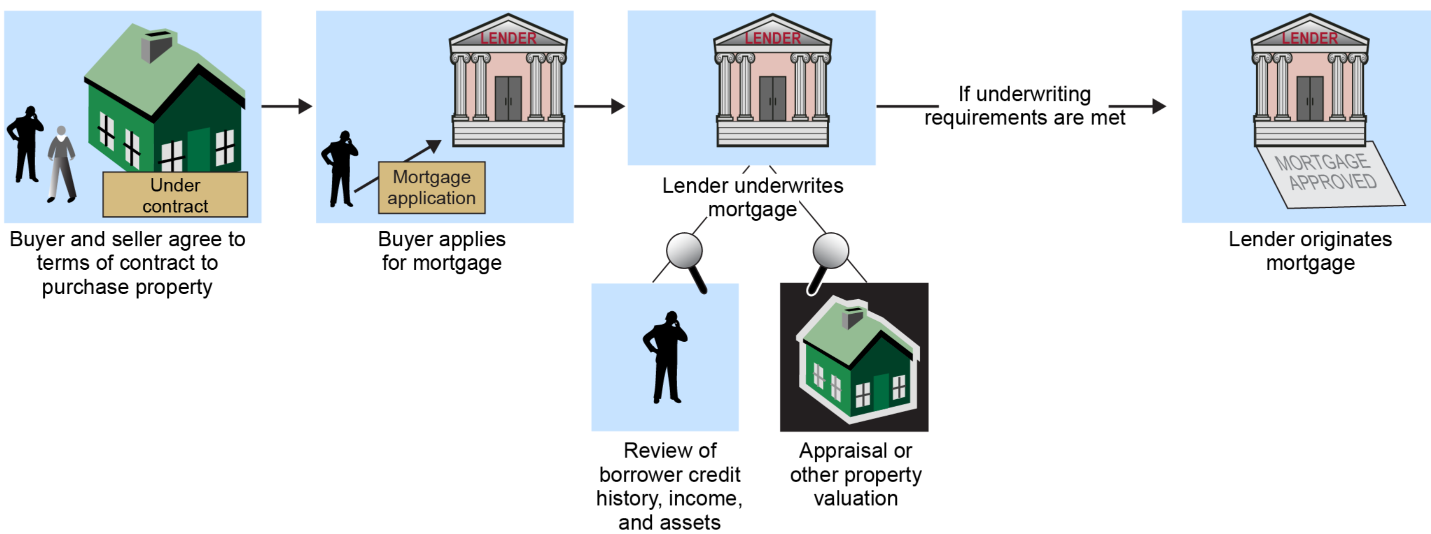
state-licensed or -certified appraiser in compliance with uniform standards. As discussed earlier, the federal regulators have issued guidance on their expectations for prudent evaluation policies, procedures, and practices.[19]

Mortgage Lending Risks and Underwriting, Appraisals, and Other Valuation Methods

Lenders face a number of risks when originating a residential mortgage, including credit risk, which is the potential for the borrower to be unable to repay the loan. As discussed in more detail below, lenders use appraisals primarily to help manage their credit risk.

Before originating a residential mortgage, a lender assesses the risk of making the loan through a process called underwriting. The lender generally examines the borrower's credit history and capacity to pay back the mortgage and obtains an appraisal or an evaluation to estimate the market value of the property to be used as collateral for the loan (see fig. 1).

Figure 1: Appraisals as Part of the Mortgage Origination Process



Source: GAO; Art Explosion (clip art). | GAO-22-104472

[19]According to the regulators' guidance, an evaluation should provide an estimate of the property's market value; identify the location of the property and provide a description of it and its current and projected use; describe the methods used to confirm its physical condition and the extent to which an inspection was performed; indicate all sources of information used in the analysis; and include information on the preparer of the evaluation.

Lenders need to know the property's market value to calculate the loan-to-value ratio, which represents the proportion of the property's value being financed by the mortgage and is an indicator of its credit risk level. The higher the ratio, the greater the credit risk or potential loss exposure for the lender if the borrower defaults on the mortgage. Lenders use the loan-to-value ratio as a tool to help determine whether they will approve a mortgage, the type of mortgage for which the borrower is eligible, and the mortgage's interest rate. Federal regulations require that banks adopt written polices for real estate lending that include prudent underwriting standards, including loan-to-value limits, that are clear and measurable.[20]

Residential real estate can be valued using a number of methods, including appraisals, evaluations, and automated valuation models (AVM). Appraisals—the valuation method used in the large majority of mortgage transactions—are opinions of value as of a specific date and help lenders and homebuyers manage credit risk. Only appraisals (performed by state-licensed or -certified appraisers, who are required to follow USPAP) are acceptable for federally related transactions. An AVM is a computerized model that estimates property values using data, such as tax records and information kept by county recorders, multiple listing services, and other real estate records.[21] According to the federal regulators' guidance, federally regulated lenders may not rely solely on the results of an AVM to develop an evaluation unless the resulting evaluation meets all of the supervisory expectations for an evaluation and is consistent with safe and sound banking practices and the related guidelines.[22]

[20]For example, see 12 C.F.R. § 34.62.

[21]A multiple listing service is a database set up by a group of real estate brokers to provide information about properties sold and for sale.

[22]For example, to be consistent with the expectations for a safe and sound evaluation, the results of an AVM should address a property's actual physical condition and should not be based on an unsupported assumption, such as that a property is in "average" condition.

Appraisal Exemptions Likely Have Not Increased Overall Risks for Lenders and Homebuyers, but Future Effects Are Unclear

Continued Use of Appraisals for Exempted Mortgages Have Limited Risks to Lenders and Homebuyers

We estimate that the large majority (85 percent) of residential mortgages that banks, credit unions, and their affiliates (regulated lenders under Title XI) originated and that qualified for a Title XI appraisal exemption in 2018–2019 still received appraisals, mitigating the potential risks of exemptions.

Most Mortgages from Regulated Lenders Qualified for Exemptions

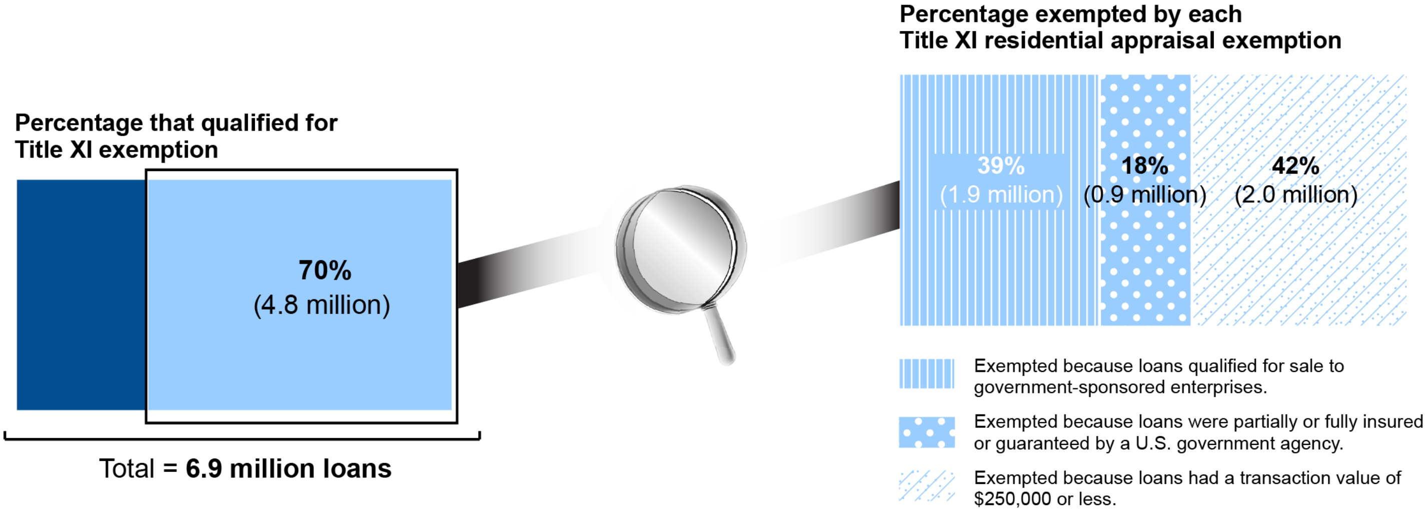
We estimated that about 70 percent of regulated lenders' residential mortgages qualified for a Title XI appraisal exemption in 2018–2019. According to our analysis of HMDA data, regulated lenders and independent mortgage lenders originated over 14.7 million first-lien, single-family mortgages in 2018–2019.[23] Regulated lenders accounted for nearly 7 million (47 percent) of the total originated loans in 2018–2019. Regulated lenders were required to obtain Title XI appraisals for these transactions, unless they qualified for an appraisal exemption.[24] As shown

[23]HMDA data are the only publicly available source of nationwide loan-level data on the supply and demand for mortgage credit. HMDA includes data for originations and applications for mortgages that do not result in a loan. HMDA data also are the most comprehensive public source of information on the U.S. mortgage market, capturing 90 percent of lending activity (measured by loan volume). However, HMDA data do not cover the entire mortgage market because many mortgage lenders are exempt from HMDA reporting.

[24]Independent mortgage lenders accounted for an average of almost 3.9 million mortgages per year in 2018–2019, or 53 percent of the total originated in those years. Although the independent lenders are not required to obtain appraisals for residential mortgages under Title XI, they generally obtain appraisals for most of their residential mortgages. These lenders sell mortgages to the enterprises, which generally require mortgages that they purchase to have appraisals. They also originate residential mortgages guaranteed or insured by federal agencies that also require lenders to obtain appraisals.

in figure 2, of those nearly 7 million mortgages, we estimate that around 4.8 million, or 70 percent, qualified for one of the residential appraisal exemptions under Title XI in 2018–2019.[25]

Figure 2: Estimate of Residential Mortgages Originated by Regulated Lenders Qualifying for a Title XI Appraisal Exemption in 2018–2019



Source: GAO analysis of Home Mortgage Disclosure Act data. | GAO-22-104472

Note: We estimated the number of residential mortgages that qualified for a Title XI appraisal exemption by determining sequentially those mortgages sold to a government-sponsored enterprise, insured or guaranteed by a U.S. government agency, or with a transaction value of $250,000 or less. Although federal regulators revised their Title XI regulations to increase the appraisal threshold exemption from $250,000 to $400,000, in October 2019 and April 2020, our analysis assumed that the $250,000 threshold was in effect throughout 2019.

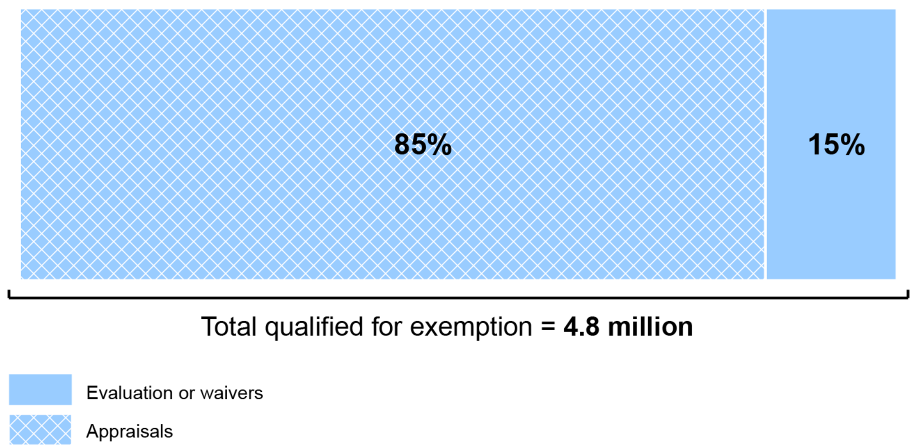
Exemptions Likely Have Not Increased Overall Risks

It is unlikely that Title XI appraisal exemptions for residential mortgages increased overall risks for regulated lenders and homebuyers, because

[25]Because of limitations with HMDA data, our analysis covers three of the Title XI appraisal exemptions applicable to residential mortgages. Specifically, we estimated the number of residential mortgages that qualified for an exemption by determining sequentially those mortgages that were sold to a government-sponsored enterprise, insured or guaranteed by a U.S. government agency, or had a transaction value of $250,000 or less. Our analysis does not cover mortgages that qualify for a Title XI appraisal exemption because they (1) involve an existing extension of credit at the lender and meet other requirements or (2) involve a property located in a rural area and meet other requirements. Some of these mortgages also can qualify for one of the three appraisal exemptions that we cover. To the extent they do, we captured the mortgages in our analysis of the three exemptions. For additional information on our methodology, see appendix I.

regulated lenders have used appraisals for most exempted mortgages and used evaluations in lieu of appraisals only on a limited basis. Specifically, we estimate they obtained appraisals for around 85 percent of their residential mortgages that qualified for a Title XI appraisal exemption in 2018–2019 (see fig. 3).[26]

Figure 3: Most Residential Mortgages Originated by Regulated Lenders in 2018–2019 That Qualified for a Title XI Appraisal Exemption Still Had an Appraisal



Source: GAO analysis of Home Mortgage Disclosure Act, Fannie Mae, Freddie Mac, and federal agency data. | GAO-22-104472

Note: Residential mortgages sold to government-sponsored enterprises or insured or guaranteed by a federal agency qualify for an appraisal exemption under Title XI regulations, but the enterprises and federal agencies have their own appraisal requirements. They also have programs under which they may waive their appraisal requirements. Regulated lenders may use an evaluation in lieu of an appraisal for residential mortgages with a transaction value of $250,000 or less. Although federal regulators revised their Title XI regulations to increase the appraisal threshold exemption from $250,000 to $400,000, in October 2019 and April 2020, our analysis assumed the $250,000 threshold was in effect throughout 2019.

Several factors—notably, enterprise and federal agency requirements—explain why most mortgages qualifying for Title XI exemptions still received appraisals.

Mortgages that qualified for sale to the enterprises. Mortgages sold to the enterprises are exempt from Title XI appraisal requirements, but the enterprises generally require appraisals as a condition of sale. Of the approximately 1.9 million residential mortgages sold to the enterprises in

[26]As discussed in more detail below, we estimated the percentage of exempted residential mortgages for which regulated lenders obtained appraisals for three types of Title XI appraisal exemptions.

2018–2019, we estimated that 90 percent received appraisals.[27] Under their underwriting standards, the enterprises generally require lenders to obtain appraisals that conform to USPAP for mortgages that they purchase. The enterprises also assume a significant share of the credit risk associated with mortgages they purchase. Thus, when lenders sell mortgages to the enterprises, they generally transfer the credit risk associated with the mortgages.[28]

Mortgages insured or guaranteed by a federal agency. Mortgages that are federally insured or guaranteed, such as by the Federal Housing Administration (FHA), the Department of Veterans Affairs, or the Rural Housing Service, also are exempt from Title XI appraisal requirements, but these agencies generally require an appraisal as a condition of insurance or guarantee. Of the nearly 900,000 residential mortgages that were originated in 2018–2019 and federally insured or guaranteed, we estimated that 86 percent received an appraisal.[29] These federal agencies require lenders to obtain appraisals that comply with USPAP for all insured or guaranteed mortgages used to purchase homes and most of the insured or guaranteed refinance mortgages. Additionally, through their insurance or guarantee, the agencies assume the credit risk associated with the mortgages. According to OCC officials, in some transactions, credit risk is limited to the guarantee amount established by

[27]The enterprises have programs under which they may waive the appraisal requirement based on factors such as loan-to-value ratios. Our estimate of the percentage of mortgages that qualified for the exemption is likely lower than the actual percentage. For example, HMDA data did not capture all loans that regulated lenders sold to the enterprises because HMDA requires lenders to report sold loans only if they originated and sold them in the same calendar year. Based on enterprise data, we estimated that nearly 10 percent of the residential mortgages sold to the enterprises in 2018–2019 received an appraisal waiver.

[28]To sell loans to an enterprise, the lender makes representations and warranties (which can include appraisal documentation) on certain facts and circumstances concerning the lender and the mortgages it is selling. Violation of any representation or warranty is a breach of the lender contract, which allows the enterprise to pursue rights and remedies to mitigate actual or potential credit losses, which include requiring the seller to repurchase the loan, reimbursing the enterprise for losses, or indemnifying the enterprise.

[29]FHA allows homeowners with current FHA loans that meet certain criteria to use the Streamline Refinance Program, which removes appraisal and other requirements. Mortgages that qualify for the program already must be FHA-insured and current, and the refinance must result in a net tangible benefit to the borrower. According to FHA's 2020 annual report, nearly 108,000 mortgages used the program in 2018–2019. FHA loans that qualified for a streamlined refinance received an appraisal at the original purchase of the property.

the agency. As a result, lenders mitigate their credit risk when they originate such insured or guaranteed mortgages.

Mortgages with a transaction value of $250,000 or less. Mortgages that qualified for the $250,000 threshold exemption accounted for an estimated 42 percent of the approximately 4.8 million exempted mortgages that regulated lenders originated in 2018–2019. For mortgages that have a transaction value or $250,000 or less and are neither federally insured or guaranteed nor sold to the enterprises, regulated lenders can obtain either a Title XI appraisal or an evaluation. As noted earlier, an evaluation provides an estimate of a property's market value but does not need to be conducted by a state-licensed or -certified appraiser in compliance with USPAP. An evaluation must be conducted by a qualified person and be consistent with safe and sound banking practices.

Comprehensive data do not exist on the number of mortgages that qualified for the threshold exemption and for which regulated lenders obtained evaluations in lieu of appraisals. We estimated that regulated lenders obtained appraisals for around 79 percent of mortgages that qualified for the threshold exemption.[30] Regulated lenders may obtain appraisals for exempted mortgages so that they have the option to sell their mortgages to the enterprises or to manage risk. Moreover, officials from three credit unions and an industry association told us that lenders obtained evaluations primarily for mortgages used to refinance existing mortgages rather than for loans to purchase a new home.

Our Estimate Generally Is Consistent with Historical Data

Our estimate that 85 percent of residential mortgage transactions that qualified for a Title XI appraisal exemption still received an appraisal is generally consistent with historical data and indicates that regulated lenders are not automatically using evaluations, even when permitted by regulation. For example,

[30]Based on the Federal Reserve's Y-14M data (see following footnote), we determined that large banks obtained evaluations in lieu of appraisals for 15 percent of the residential mortgages they originated in 2018–2019 and that had a transaction value of $250,000 or less. Data from NCUA and smaller financial institutions suggest that small banks and credit unions tended to use evaluations more often than large banks. We assumed that large banks obtained appraisals and evaluations in 85 percent and 15 percent of their mortgages, respectively. We assumed that small banks and credit unions obtained appraisals and evaluations in 70 percent and 30 percent of their mortgages, respectively.

- According to CFPB officials, based on estimates from Federal Reserve Y-14M data, large banks obtained appraisals for more than 80 percent of their mortgages below $250,000 (the threshold exemption at the time) that they held in their portfolios from 2013 through 2018.[31] The remaining mortgages likely received evaluations.
- As part of their 2019 rulemaking to increase the threshold exemption, the federal regulators conducted a 5-year review of supervisory information on the use of appraisals and evaluations by large financial institutions and found that larger lenders obtained appraisals on 74 percent of portfolio residential real estate originations at or below the then $250,000 threshold.[32]
- In its 2020 rulemaking to increase the threshold exemption, NCUA reviewed the current residential real estate underwriting practices of more than 120 credit unions and found that 60 percent obtained appraisals in a majority of their residential real estate transactions below the former threshold of $250,000.[33]

In addition, the Federal Reserve's Y-14M data show that large financial institutions obtained evaluations in lieu of an appraisal for 12 percent and 14 percent of the mortgages they originated at or below $400,000 in 2019 and 2020, respectively.

Regulated Lenders Could Decrease Use of Appraisals, but the Effects of Such a Change Are Unclear

Regulated lenders could decrease their use of appraisals in the future. For example:

- Enterprises could expand use of their appraisal waiver programs, which would decrease the number of mortgages that receive an appraisal.[34] The enterprises established programs that use AVMs to

[31]The Federal Reserve's Y-14M report collects detailed data on the loan portfolios of bank holding companies, intermediate holding companies, and covered savings and loan holding companies. The data are used to support supervisory stress testing models and for monitoring efforts. Bank holding companies with total consolidated assets of $100 billion or more and intermediate holding companies with total consolidated assets of $100 billion or more are required to submit the Y-14M to the Federal Reserve. Covered savings and loan holding companies with total consolidated assets of $100 billion or more are required to submit the Y-14M to the Federal Reserve.

[32]Real Estate Appraisals, 84 Fed. Reg. 53579, 53586 (Oct. 8, 2019).

[33]Real Estate Appraisals, 85 Fed. Reg. 23909, 23913 (Apr. 30, 2020).

[34]Since the late 1990s, the enterprises have offered appraisal waivers on eligible refinance transactions. In 2017, the enterprises expanded appraisal waiver offers to eligible purchase transactions.

help decide whether to waive appraisal requirements for eligible loans based on factors such as loan-to-value ratios. According to research conducted by the American Enterprise Institute's Housing Center, the use of appraisal waivers increased by 132 percent from January 2020 to September 2020, continuing a general increase in use since 2016.[35] This increase occurred during the Coronavirus Disease 2019 pandemic and a high level of refinancing because of low mortgage interest rates.[36]

- The recent increase in the appraisal exemption threshold from $250,000 to $400,000 could increase the use of AVM-supported evaluations. Regulated lenders may use a variety of valuation methodologies, including AVMs, to support evaluations.[37] Some commenters on the rule proposal expressed concern that the increase would lead to greater reliance on AVMs, which they viewed as unreliable.

The reliability of evaluations relative to appraisals has been subject to debate. For example, in their 2019 rule increasing the exemption threshold to $400,000, federal regulators noted that many commenters opined that appraisals are more reliable than evaluations because they must be done by persons who meet strict training and state credentialing requirements and comply with USPAP. The commenters noted that evaluations, in contrast, are not subject to USPAP or training and credentialing requirements. The regulators recognized these differences but noted that evaluations must be consistent with safe and sound banking practices and done by competent and independent persons.

[35]Housing Center, American Enterprise Institute, *Prevalence of GSE Appraisal Waivers: September 2020 Originations* (Washington D.C.: 2020).

[36]Various federal agencies and the enterprises provided appraisal-related relief to lenders during the pandemic. For example, the enterprises provided temporary flexibility in the appraisal standards for loans that they purchase, including allowing exterior-only and desktop appraisals for certain loans. According to a Federal Housing Finance Agency report, enterprise use of such relief never rose above 20 percent of all enterprise loans from March 2020 to October 2020. See Federal Housing Finance Agency, *Request for Information on Appraisals-Related Policies, Practices, and Processes* (Washington D.C.: December 2020).

[37]An institution may not rely solely on the results of an AVM to develop an evaluation unless the resulting evaluation meets all of the supervisory expectations for an evaluation and is consistent with safe and sound banking practices and the interagency guidelines. For example, to be consistent with the standards for an evaluation, the results of an AVM should address a property's actual physical condition; therefore, it should not be based on an unsupported assumption, such as that a property is in "average" condition. See *Interagency Appraisal and Evaluation Guidelines* (2010).

They also noted that their guidance helps ensure that evaluations provide a credible estimate of a property's market value.[38]

In addition, federal regulators have examined appraisal and evaluation practices since the enactment of Title XI in 1989 and found that evaluations, when properly prepared, can be credible tools to support real estate lending decisions. According to the federal regulators' Interagency Appraisal and Evaluation Guidelines, lenders are responsible for adopting and reviewing policies and procedures that establish an effective real estate appraisal and evaluation program in accordance with the regulators' appraisal regulations. For example, these programs should ensure that appraisals and evaluations contain sufficient information to support the credit decision and include internal controls that promote compliance with program standards. However, federal regulator examinations assess the adequacy of a lender's appraisal and evaluation program primarily by reviewing the related internal controls and may review whether the presented information adequately supports the estimated value. Therefore, examinations are not designed to and do not directly compare the accuracy of appraisals and evaluations. The regulators told us they have not conducted research to compare appraisals and evaluations and are not aware of any evaluation databases that could be used for such research.

Research comparing AVM-supported evaluations and appraisals in terms of valuation accuracy and mortgage performance found mixed results.[39]

- **Valuation accuracy**. A study by Federal Reserve economists generally found that AVM estimates and appraisal estimates were similar: both were close to market values at the median but frequently

[38]*Interagency Appraisal and Evaluation Guidelines;* 75 Fed. Reg. 77450 (Dec. 10, 2010); and Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Office of the Comptroller of the Currency, *Frequently Asked Questions on the Appraisal Regulations and the Interagency Appraisal and Evaluation Guidelines* (Washington D.C.: Oct. 16, 2018).

[39]Some research analyzing the accuracy of residential mortgage appraisals in the United States has found that appraised values are equal to or greater than the contract prices the vast majority of the time, suggesting that appraisals could be biased. For example, see Paul S. Calem, et al., "Appraising Home Purchase Appraisals," *Real Estate Economics*, vol. 49, no. 1 (March 2021): 134-168.

deviated from market value.[40] Another study by Freddie Mac researchers analyzing refinance transactions estimated that appraisals have a precision equal to that of an AVM.[41] Other research found that although AVMs have been refined over the years, their accuracy in assessing market values is questionable. For example, an FDIC working paper found that accuracy of some AVMs could deteriorate rapidly when the models were programed to predict loan performance under one set of economic conditions, but applied under a different set of economic conditions.[42] Another study concluded that more evidence is needed to determine if AVMs are more accurate than appraisals with physical valuations.[43]

- **Loan performance**. If appraisals or evaluations are unreliable, lenders could end up lending too much money relative to the home's value, which could affect loan performance.[44] A study by Federal Reserve and other economists found that AVMs, on average, could be more predictive of default risk under certain conditions than appraisals because appraisals, unlike AVM valuations, tended to confirm contract prices.[45] Another study by OCC and Fannie Mae economists found that refinancing transactions with AVM-based loan-

[40]Raven Molloy and Eric Nielsen, *How Can We Measure the Value of a Home? Comparing Model- Based Estimates with Owner-Occupant Estimates* (Washington, D.C.: Oct. 11, 2018).

[41]Liyi Liu and Douglas A. McManus, *Evaluating the Accuracy of Home Appraisals Using Refinance Transactions* (October 2020). Accessed at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3712424.

[42]Hua Kiefer and Tom Mayock, "Why Do Models that Predict Failure Fail?," Federal Deposit Insurance Corporation, WP 2020-05 (Aug. 6, 2020). The findings and conclusions in working papers may be preliminary and subject to revision.

[43]George Matysiak, *Automated Valuation Models (AVMs): A brave new world?* (2017). Accessed at https://www.researchgate.net/publication/319355261_Automated_Valuation_Models_AVMs_A_brave_new_world.

[44]For example, see Leonard Nakamura, "How Much Is That Home Really Worth?," *Business Review*, quarter 1 (2010). In addition, the Interagency Appraisal and Evaluation Guidelines state that a borrower's ability to repay real estate loans according to reasonable terms remains the primary consideration in the lending decision, but an institution also must consider the value of the underlying real estate collateral in accordance with the applicable appraisal regulations.

[45]Calem, et al., "Appraising Home Purchase Appraisals": 158–168.

to-value ratios produced loan performance results similar to mortgages with appraisal-based loan-to-value ratios.[46]

The federal regulators have been working with other stakeholders to implement regulations to establish quality control standards for AVMs, as required by the Dodd-Frank Act.[47] According to the act, such standards are to be designed to help ensure a high level of confidence in AVM estimates, protect against the manipulation of data, avoid conflicts of interest, require random sample testing and reviews, and account for any other factors that the agencies deem appropriate. In response to the proposal to increase the threshold exemption to $400,000, some commenters asserted that it would be inappropriate for the regulators to expand the threshold before issuing quality control standards for AVMs. In its threshold rulemaking and in regards to increasing the use of AVMs, NCUA noted that technology and data present an opportunity to improve and expand on current property valuation methods. According to the regulators, they expected to issue a rule proposal for AVM standards by the end of 2021, but two of the regulators told us in October 2021 that they will not likely meet the date, in part because of their need to coordinate with other agencies.

Evaluations Could Pose a Risk for Homebuyers Who Use Contingency Clauses

According to CFPB, one of the primary consumer protections that appraisals provide is derived from contingency clauses in home purchase offers.[48] Under a contingency clause, the home's appraised value must meet or exceed the contract price for the contract to be legally binding; otherwise, homebuyers may cancel or renegotiate the contract.[49]

[46]George Krivorotov and Michael Lacour-Little, *AVM versus Appraisal-Based Underwriting in Refinance Mortgages: the Trade-offs between Noise and Bias* (Feb. 4, 2020). Accessed at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3603327.

[47]Pub. L. 111-203, § 1473(q), 124 Stat. 1376.2198 (2010), codified at 12 U.S.C. § 3354. The Dodd-Frank Act directs the Federal Reserve, OCC, FDIC, NCUA, Federal Housing Finance Agency, and CFPB, in consultation with ASC staff and the Appraisal Standards Board of the Appraisal Foundation, to promulgate regulations to implement the quality control standards for AVMs. 12 U.S.C. § 3354(b).

[48]FHA and Veterans Affairs require lenders, in effect, to include an appraisal contingency clause in any legally binding commitment to purchase a home. The clause guarantees that a borrower can cancel a purchase offer and will not forfeit earnest money if the appraisal is lower than the contract price. FHA and Veterans Affairs officials told us that these requirements provide additional consumer protection to the communities they serve.

[49]Appraising Home Purchase Appraisals,*"* found that homebuyers often used appraisals that were below the contract price to renegotiate the price downward (see page 158).

According to CFPB, standard home purchase contracts currently are unlikely to support "evaluation contingencies"—that is, the option to cancel a purchase offer without penalty based on the evaluation's estimate of the property's market value. As a result, homebuyers who use appraisal contingencies could be at risk of losing their rights under such clauses if they were not aware that their lender obtained an evaluation in lieu of an appraisal and did not order an appraisal on their own.[50] However, federal regulators have not identified examples of borrowers losing appraisal contingency benefits because they received an evaluation. Regulated lenders establish their own policies and procedures for selecting valuation methods and disclosure practices. For example, officials from two banking industry associations told us their members generally notify borrowers that they used an evaluation at initial approval or origination.

ASC Followed Its Waiver Process but Faced Challenges Because It Lacked Definitions and Standards for Key Terms

ASC Followed Its Process in Granting North Dakota's Request for a Temporary Waiver

ASC followed its process when it granted North Dakota a temporary appraisal waiver in 2019 to allow individuals who are not credentialed to perform appraisals for federally related transactions. Under Title XI, ASC can waive, on a temporary basis and with the concurrence of the Federal Financial Institutions Examination Council, the certification or licensing requirements for persons to perform Title XI appraisals. Such waivers are meant to be a temporary measure to address scarcity of appraisers in an area leading to significant delays in obtaining an appraisal. In 1992, ASC

[50]According to the Equal Credit Opportunity Act Valuations Rule, creditors must provide applicants with copies of all written valuations—appraisals or evaluations—developed in connection with an application for credit that is to be secured by a first lien on a dwelling promptly upon completion or no later than 3 business days before consummation or account opening, whichever is earlier. 15 U.S.C. § 1691(e) (implemented by 12 C.F.R. § 1002.14).

issued regulations that established its process for reviewing temporary waivers requests.[51]

According to ASC, the data provided by North Dakota and interested parties were not consistent and sometimes conflicted (as discussed in greater detail below), but the majority of ASC members concluded that a scarcity of appraisers existed in the state that was leading to a significant delay in appraisals for federally related transactions. As a result, ASC granted the temporary waiver request subject to specified terms and conditions.[52] Figure 4 provides a timeline of the key events, including actions ASC took to approve the waiver request.

[51]12 C.F.R. pt. 1102, subpt. A ("Temporary Waiver Requests"). According to its regulations, ASC must take a number of steps to review and, if appropriate, approve a temporary waiver request, including reviewing the waiver submission, publishing a notice in the Federal Register, giving interested parties 30 calendar days to submit comments, and determining if there was a scarcity of state-licensed or state-certified appraisers leading to significant delays in obtaining appraisals for federally related transactions.

[52]Under its waiver order for North Dakota, ASC provided a 1-year waiver of appraiser credentialing requirements for residential and commercial real estate transactions under $500,000 and $1 million, respectively. The order also specified that if federal banking regulators issued a rule to increase the appraisal exemption threshold for residential transactions, the residential waiver would terminate 60 days after the rule took effect. In December 2019, ASC notified the public that given the effective date of the revised threshold rule of October 9, 2019, the residential waiver would terminate on December 8, 2019. (84 Fed. Reg. 65980 (Dec. 2, 2019)). In August 2020, ASC extended the commercial waiver for 1 year (85 Fed. Reg. 49371 (Aug. 13, 2020)).

Figure 4: Timeline of Key Events (2018–2019) for the Appraisal Subcommittee's Consideration of North Dakota's Waiver Request

2018	Action
August 1	Governor Burgum, North Dakota Department of Financial Institutions, and the North Dakota Bankers Association (the requester) submitted a temporary waiver request to the Appraisal Subcommittee (ASC).
September 7	ASC replied to the requester outlining the information needed for a complete request.
2019	**Action**
April 10	The requester submitted additional information in response to ASC's letter.
April 15	ASC held a meeting and decided to publish a Notice for Comment for waiver in the Federal Register.
May 30	ASC published a Notice of Received Request for a Temporary Waiver, which provided individuals 30 days to submit comments.
July 1	The comment period closed.
July 9	ASC held a meeting and voted to approve the issuance of the final order.
July 12	The Federal Financial Institutions Examination Council approved the waiver.
August 7	ASC issued its final order granting a waiver with concurrence from the Council.
December 8	The temporary waiver for residential real estate transactions terminated by its own terms 60 days after October 9, 2019, which was the effective date for the federal regulators' final rule that increased the appraisal exemption threshold for residential real estate transactions.

Source: Appraisal Subcommittee documentation and Federal Register. | GAO-22-104472

ASC Lacked Definitions and Standards for Scarcity and Delay Determinations, Which Created Challenges during the Waiver Process

ASC lacked definitions and standards for key terms, in part due to its limited experience with temporary waiver requests, which led to challenges in determining whether to grant North Dakota's request. Neither Title XI nor ASC's implementing regulations define scarcity or significant delays.

ASC received 105 comment letters on the waiver request, most of which opposed the waiver request, according to ASC. In the absence of operational definitions from ASC for the key terms, the requester and commenting parties used different definitions and types of information to prove whether scarcity or significant delays existed. ASC found such information to be inconsistent and sometimes conflicting. Examples included the following.

- **Appraiser scarcity**. The North Dakota Real Estate Appraiser Qualifications and Ethics Board concluded that an appraiser scarcity did not exist across the state.[53] It found that based on ASC data North Dakota had 304 appraisers, which was similar to South Dakota and Montana in terms of the ratio of the population to appraisers and ratio of loans to appraisals.[54] In contrast, the requester concluded that a scarcity of appraisers existed: its analysis found that 147 of the state's 306 appraisers could be available to conduct appraisals in 2018. The requestor noted many factors affect appraiser availability in North Dakota. For example, many of the appraisers licensed to work in North Dakota do not reside in the state or in a city that borders North Dakota. In addition, some appraisers are dedicated to one organization and, therefore, are not available to work for other financial institutions. According to the requestor, of the 147 appraisers, two-thirds resided in one of the state's three largest metropolitan areas—resulting in a scarcity of appraisers in rural areas. These appraisers were unlikely to prioritize rural consumers, according to the requestor. It also noted that 29 of the state's 53 counties (55 percent) did not have an appraiser residing in the county.
- **Significant delays**. The North Dakota Real Estate Appraiser Qualifications and Ethics Board defined turnaround time as extending from the date on which the appraisal was requested to the date the appraisal was delivered. It found the average turnaround time for an appraisal was 19 days in 2018 based on data from an appraisal management company that covered more than 3,700 appraisals across 51 of North Dakota's 53 counties. It also found that appraisals were delivered 2 days, on average, before the requested due date. In contrast, based on a survey of 32 lenders in 2018, the North Dakota Department of Financial Institutions found that 81 percent of the lenders viewed 30 days or less to be an appropriate turnaround time for a residential appraisals and that 65 percent of the lenders reported a delay in receiving a residential appraisal.[55] According to ASC

[53]The North Dakota Real Estate Appraiser Qualifications and Ethics Board is responsible for licensing and certifying appraisers to perform real estate appraisals in North Dakota pursuant to Title XI.

[54]The letter from the North Dakota Real Estate Appraiser Qualifications and Ethics Board also included data from ASC that showed that Montana had 435 appraisers and South Dakota had 368.

[55]The North Dakota Department of Financial Institutions is responsible for chartering, regulating, and examining North Dakota state-chartered banks and credit unions.

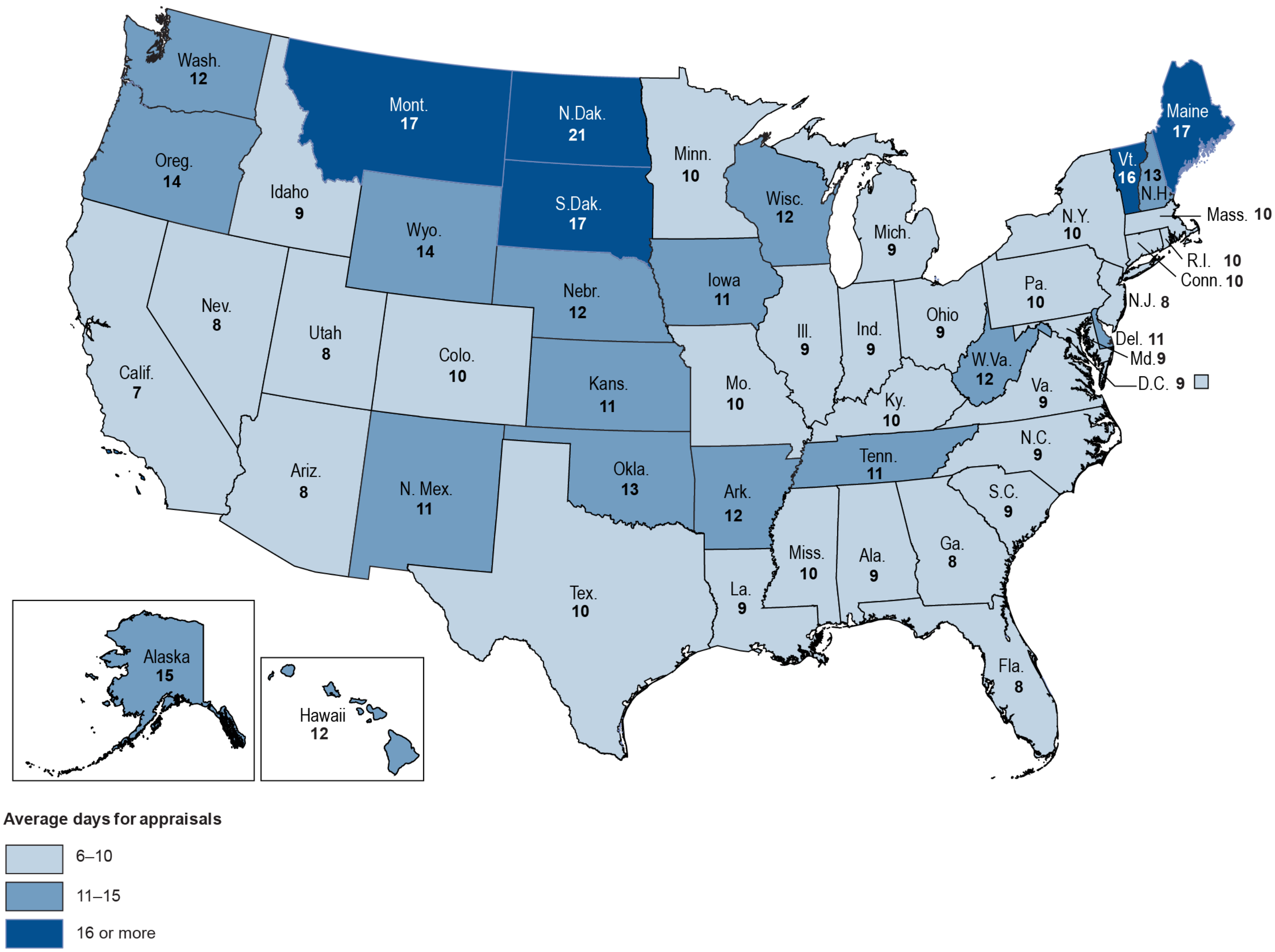
officials, it was not clear how the department defined turnaround time because it did not provide a copy of the survey.

Complicating the lack of operational definitions for key terms, ASC did not establish standards for determining whether scarcity or significant delays existed. Specifically, ASC lacked documented standards for objectively determining whether the information that the requester and other parties provided was sufficient to prove a scarcity of appraisers was leading to significant delays and, in turn, support a waiver. According to ASC officials, the primary challenge they faced in determining whether a scarcity of appraisers or a significant delay existed was dealing with subjective standards that lacked parameters or definitions.

In light of the inconsistent and conflicting information, ASC also relied on data that provided national turnaround times from the Department of Veterans Affairs and other sources to help determine whether North Dakota experienced significant delays with obtaining appraisals. [56] Based on these data, ASC found that North Dakota's turnaround time was the slowest in the country (see fig. 5).

[56]According to officials from the Department of Veterans Affairs, there is no universally accepted definition of turnaround time. The officials said their agency measures turnaround time from the time the appraisal order is assigned to one of its appraisers to the time when the appraiser uploads the appraisal into the agency's system. The officials said that the appraisal orders are assigned immediately to an appraiser in the vast majority of cases. The officials said that some appraisal management companies may measure turnaround time the same way but not include the time from when the appraisal management company receives an appraisal order to when an appraiser accepts the order, which could be days to a week if companies have appraisers bid on the order.

Figure 5: Average Number of Days for Completing a Residential Real Estate Appraisal, by State, in 2018



Source: GAO analysis of the Deparrtment of Veterans Affairs, Chase Bank, and Quicken Loans' data. MapInfo (map). | GAO-22-104472

Federal internal control standards state that agencies should design control activities in response to their objectives and risks.[57] ASC has not developed key definitions and standards that would help ensure consistent and objective decisions in its waiver determinations, in part

[57]GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: Sept. 10, 2014).

because of its limited experience with temporary waiver requests. According to ASC officials, the agency had not received a temporary waiver request in almost 30 years prior to 2017, but received two since then. ASC granted two waiver requests: one to the Commonwealth of the Northern Mariana Islands in 1993 and the other to North Dakota in 2019. Unlike an earlier request that ASC denied, North Dakota's request was considerably broader in scope and revealed challenges with the data because of the lack of key definitions.[58]

In December 2019 and after it granted North Dakota's waiver request, ASC issued Frequently Asked Questions to provide guidance on the waiver request process.[59] The guidance provided general information on the waiver process, such as a description of a temporary waiver, the history of the waiver authority, and examples of information that requesters could provide to demonstrate appraiser scarcity and significant delays.[60] Although the guidance may help standardize the process, it does not define key terms in ways that can be consistently measured or establish standards to objectively determine if appraiser scarcity and significant delays exist. ASC officials also told us that the agency has been considering a rulemaking to update its regulations, such as to define the key terms, but had not yet taken any action as of July 2021.

ASC may receive additional waiver requests in the future. For example, the Federal Housing Finance Agency reported that spikes in appraisal demand have exceeded appraiser capacity (which has remained flat).[61] Future spikes in demand could lead to temporary waiver requests. By providing clear definitions for appraiser scarcity and significant delay, so

[58]In 2018, ASC denied a temporary waiver request from a Tennessee bank, which covered commercial appraisals in a single metropolitan area. According to the May 2018 final order, ASC did not find that a scarcity of appraisers existed based on comprehensive data provided by the Tennessee Real Estate Appraiser Commission. Also, ASC did not find that a significant delay in appraisals existed based on its analysis of the data provided by the requester. 83 Fed. Reg. 19558 (May 3, 2018).

[59]Appraisal Subcommittee, Federal Financial Institutions Examination Council, *Frequently Asked Questions (FAQs): Temporary Waiver Authority* (Washington, D.C.: Dec. 6, 2019).

[60]ASC's frequently asked questions note the information requesters can submit to show appraiser scarcity such as the number and type of licensed and credentialed appraisers and the volume and type of transactions in the geographic area specified in the waiver request. Examples to indicate significant delays included data on the appraisal turnaround time for transactions involving commercial and residential properties across the various geographic areas specified in the request.

[61]*Request for Information on Appraisal-Related Policies, Practices, and Processes* (2020).

that these conditions can be consistently measured, and by establishing standards to determine whether such conditions exist, ASC can better ensure it uses a consistent and objective process for reviewing and granting waiver requests in the future.

Conclusions

ASC's 2019 guidance was a useful first step to help standardize its process for reviewing requests for a temporary waiver from appraiser credentialing requirements. However, the guidance did not clearly define appraiser scarcity or significant delay or establish standards for objectively determining when such conditions exist. By defining and setting objective standards for these conditions—either in regulation or guidance—ASC could better ensure it has a consistent and objective process for responding to future waiver requests.

Recommendation for Executive Action

The Chairman of ASC should define appraiser scarcity and significant delay, so that these conditions can be consistently measured, and establish standards to objectively determine whether these conditions exist. These actions could be taken by revising regulations or by developing other procedures. (Recommendation 1)

Agency Comments

We provided a draft of this report to ASC, CFPB, the Department of Agriculture, Department of Veteran Affairs, FDIC, Federal Reserve, FHA, Federal Housing Finance Agency, NCUA, and OCC for review and comment. In their written comments, reproduced in appendixes II and III, ASC and NCUA generally concurred with the recommendation. In addition, CFPB, FDIC, FHA, the Federal Housing Finance Agency, Federal Reserve, and OCC provided technical comments, which we incorporated as appropriate.

In its written comments, reproduced in appendix IV, the Department of Veterans Affairs neither agreed nor disagreed with our findings but asked us to consider analyzing the extent to which Title XI appraisal exemptions could disadvantage veterans who want to use their Veterans Affairs home loan benefits. As we discuss in our report, the use of evaluations in lieu of appraisals has potential benefits and risks. However, analyzing the effect of Title XI's appraisal exemptions on specific classes of homebuyers, such as veterans, was beyond the scope of our engagement.

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the appropriate congressional committees, the Secretary of Agriculture, Executive Director of the Appraisal Subcommittee, Chair of the Board of Governors of the Federal Reserve System, Director of CFPB, Acting Comptroller of the Currency, Chairwoman of FDIC, Acting Director of the Federal Housing Finance Agency, Secretary of Housing and Urban Development, Chairman of NCUA, and Secretary of Veterans Affairs. In addition, the report will be available at no charge on the GAO website at https://www.gao.gov.

If you or your staff have any questions about this report, please contact me at (202) 512-8678 or pendletonj@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix V.

Sincerely yours,

John H. Pendleton
Director
Financial Markets and Community Investment

Appendix I: Objectives, Scope, and Methodology

This report evaluates the extent to which (1) residential real estate appraisal exemptions under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI) have increased risks for lenders and homebuyers, and (2) the Appraisal Subcommittee (ASC) followed its waiver review process or faced challenges when it granted North Dakota a temporary waiver in 2019.[1]

To evaluate how Title XI appraisal exemptions affected risks for regulated lenders (including banks, credit unions, and their affiliated mortgage lenders) and homebuyers, we reviewed Title XI and its implementing appraisal regulations, including rule revisions promulgated in 2019 and 2020 and comment letters. We also reviewed interagency guidance on appraisals and evaluations, and other agency materials, including examination manuals and guidance on real estate mortgage lending, and academic, industry, and other research on appraisals and evaluations that we identified through targeted internet searches. We also reviewed appraisal and related policies issued by Fannie Mae and Freddie Mac, which are government-sponsored enterprises (enterprises), and federal agencies that insure or guarantee mortgages—the Department of Housing and Urban Development's Federal Housing Administration, the Department of Veterans Affairs, and the Department of Agriculture's Rural Housing Service—to understand how their appraisal requirements affect the number of loans that received a Title XI appraisal or evaluation. We interviewed representatives of the federal financial institution regulators (Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, National Credit Union Administration, and Office of the Comptroller of the Currency), as well as representatives of the Consumer Financial Protection Bureau (CFPB), federal agencies that insure or guarantee mortgages, enterprises, and industry associations.

To estimate the number and percentage of residential mortgages that regulated lenders originated in 2018–2019 and that qualified for Title XI appraisal exemptions, we analyzed Home Mortgage Disclosure Act (HMDA) data focusing on purchase and refinance mortgages for single-

[1] 12 U.S.C. §§ 3331 – 3356.

family (1–4 unit) site-built residences.[2] During our review, 2019 HMDA data were the most recently available. We obtained the data from a Federal Financial Institutions Examination Council database.[3]

- Some residential mortgages potentially qualify for more than one of the appraisal exemptions under Title XI regulations.[4] To avoid double counting such mortgages, we estimated the number of residential mortgages that qualified for a Title XI appraisal exemption by determining sequentially those mortgages that were sold to a government-sponsored enterprise, insured or guaranteed by a U.S. government agency, or had a transaction value of $400,000 or less.[5]
- In addition, creditors generally must obtain an independent appraisal for higher-priced mortgage loans, even if they would otherwise qualify for a Title XI appraisal exemption.[6] We used HMDA data to identify

[2]HMDA data are the only publicly available source of nationwide loan-level data on the supply and demand for mortgage credit. HMDA includes data for originations and applications for mortgages that do not result in a loan. HMDA data also are the most comprehensive public source of information on the U.S. mortgage market—capturing 90 percent of lending activity (measured by loan volume). However, HMDA data do not cover the entire mortgage market because many mortgage lenders are exempt from HMDA reporting.

[3]The Council is a formal interagency body empowered to prescribe uniform principles, standards, and report forms for the federal examination of financial institutions. Its members include the Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, National Credit Union Administration, and Office of the Comptroller of the Currency.

[4]For example, a residential mortgage that is less than $400,000 would qualify under one exemption. See, e.g., 12 C.F.R. § 34.43(a)(1). The same residential mortgage would qualify for another exemption if sold to an enterprise. See, e.g., 12 C.F.R. § 34.43(a)(10).).

[5]We used HMDA's "loan purpose" and "loan amount" variables to identify mortgages that were $250,000 or less, "type of purchaser" variable to identify mortgages sold to the enterprises, and "loan type" variable to identify mortgages that were insured or guaranteed by federal agencies.

[6]See, e.g., 12 C.F.R. § 34.203. A higher-priced mortgage loan generally means a closed-end loan secured by the consumer's principal dwelling with an annual percentage rate that exceeds (by a certain number of percentage points) the average prime offer rate for a comparable transaction as of the date the interest rate is set, depending on the type of loan. 12 C.F.R. § 1026.35(a)(1). An average prime offer rate is an annual percentage rate that is derived from average interest rates and certain other loan pricing terms of low-risk mortgages. 12 C.F.R. § 1026.35(a)(2). Among exemptions from the higher-priced mortgage loan appraisal rules is one for transactions equal to or below a threshold amount, adjusted for inflation. See, e.g., 12 C.F.R. § 34.203(b)(2). The current threshold amount is $27,200. Appraisals for Higher-Priced Mortgage Loans Exemption Threshold Adjustment, 85 Fed. Reg. 79,385 (Dec. 10, 2020).

such residential mortgages and exclude them from being counted as qualifying for a Title XI appraisal exemption.[7] We estimated that 351,993 (5 percent) of the total mortgages originated by regulated lenders in 2018–2019 were such loans.

- To assess the reliability of HMDA data, we reviewed documentation, including HMDA reporting guides and data dictionary, performed electronic testing on the data to check for missing values and obvious errors, and corroborated the data with other available sources, such as CFPB's 2018 and 2019 HMDA reports on mortgage market activity and trends. In addition, we consulted with the federal regulators and CFPB to gain additional insights on using HMDA for these estimates. Based on this analysis, we determined that the data were sufficiently reliable for estimating the number and percent of residential mortgages that qualified for a Title XI appraisal exemption.

To determine whether ASC followed its regulations in granting North Dakota's request for a temporary waiver, we reviewed ASC's regulations covering its temporary waiver authority and related guidance, such as frequently asked questions on its temporary waiver authority. We also reviewed and analyzed materials documenting steps that ASC took to respond to the request. These included Federal Register releases asking for public comment on the request and granting the request, comment letters, meeting minutes involving the request, and data used to grant the request. To identify and analyze challenges that ASC faced in granting North Dakota's request, we reviewed information ASC staff provided, information that parties submitted to ASC in response to North Dakota's request, and ASC documents on an earlier temporary waiver request that ASC denied. In addition, we interviewed ASC staff about the challenges they faced in granting the temporary waiver.

We conducted this performance audit from August 2020 to November 2021 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

[7]We used HDMA's "rate spread" and "lien status" variables to identify higher-priced mortgage loans. We found that nearly 1 million loans were either outliers or missing their rate spread, and we allocated these loans' Title XI appraisal exemption eligibility proportionately to the eligibility of the nearly 6 million loans for which we did observe the rate spread.

Appendix II: Comments from the Appraisal Subcommittee

Appraisal Subcommittee
Federal Financial Institutions Examination Council

October 20, 2021

Via Email

Mr. Rich Tsuhara, Assistant Director of Financial Markets
and Community Investment
United States Government Accountability Office
441 G Street, NW
Washington, DC 20548
Tsuharar@gao.gov

Dear Mr. Tsuhara:

Thank you for the opportunity to review the GAO draft report titled "REAL ESTATE APPRAISALS: Most Residential Mortgages Received Appraisals, but Waiver Procedures Need to Be Better Defined (GAO-21-104472)" (GAO Report).

The GAO Report recommends that the ASC define appraiser scarcity and significant delay in measurable ways and establish standards that the ASC can use to objectively determine whether these conditions exist. Steps are being taken toward addressing the GAO's recommendations.

Specifically, ASC staff are currently working on revisions to the existing rules of practice and procedure governing temporary waiver proceedings, that will address the GAO report's recommendation. The rules governing these proceedings were originally promulgated in 1992 pursuant to § 1119(b) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (Title XI) to accommodate State appraiser regulatory agencies at their inception. With the benefit of subsequent experience, there may be advantages in revising the existing rules of practice and procedure to provide definitions of terms and greater clarity on proceedings, and in revising the timeframes imposed by such rules to be more conducive to deliberation by the ASC.

Sincerely,

Timothy C. Segerson

Tim Segerson
Chairman

1325 G Street, NW ♦ Suite 500 ♦ Washington, DC 20005 ♦ (202) 289-2735 ♦ Fax (202) 289-4101

Appendix III: Comments from the National Credit Union Administration

National Credit Union Administration
Office of the Executive Director

October 18, 2021

Daniel Garcia-Diaz
Managing Director, Financial Markets & Community Investment
U.S. Government Accountability Office
441 G Street NW
Washington, DC 20548

Dear Mr. Garcia-Diaz,

We reviewed the Government Accountability Office's draft report (GAO 21-104472) entitled *Real Estate Appraisals: Most Residential Mortgages Received Appraisals, but Waiver Procedures Need to be Better Defined.* We acknowledge GAO's observations and appreciate the value of the Appraisal Subcommittee more objectively defining "appraiser scarcity" and "significant delay."

Thank you for the opportunity to review and comment on the draft report.

Sincerely,

LARRY FAZIO
Digitally signed by LARRY FAZIO
Date: 2021.10.18 16:28:27 -04'00'

Larry Fazio
Executive Director

1775 Duke Street – Alexandria, VA 22314-3428 – 703-518-6320

Appendix IV: Comments from the Department of Veterans Affairs

DEPARTMENT OF VETERANS AFFAIRS
WASHINGTON

October 22, 2021

Mr. John H. Pendleton
Director
Financial Markets and Community Investment
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Pendleton:

The Department of Veterans Affairs (VA) has reviewed the Government Accountability Office's (GAO) draft report, ***REAL ESTATE APPRAISALS: Most Residential Mortgages Received Appraisals, but Waiver Procedures Need to be Better Defined*** (GAO-21-104472).

VA respectfully requests that GAO consider analyzing homebuyer risk, including the extent to which Title XI appraisal exemptions could disadvantage Veterans who want to use their VA home loan benefits. Specifically, when a seller receives multiple purchase offers, the seller may choose (perhaps on the advice of a real estate agent) to accept a buyer's offer that includes an appraisal exemption, rather than a Veteran's offer that would be subject to an appraisal requirement.

VA appreciates the opportunity to review the draft report.

Sincerely,

Tanya Bradsher
Chief of Staff

Enclosure

Appendix V: GAO Contacts and Staff Acknowledgments

GAO Contact

If you or your staff have any questions about this report, please contact John H. Pendleton at (202) 512-8678 or pendletonj@gao.gov.

Staff Acknowledgments

In addition to the contact named above, Richard Tsuhara (Assistant Director), Aaron Colsher (Analyst in Charge), Abigail Brown, Rudy Chatlos, LaToya King, John McGrail, Yann Panassie, Barbara Roesmann, and Jena Sinkfield and made key contributions to this report.

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A. Nicole Clowers, Managing Director, ClowersA@gao.gov, (202) 512-4400, U.S. Government Accountability Office, 441 G Street NW, Room 7125, Washington, DC 20548

Public Affairs

Chuck Young, Managing Director, youngc1@gao.gov, (202) 512-4800
U.S. Government Accountability Office, 441 G Street NW, Room 7149
Washington, DC 20548

Strategic Planning and External Liaison

Stephen J. Sanford, Managing Director, spel@gao.gov, (202) 512-4707
U.S. Government Accountability Office, 441 G Street NW, Room 7814, Washington, DC 20548