



1700 G Street NW, Washington, D.C. 20552

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*Via electronic mail*

The Appraisal Subcommittee  
appraisalbiashearing@asc.gov

Comment Regarding Appraisal Subcommittee Hearings

Thank you for the opportunity to offer this submission for the record regarding the hearings hosted by the Appraisal Subcommittee (ASC). My name is Rohit Chopra, and I serve as the Director of the Consumer Financial Protection Bureau (CFPB). In my capacity as CFPB Director, I am a voting member of the Federal Financial Institutions Examination Council (FFIEC). Since 2022, I have been the designated executive sponsor for the Appraisal Subcommittee of the FFIEC.

I. The Appraisal Subcommittee and The Appraisal Foundation

A well-functioning mortgage market depends on accurate appraisals. Federal regulation of appraisals is very peculiar, involving two obscure entities that are not well-known to the public: The Appraisal Foundation and the Appraisal Subcommittee of the FFIEC.

For well over three decades, The Appraisal Foundation has controlled entry into the appraisal profession by setting qualifications for becoming an appraiser as well as standards for conducting appraisals, without the benefit of competitive market dynamics or meaningful outside review. The Appraisal Foundation is funded through fees that appraisers across the country must pay. More specifically, the Appraisal Foundation charges for the complete Uniform Standards of Professional Appraisal Practice (USPAP) and related guidance, for which appraisers are required to pay. While The Appraisal Foundation wields enormous influence over the entire appraisal industry, it is not a government agency. Instead, it is a not-for-profit corporation.

The Appraisal Foundation operates through a byzantine governance structure. It is led by a President and a Board of Trustees (BOT). The Board of Trustees is legally responsible for governing The Appraisal Foundation and its regulatory bodies. The Board of Trustees determines its own criteria for selecting its members. The Board of Trustees selects the members of the Appraisal Standards Board (ASB). The ASB issues rules and orders to modify USPAP. The Board of Trustees also appoints members of the other major regulatory body, the Appraiser Qualifications Board (AQB). This body controls who gets to become an appraiser, through the Real Estate Property Appraiser Qualification Criteria.

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI) established the Appraisal Subcommittee of the FFIEC to, among other things, monitor and review the practices, procedures, activities, and organizational structure of The Appraisal Foundation. The ASC Board is comprised of individuals appointed by the heads of each of the member agencies: the Consumer Financial Protection Bureau, the Department of Housing and Urban Development, the Federal Reserve Board of Governors, the Federal Deposit Insurance Corporation, the Federal Housing Finance Agency, the National Credit Union Administration, and the Office of the Comptroller of the Currency. The law contemplated that the ASC would provide grants to The Appraisal Foundation. However, The Appraisal Foundation no longer seeks or accepts ASC grants.

Over a year ago, the ASC kicked off a series of hearings focused on appraisal bias. Over the course of four hearings, we examined the governance framework and integrity of The Appraisal Foundation, given its outsized impact on the appraisal market for residential real estate.

Throughout those hearings, the witness testimonies point to an insular and contorted governance structure that all but guarantees that the profession and practices remain out of tune with the needs of housing market, and much less likely to address appraisal bias.

## II. Issues Identified During the Hearings

1. There are severe deficiencies with The Appraisal Foundation's conflict of interest policies that raise questions about its regulatory decisions

During the hearings, The Appraisal Foundation's representatives said that The Appraisal Foundation has "similar" conflict of interest policies as Federal agencies. In fact, their policies cover much less and lack critical safeguards.

Federal conflict of interest policies are much broader and more specific than The Appraisal Foundation's. The Standards of Ethical Conduct applicable to Executive Branch employees are 77 pages. The Appraisal Foundation's conflict of interest policies are each under two pages. The Code of Conduct is four. Unsurprisingly, there are substantial differences in the policies. To give just a few examples, Federal employees generally may not use their Federal office to endorse a product, service, or enterprise. Federal employees may not use their Federal office for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity, which includes nonprofit organizations of which the employee is an officer or member. Federal employees must not give preferential treatment to any private organization or individual, including any person or organization with which the employee has or seeks employment or business relations. Federal employees may not participate in particular matters that have a direct and predictable effect on the financial interests of the employee's spouse, minor child, or general partner. Absent a regulatory exception, a Federal employee must not solicit or accept any gift given because of the employee's official position or from a prohibited source, which includes, among others, any person or organization that does business or seeks to do business with the employee's agency.

The Appraisal Foundation's conflict of interest policies do not describe similar limitations. The ASB Chair volunteered during a hearing that her husband works for a vendor doing business in the field. At a later hearing, the ASC learned that a member of AQB works for this same education vendor. The Appraisal Foundation President felt this was not an issue because that individual could recuse themselves from matters related to the education curriculum. The AQB's conflict of interest policy does not reference recusals but does prohibit members from engaging in employment that would "create either the appearance of or an actual conflict of interest with the duty and responsibility a member owes to the Board."

## 2. The Appraisal Foundation's governance structure is insular and favors private interests

Before the end of last year, The Appraisal Foundation's governance structure featured a pay-to-play mechanism whereby paying Sponsors selected around half of the BOT members. The remainder were elected by that same Board, and many of these elected trustees were members of Sponsors. Although the BOT supposedly changed its structure, the latest hearing brought to light that in practice, the new structure works a lot like Sponsorship by another name.

The Appraisal Foundation has essentially renamed Sponsors "Partners," whose nominees will almost certainly be added to the BOT. The Appraisal Foundation's new bylaws state that Partners can only nominate trustees. The bylaws permit up to 10 Partner-nominated candidates be put forward in a given election cycle, but do not limit how many total Partner-nominated

Trustees can sit on the BOT. The Appraisal Foundation has publicly stated they intend to have between 9 and 10 Partner-nominated Trustees on the Board. Currently, 11 out of 12 Partners are former Sponsors.<sup>1</sup> That means most or all Partner-nominated Trustees will be selected by these Sponsor-Partners.

At the last hearing, Appraisal Foundation President David Bunton confirmed that members of Sponsor-Partners can nominate themselves as “public interest” trustees. Other organizations can also nominate members of Sponsor-Partners. That means there is nothing to prevent the BOT from electing “public interest” trustees that are all members of Sponsor-Partners.

These Sponsor-Partners can still financially contribute to The Appraisal Foundation. Mr. Bunton stated at the last hearing that Partners make no financial contributions. But Partners can choose to do so. Under its bylaws, The Appraisal Foundation can also require Sponsors to make financial contributions at any time. And as recently as January 30, The Appraisal Foundation publicly committed to creating a mechanism that will allow organizations to support The Appraisal Foundation financially and gave no indication that Partners would be barred from using this mechanism.

3. The Appraisal Foundation’s processes, including the selection of its President, lack transparency.

Mr. Bunton noted that historically ASC staff attended “just about all” meetings. These meetings included sessions closed to the public and closed deliberations of applicants to the BOT, AQB, and ASB. ASC staff are no longer allowed into these closed sessions.

Appraisal Foundation witnesses explained this exclusion by claiming that the ASC spontaneously, “to our surprise,” decided to change its monitor and review policy to no longer attend closed Appraisal Foundation sessions, and not because of any efforts by The Appraisal Foundation to keep ASC staff out of these meetings. Mr. Bunton later conceded at his hearing appearance that “there was correspondence” because “we were concerned about the conduct of some ASC observers.”

The exclusion of ASC staff from deliberations about the new Appraisal Foundation President raise particular concerns. Mr. Bunton is the only President that The Appraisal Foundation has

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<sup>1</sup> At the last hearing Mr. Bunton claimed that TAF “did away with” Sponsors. But TAF has not yet removed Sponsors from its bylaws or website.

ever had. He announced his retirement last year and The Appraisal Foundation is now in the process of finding his replacement. The Appraisal Foundation permitted the ASC to provide feedback on the process to an outside consultant that The Appraisal Foundation hired to assist with the process. During this meeting, ASC Board Members and staff stressed the importance of a broad search that included consideration of external candidates. The Appraisal Foundation gave no response to this feedback and has not given the ASC access to deliberations or any role in reviewing candidates.

In response to ASC Chair Zixta Martinez's questioning at the last hearing, Mr. Bunton stated that he was "not involved in" and had "stayed out of" the process of choosing his replacement. But after additional questioning, Mr. Bunton admitted that he had made suggestions as to who his successor should be. Mr. Bunton then opined that The Appraisal Foundation would not seek ratification of its new President from the ASC. The Appraisal Foundation's failure to fully disclose basic details or meaningfully involve the ASC in this process gives no reason to be confident in the leadership selection process.

### III. Conclusion

The Appraisal Foundation is essentially a lawmaking body that is neither accountable to the public nor subject to competitive market forces. These issues are deeply troubling as The Appraisal Foundation is one of the most, if not the most, powerful player in America when it comes to appraisals and plays a controlling role in key issues contributing to appraisal bias. As long as The Appraisal Foundation remains an insular body controlled by a small circle, operating behind closed doors, those issues will continue to go unaddressed.

Respectfully submitted,

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Director

cc: FFIEC, FHFA, and HUD Principals  
ASC Member Representatives and Alternates