

**MEETING AGENDA****AMC Advisory Committee**

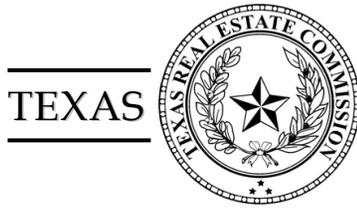
TALCB Headquarters Office

4th Floor, Stephen F. Austin State Office Building

1700 North Congress, Austin, Texas 78701

Wednesday, June 4, 2014, 11:00 a.m.

1. Call to order
2. SES report on AMC complaint cases
3. ELS report on AMC registrations
4. Discussion and possible action regarding development of a penalty matrix for AMC complaints
5. Discussion and possible action regarding review of Chapter 159 rules
6. Discussion and possible action regarding audits of AMCs regarding compliance with certain statutory and rule requirements
7. Discussion and possible action regarding New Federal Regulations issued by the CFPB
8. Discussion and possible action regarding alternate methods available to place an appraiser on an AMC panel
9. Discussion and possible action regarding developing FAQs to provide guidance for AMCs.
10. Discussion and possible action regarding development of a rule for Appraiser Monitoring and Reporting
11. Status update regarding Reasonable and Customary Fees
12. Status update regarding VA and FHA Appraiser List
13. Status update on AMC Committee Action Items
14. Discussion and possible action regarding agenda items for future meetings
15. Discussion regarding future meetings dates
16. Adjourn



TEXAS

**APPRAISER LICENSING & CERTIFICATION BOARD**

DOUGLAS E. OLDMIXON, COMMISSIONER

June 3, 2014

**AMC COMPLAINTS**

<b>Respondent (AMC)</b>	<b>Date Received</b>	<b>Disposition</b>	<b>Disposition Date</b>	<b>Complainant</b>	<b>Complaint No.</b>
Lendervend, LLC	4/21/2014	Pending	Pending	TALCB	2014-191
StreetLinks, LLC	3/28/2014	Pending	Pending	TALCB	2014-169
Valuation Information Technology, LLC	3/19/2014	Pending	Pending	TALCB	2014-157
Murcor, Inc.	2/19/2014	Pending	Pending	TALCB	2014-132
Landavalue, LLC	2/3/2014	Pending	Pending	WALLACE RUSSELL RAY	2014-119
<b>2013</b>					
LANDAVALUE LLC	11/8/2013	Pending	Pending	TALCB	2014-064
LANDAVALUE LLC	10/9/2013	Pending	Pending	TALCB	2014-039
FIRST VALUATION SERVICES LLC	11/8/2013	Dismissed by Commissioner	2/21/2014	ALDRIDGE DAVID EDWARD	2014-067
STREETLINKS LLC	7/3/2013	Dismissed by Commissioner	12/16/2013	LYSSY MATT	2013-266
STREETLINKS LLC	6/18/2013	Dismissed by Commissioner	8/15/2013	AVILES ANDREW	2013-248
<b>2012</b>					
ES APPRAISAL SERVICES LLC	12/27/2012	Disciplinary Action (Revocation)	7/10/2013	JONES ROBERT RANDELL	2013-114
VALUATION PARTNERS	11/29/2012	Dismissed by Commissioner w/warning	1/22/2013	DURHAM RONALD DWAYNE	2013-096
JVI APPRAISAL DIVISION LLC	11/14/2012	Dismissed by Commissioner	4/29/2013	ALDRIDGE DAVID EDWARD	2013-086
JVI APPRAISAL DIVISION LLC	11/9/2012	Dismissed by Commissioner	4/29/2013	BORING JOHN MATTHEW	2013-084
JVI APPRAISAL DIVISION LLC	11/7/2012	Dismissed by Commissioner	4/29/2013	LEAL LAURO	2013-083
JVI APPRAISAL DIVISION LLC	10/23/2012	Dismissed by Commissioner	4/29/2013	TOLOPKA MICHAEL ANTHONY	2013-072
JVI APPRAISAL DIVISION LLC	10/22/2012	Dismissed by Commissioner	4/29/2013	MCINTURFF DAVID CHARLES	2013-067
JVI APPRAISAL DIVISION LLC	10/22/2012	Dismissed by Commissioner	4/29/2013	MARLOW BRIAN JAMES	2013-061
JVI APPRAISAL DIVISION LLC	10/22/2012	Dismissed by Commissioner	4/29/2013	SORGE GREGORY KENT	2013-070
JVI APPRAISAL DIVISION LLC	10/22/2012	Dismissed by Commissioner	4/29/2013	FREESE KEN MITCHEL	2013-071
LESTER MICHAEL LANCE	10/19/2012	Dismissed by Commissioner	1/22/2013	MCCOY KLINT	2013-056
JORDAN REAL ESTATE GROUP INC	10/1/2012	Dismissed by Commissioner w/warning	8/1/2013	KREAMER MARK	2013-044
JVI APPRAISAL DIVISION LLC	9/27/2012	Dismissed by Commissioner	4/18/2013	WATSON DEBORAH LOYCE	2013-028
RELS	9/27/2012	Dismissed by Commissioner	11/29/2012	GARZA ROBERT LEE	2013-032
JVI APPRAISAL DIVISION LLC	9/18/2012	Dismissed by Commissioner	4/29/2013	MOFFITT MICHAEL LOUIS	2013-026
JVI APPRAISAL DIVISION LLC	8/2/2012	Disciplinary Action (Revocation)	4/8/2013	STREEP WILLIAM CLOKE	2012-302

**APPRAISAL MANAGEMENT COMPANY REGISTRATIONS & RENEWALS  
MAY 2014**

	<b>Month</b>	<b>Paper Apps. Received</b>	<b>Online Apps. Received</b>	<b>Total Apps. Received</b>	<b>Total AMC Registrations Issued</b>	<b>Total AMC Renewals Issued</b>
<b>FY-2012</b>	Mar-12	18	4	22	0	
	Apr-12	16	5	21	0	
	May-12	25	16	41	44	
	Jun-12	53	14	67	65	
	Jul-12	13	6	19	53	
	Aug. 12	5	1	6	7	
	<b>FY- 2013</b>	Sep-12	0	1	1	3
Oct-12		0	3	3	5	
Nov-12		2	1	3	2	
Dec-12		1	2	3	4	
Jan-13		0	0	0	2	
Feb-13		1	0	1	0	
Mar-13		0	0	0	0	
Apr-13		1	1	2	0	
May-13		0	0	0	1	
Jun-13		0	1	1	4	
Jul-13		0	1	1	1	
Aug-13	1	1	2	1		
<b>FY- 2014</b>	Sep-13	0	3	3	2	
	Oct-13	0	1	1	2	
	Nov-13	0	0	0	0	
	Dec-13	0	1	1	0	0
	Jan-14	0	0	0	1	1
	Feb-14	0	0	0	0	5
	Mar-14	0	2	2	2	9
	Apr-14	1	0	1	2	18
	May-14	1	0	1	0	28
<b>TOTALS</b>		<b>138</b>	<b>64</b>	<b>202</b>	<b>201</b>	<b>61</b>
Registrations Surrendered in February '13				-3		
Registrations Revoked in March '13				-1		
Registrations Surrendered in July '13				-1		
Registrations Revoked in July '13				-1		
Registrations Surrendered in September '13				-1		
Registrations Surrendered in January '14				-1		
Registrations Surrendered in March '14				-1		
Registrations Surrendered in May '14				-1		

**TOTAL AMC REGISTRATIONS**

**191**

## Appraisal Management Company (AMC) Complaint Processing

(a) Receipt of a Complaint Intake Form by the board does not constitute the filing of a formal complaint by the board against the appraisal management company (AMC) named on the Complaint Intake Form. Upon receipt of a signed Complaint Intake Form, staff shall:

- (1) assign the complaint a case number in the complaint tracking system; and
- (2) send written acknowledgement of receipt to the complainant.

(b) If the staff determines at any time that the complaint is not within the board's jurisdiction or that no violation exists, the complaint shall be dismissed with no further processing. The board or the commissioner may delegate to staff the duty to dismiss complaints.

(c) A complaint alleging mortgage fraud or in which mortgage fraud is suspected:

- (1) may be investigated covertly; and
- (2) shall be referred to the appropriate prosecutorial authorities.

(d) Staff may request additional information necessary to determine how to proceed with the complaint from any person.

(e) As part of a preliminary investigative review, a copy of the Complaint Intake Form and all supporting documentation shall be sent to the respondent unless the complaint qualifies for covert investigation and the Standards and Enforcement Services Division deems covert investigation appropriate.

(f) The respondent shall submit a response within 20 days of receiving a copy of the Complaint Intake Form. The 20-day period may be extended for good cause upon request in writing or by e-mail. The response shall include the following:

- (1) a copy of the appraisal report and/or any other documentation or business records that is the subject of the complaint;
- (2) a copy of the documents and/or business records associated with the appraisal(s), incident(s), or conduct listed in the complaint, with the following signed statement attached to the response: I SWEAR AND AFFIRM THAT EXCEPT AS SPECIFICALLY SET FORTH HEREIN, THE COPY OF EACH AND EVERY BUSINESS RECORD ACCOMPANYING THIS RESPONSE IS A TRUE AND CORRECT COPY OF THE ACTUAL BUSINESS RECORD, AND NOTHING HAS BEEN ADDED TO OR REMOVED FROM THIS BUSINESS RECORD OR ALTERED. (SIGNATURE OF RESPONDENT);
- (3) a narrative response to the complaint, addressing each and every item in the complaint;
- (4) a list of any and all persons known to the respondent to have actual knowledge of any of the matters made the subject of the complaint and, if in the respondent's possession, contact information;

(5) any documentation that supports respondent's position that was not in the original documentation, as long as it is conspicuously labeled as additional documentation and kept separate from the original documentation. The respondent may also address other matters not raised in the complaint that the respondent believes need explanation; and

(6) a signed, dated and completed copy of any questionnaire sent by board staff.

(g) Staff will evaluate the complaint within three months of receipt of the response from respondent to determine whether sufficient evidence of a potential violation of TALCB's statutes or rules, or the Uniform Standards of Professional Appraisal Practice (USPAP) exists to pursue investigation and possible formal disciplinary action. If the staff determines that there is no jurisdiction, no violation exists, or there is insufficient evidence to prove a violation, or the complaint warrants dismissal, including contingent dismissal, under subsection (j) of this section, the complaint shall be dismissed with no further processing.

(h) If the complaint is not dismissed under subsection (g) of this section, a formal complaint will be opened and it will be investigated by a staff investigator or peer investigative committee, as appropriate. Staff may also open a formal complaint on its own motion. A written notice that a formal complaint has been opened will be sent to the complainant and respondent.

(i) The staff investigator or peer investigative committee assigned to investigate a formal complaint shall prepare a report detailing its findings on a form approved by the board for that purpose. Reports prepared by a peer investigative committee shall be reviewed by the Standards and Enforcement Services Division, which shall determine the appropriate disposition of the complaint.

(j) In determining the proper disposition of a formal complaint pending as of or filed after the effective date of this subsection, and subject to the maximum penalties authorized under Texas Occupations Code §§1104.201, 1104.202, 1104.214, and 1104.215, staff, the administrative law judge in a contested case hearing and the board shall consider the following sanctions guidelines and list of non-exclusive factors as demonstrated by the evidence in the record of a contested case proceeding.

(1) For the purposes of these sanctions guidelines:

(A) An AMC will not be considered to have had a prior warning letter, contingent dismissal or discipline if that prior warning letter, contingent dismissal or discipline occurred more than seven (7) years ago;

(B) A prior warning letter, contingent dismissal or discipline given less than seven years ago will not be considered unless the board had taken final action against the AMC before the date of the incident that led to the subsequent disciplinary action;

(C) Prior discipline is defined as any sanction (including administrative penalty) received under a board final or agreed order;

(D) A violation refers to a violation of any provision of the Act, Board Rules or USPAP;

(E) "Minor deficiencies" is defined as violations of the Act, Board Rules or USPAP which do not call into question the qualification of the AMC for licensure in Texas;

(F) "Serious deficiencies" is defined as violations of the Act, Board Rules or USPAP which do call into question the qualification of the AMC for licensure in Texas;

(G) "Remedial measures" include, but are not limited to, training, , education, , or any combination thereof; and

(H) The terms of a contingent dismissal agreement will be in writing and agreed to by all parties. If respondent completes all remedial measures required in the agreement within a certain prescribed period of time, the complaint will be dismissed with a non-disciplinary warning letter.

(2) List of factors to consider in determining proper disposition of a formal complaint:

(A) Whether the Respondent has previously received a warning letter or contingent dismissal, and if so, the similarity of facts or violations in that previous complaint to the facts or violations in the instant complaint matter;

(B) Whether the Respondent has previously been disciplined;

(C) If previously disciplined, the nature of the discipline, including:

(i) Whether it concerned the same or similar violations or facts;

(ii) The nature of the disciplinary sanctions imposed;

(iii) The length of time since the previous discipline;

(D) The difficulty or complexity of the incident at issue;

(E) Whether the violations found were of a negligent, grossly negligent or a knowing or intentional nature;

(F) Whether the violations found involved a single appraisal or instance of conduct or multiple appraisals or instances of conduct;

(G) To whom were the appraisal report(s) or the conduct directed, with greater weight placed upon appraisal report(s) or conduct directed at:

(i) A financial institution or their agent, contemplating a lending decision based, in part, on the appraisal report(s) or conduct at issue;

(ii) The board;

(iii) A matter which is actively being litigated in a state or federal court or before a regulatory body of a state or the federal government;

(iv) Another government agency or government sponsored entity, including, but not limited to, the United States Department of Veteran's Administration, the United States Department of Housing and Urban Development, the State of Texas, Fannie Mae, and Freddie Mac;

(v) A consumer contemplating a real property transaction involving the consumer's principal residence;

(H) Whether Respondent's violations caused any harm, including financial harm, and the amount of such harm;

(I) Whether Respondent acknowledged or admitted to violations and cooperated with the board's investigation prior to any contested case hearing;

(J) The business operating history of the AMC, including, but not limited to:

(i) The size of the AMC's appraiser panel;

(ii) The length of time Respondent has been licensed as an AMC in Texas;

The length of time the AMC has been conducting business operations, in any jurisdiction;

(iii) The nature and extent of any remedial measures and sanctions the Respondent had received related to the areas in which violations were found; and

If the Respondent is affiliated with any other business entities;

(K) Whether Respondent can improve the AMC practice through the use of remedial measures.

(3) The sanctions guidelines contained herein shall be employed in conjunction with the factors listed in paragraph (2) of this subsection to assist in reaching the proper disposition of a formal complaint:

(A) 1st Time Discipline Level 1--violations of the Act, Board Rules, or USPAP which evidence minor deficiencies will result in one of the following outcomes:

(i) Dismissal;

(ii) Dismissal with non-disciplinary warning letter;

(iii) Contingent dismissal with remedial measures.

(B) 1st Time Discipline Level 2--violations of the Act, Board Rules, or USPAP which evidence serious deficiencies will result in one of the following outcomes:

(i) Contingent dismissal with remedial measures;

(ii) A final order which imposes one or more of the following:

(I) Remedial measures;

(II) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of the AMC practice;

(III) A probationary period with provisions for monitoring the AMC's practice;

(IV) Restrictions on the AMC's ability to administer an appraiser panel, or the size thereof;

(V) Restrictions on the scope of practice the AMC is allowed to engage in for a specified time period or until specified conditions are satisfied;

(VI) Up to \$10,000 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules, or the Act; each day of a continuing violation is a separate violation.

(C) 1st Time Discipline Level 3--violations of the Act, Board Rules, or USPAP which evidence serious deficiencies and were done with knowledge, deliberately, willfully, or with gross negligence will result in a final order which imposes one or more of the following:

(i) A period of suspension;

(ii) A revocation;

(iii) Remedial measures;

(iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of the AMC practice;

(v) A probationary period with provisions for monitoring the AMC's practice;

(vi) Restrictions on the AMC's ability to administer an appraiser panel, or the size thereof;

(vii) Restrictions on the scope of practice the AMC is allowed to engage in for a specified time period or until specified conditions are satisfied;

(viii) Up to \$10,000 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules, or the Act; each day of a continuing violation is a separate violation.

(D) 2nd Time Discipline Level 1--violations of the Act, Board Rules, or USPAP which evidence minor deficiencies will result in one of the following outcomes:

(i) Dismissal;

(ii) Dismissal with non-disciplinary warning letter;

(iii) Contingent dismissal with remedial measures;

(iv) A final order which imposes one or more of the following:

(I) Remedial measures;

(II) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of the AMC practice;

(III) A probationary period with provisions for monitoring the AMC's practice;

(IV) Restrictions on the AMC's ability to administer an appraiser panel, or the size thereof;

(V) Restrictions on the scope of practice the AMC is allowed to engage in for a specified time period or until specified conditions are satisfied;

(VI) Up to \$10,000 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules, or the Act; each day of a continuing violation is a separate violation.

(E) 2nd Time Discipline Level 2--violations of the Act, Board Rules, or USPAP which evidence serious deficiencies will result in a final order which imposes one or more of the following:

(i) A period of suspension;

(ii) A revocation;

(iii) Remedial measures;

(iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of the AMC practice;

(v) A probationary period with provisions for monitoring the AMC's practice;

(vi) Restrictions on the AMC's ability to administer an appraiser panel, or the size thereof;

(vii) Restrictions on the scope of practice the AMC is allowed to engage in for a specified time period or until specified conditions are satisfied;

(viii) Up to \$10,000 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules, or the Act; each day of a continuing violation is a separate violation.

(F) 2nd Time Discipline Level 3--violations of the Act, Board Rules, or USPAP which evidence serious deficiencies and were done with knowledge, deliberately, willfully, or with gross negligence will result in a final order which imposes one or more of the following:

(i) A period of suspension;

(ii) A revocation;

(iii) Remedial measures;

(iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of the AMC practice;

(v) A probationary period with provisions for monitoring the AMC's practice;

(vi) Restrictions on the AMC's ability to administer an appraiser panel, or the size thereof;

(vii) Restrictions on the scope of practice the AMC is allowed to engage in for a specified time period or until specified conditions are satisfied;

(viii) Up to \$10,000 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules, or the Act; each day of a continuing violation is a separate violation.

(G) 3rd Time Discipline Level 1--violations of the Act, Board Rules, or USPAP which evidence minor deficiencies will result in a final order which imposes one or more of the following:

(i) A period of suspension;

(ii) A revocation;

(iii) Remedial measures;

(iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of the AMC practice;

(v) A probationary period with provisions for monitoring the AMC's practice;

(vi) Restrictions on the AMC's ability to administer an appraiser panel, or the size thereof;

(vii) Restrictions on the scope of practice the AMC is allowed to engage in for a specified time period or until specified conditions are satisfied;

(viii) Up to \$10,000 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules, or the Act; each day of a continuing violation is a separate violation.

(H) 3rd Time Discipline Level 2--violations of the Act, Board Rules, or USPAP which evidence serious deficiencies will result in a final order which imposes one or more of the following:

(i) A period of suspension;

(ii) A revocation;

(iii) Remedial measures;

(iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of the AMC practice;

(v) A probationary period with provisions for monitoring the AMC's practice;

(vi) Restrictions on the AMC's ability to administer an appraiser panel, or the size thereof;

(vii) Restrictions on the scope of practice the AMC is allowed to engage in for a specified time period or until specified conditions are satisfied;

(viii) Up to \$10,000 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules, or the Act; each day of a continuing violation is a separate violation.

(I) 3rd Time Discipline Level 3--violations of the Act, Board Rules, or USPAP which evidence serious deficiencies and were done with knowledge, deliberately, willfully, or

with gross negligence will result in a final order which imposes one or more of the following:

(i) A revocation; and

(ii) Up to \$10,000 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules, or the Act; each day of a continuing violation is a separate violation.

(J) 4th Time Discipline--violations of the Act, Board Rules or USPAP will result in a final order which imposes the following:

(i) A revocation; and

(ii) Up to \$10,000 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules, or the Act; each day of a continuing violation is a separate violation.

(K) Unlicensed AMC activity will result in a final order which imposes a \$10,000 in administrative penalties per unlicensed AMC activity; each day of a continuing violation is a separate violation.

(4) In addition, staff may recommend any or all of the following:

(A) Reducing or increasing the recommended sanction or administrative penalty for a complaint based on documented factors that support the deviation, including but not limited to those factors articulated under paragraph (2) of this subsection;

(B) Probating all or a portion of any remedial measure, sanction, or administrative penalty for a period not to exceed five years;

(C) Requiring additional reporting requirements;

(D) the payment of costs expended by the board associated with the investigation, and if applicable, a contested case, including legal fees and administrative costs; and

(E) Such other recommendations, with documented support, as will achieve the purposes of the Act, the Rules, and/or USPAP.

(k) Agreed resolutions of complaint matters pursuant to Texas Occupations Code §1104(a)(3) must be signed by the respondent, a representative of the Standards and Enforcement Services Division, and the commissioner.

**CHAPTER 159. RULES RELATING TO THE PROVISIONS OF THE TEXAS APPRAISAL MANAGEMENT COMPANY REGISTRATION AND REGULATION ACT**

*§159.1. Definitions.*

(a) AMC--Appraisal management company.

(b) AMC Act -- Texas Appraisal Management Company Registration and Regulation Act.

(c)~~(b)~~ Administrative law judge--A judge employed by the State Office of Administrative Hearings (SOAH).

(d)~~(c)~~ Advertising--a written or oral statement or communication by or on behalf of an AMC~~[appraisal management company]~~ that induces or attempts to induce a member of the public to use the services of the AMC, including but not limited to all publications, radio or television broadcasts, all electronic media including email, text messages, social networking websites, and the Internet, business stationery, business cards, signs and billboards

(e)~~(d)~~ Applicant--A person seeking to become registered under Chapter 1104, Texas Occupations Code.

~~(e) Appraisal firm--An entity that employs appraisers on an exclusive basis and receives compensation for performing appraisals and issuing appraisal reports in its own name.]~~

(f) Appraiser contact--A person designated by an AMC pursuant to §1104.103(b)(6) of the ~~[Texas Appraisal Management Company Registration and Regulation]~~ Act to respond to and communicate with appraisers on the company's appraisal panel regarding appraisal assignments.

~~(h) Contested case--A proceeding in which the legal rights, duties, or privileges of a party are to be determined by the Board after an opportunity for an adjudicative hearing. A matter that is completed without being referred to SOAH is not a contested case.]~~

(h)~~(i)~~ Day--A calendar day unless clearly indicated otherwise.

(i) License--The whole or a part of any Board permit, certificate, approval, registration or similar form of permission required by Chapter 1103 or 1104, Texas Occupations Code.

(j) License holder --A person licensed or registered by the Board under the AMC Act.

(k) Party--The Board and each person named or admitted as a party.

(l)~~(k)~~ Person--Any individual, partnership, corporation, or other legal entity.

~~(l) Pleading --A written document, submitted by a party or a person seeking to participate in a case as a party, that requests procedural or substantive relief, alleges facts, makes a legal argument, or otherwise addresses matters involved in the case.]~~

(m) Primary contact--A person who meets the definition of "controlling person" in §1104.003 of the ~~[Texas Appraisal Management Company Registration and Regulation]~~ Act and is designated by an AMC pursuant to §1104.104 of the AMC Act as the primary contact for all communication between the Board~~[board]~~ and the company.

~~(n) Registrant--A person registered as an appraisal management company] by the Board under the Texas Appraisal Management Company Registration and Regulation Act.~~

~~(o) Respondent--Any person subject to the jurisdiction of the Board, registered or unregistered, against whom any complaint has been made.~~

~~(p) Rule--Any Board statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the Board and is filed with the Texas Register.]~~

(n)~~(q)~~ SOAH--State Office of Administrative Hearings.

*The provisions of this §159.1 adopted to be effective November 3, 2011, 36 TexReg 7320.*

*§159.3. Appraisal Management Company Advisory Committee.*

(a) A quorum of the committee consists of two members.  
 (b) The committee may meet at the call of the chair or upon the request of a majority of its members. The committee shall meet at the request of the Board.

(c) Unless state law or Board rules require otherwise, meetings ~~[Meetings]~~ shall be conducted in accordance with ~~[the Texas Open Meetings Act and]~~ Robert's Rules of Order.

(d) At the end of a term, members shall continue to serve until their successors are qualified.

*The provisions of this §159.3 adopted to be effective November 3, 2011, 36 TexReg 7320.*

*§159.4. Jurisdiction and Exemptions.*

(a) This chapter does not apply to appraisal management services provided:

- (1) for the appraisal of:
  - (A) commercial property; or
  - (B) residential properties of more than four units; or
- (2) by persons exempted under §1104.004, Texas Occupations Code.

(b) For the purposes of §1104.004, Texas Occupations Code:

- (1) a person exclusively employs appraisers on an employer and employee basis for the performance of appraisals if the person does not also employ appraisers as independent contractors or under any other arrangement;
- (2) a person employs not more than 15 appraisers on an exclusive basis as independent contractors for the performance of appraisals if:
  - (A) the person prohibits the independent contractors from performing appraisals for others; and
  - (B) the person does not employ more than 15 appraisers as independent contractors at any time;
- (3) a subsidiary of a financial institution is not a department or unit within the institution;
- (4) an AMC~~[appraisal management company]~~ that requires an employee of the AMC~~[appraisal management company]~~ who is an appraiser to sign an appraisal that is

completed by another appraiser who contracts with the appraisal management company in order to avoid the requirements of Chapter 1104, Texas Occupations Code, is not exempt from registration requirement or other requirements of the chapter; and

(5) an AMC~~[appraisal management company]~~ has an appraisal panel of not more than 15 appraisers at all times during a calendar year if it does not have more than 15 appraisers on its panel at any time.

(c) A person may solicit prospective panelists in anticipation of acting as an AMC~~[appraisal management company]~~ without being registered as an AMC, provided that it is registered prior to forming a panel, accepting an appraisal assignment, or performing any other act constituting an appraisal management service.

(d) For the purposes of the AMC Act, a property is located in Texas if it is located wholly or partly in the state.

*The provisions of this §159.4 adopted to be effective November 3, 2011, 36 TexReg 7320.*

§159.52. Fees.

(a) The Board shall charge and the Commissioner shall collect the following fees:

(1) a fee of \$3,300 for an application for a two-year registration;

(2) a fee of \$3,300 for a timely renewal of a two-year registration;

(3) a fee equal to 1-1/2 times the timely renewal fee for the late renewal of a registration within 90 days of expiration; a fee equal to two times the timely renewal fee for the late renewal of a registration more than 90 days but less than six months after expiration;

(4) the national registry fee in the amount charged by the Appraisal Subcommittee for the AMC~~[appraisal management company]~~ registry;

(5) a fee of \$10 for each appraiser on a panel at the time of renewal of a registration;

(6) a fee of \$10 to add an appraiser to a panel in the Board's records;

(7) a fee of \$10 for the termination of an appraiser from a panel;

(8) a fee of \$25 to request a registration be placed on inactive status;

(9) a fee of \$50 to return to active status;

(10) a fee of \$40 for preparing a certificate of licensure history or active licensure;

(11) a fee for a returned check equal to that charged for a returned check by the Texas Real Estate Commission;

(12) a fee of \$20 for filing any request to change an owner, primary contact, appraiser contact, registered business name

or place of business;

(13) a fee of \$50 for evaluation of an owner or primary contact's background history not submitted with an original application or renewal;

(14) a fee of \$20 for filing any application, renewal, change request, or other record on paper when the person may otherwise file electronically by accessing the Board's website and entering the required information online; and

(15) any fee required by the Department of Information Resources for establishing and maintaining online applications.

(b) Fees must be submitted in U.S. funds payable to the order of the Texas Appraiser Licensing and Certification Board. Fees are not refundable once an application has been accepted for filing. Persons who have submitted a check which has been returned, and who have not made good on that check within 30 days, for whatever reason, shall submit all future fees in the form of a cashier's check or money order.

(c) AMCs registered with the Board shall pay any annual registry fee as required under federal law. All registry fees collected by the Board shall be deposited in the Texas Treasury Safekeeping Trust Company to the credit of the appraiser registry fund. The Board shall send the fees to the Appraisal Subcommittee as required by federal law.

*The provisions of this §159.52 adopted to be effective March 5, 2012, 37 TexReg 483; amended to be effective December 22, 2013, 38 TexReg 9050.*

§159.101. Registration Requirements. A License Holder [License Holder ~~[Registrant]~~] shall notify the Board, on a form approved by the Board~~[for the purpose]~~, within 30 days after the License Holder ~~[Registrant]~~ starts or stops using a name in business other than the name in which it is registered.

*The provisions of this §159.101 adopted to be effective November 3, 2011, 36 TexReg 7320.*

§159.102. Eligibility for Registration; Ownership. For the purpose of certifying to the Board that an applicant has reviewed the owners of the entity as required by the AMC Act and that no such owner has had a license ~~[or certificate]~~ to act as an appraiser denied, revoked, or surrendered in lieu of revocation unless the license ~~[or certification]~~ was subsequently granted or reinstated, the applicant may rely on the Appraisal Subcommittee's online National Registry ~~[license/certification]~~ database.

*The provisions of this §159.102 adopted to be effective November 3, 2011, 36 TexReg 7320.*

§159.103. Applications.

- (a) An application must be accompanied by one completed and signed Owner/Primary Contact Background History form for the primary contact and each owner of more than 10% of the company.
- (b) An application may be rejected if incomplete.
- (c) An application may be considered void and subject to no further evaluation or processing if an applicant fails to provide information or documentation within 60 days after the Board makes written request for the information or documentation.
- (d) **License Holders** [~~Registrants~~] shall retain documents establishing ownership for a period of five years from the date the application was filed.

*The provisions of this §159.103 adopted to be effective November 3, 2011, 36 TexReg 7320.*

§159.104. Primary Contact; Appraiser Contact.

- (a) A **License Holder** [~~Registrant~~] shall give the Board written notice of any change to the contact information for its primary contact or appraiser contact within 15 days of the change.
- (b) If a **License Holder** [~~Registrant~~]’s primary contact or appraiser contact changes, the **License Holder** [~~Registrant~~] shall give the Board written notice of the change, including all information required by §1104.103(4) or (6), **the AMC Act** [~~Texas Occupations Code~~], and, if appropriate, documentation that the person is qualified to serve under §1104.104(b), **the AMC Act** [~~Texas Occupations Code~~], within 15 days of the change.
- (c) A **License Holder** [~~Registrant~~] shall give the Board written notice within 15 days if its primary contact or appraiser contact ceases to serve in that role and a qualified replacement is not immediately named. If a **License Holder’s** [~~Registrant’s~~] primary contact or appraiser contact ceases to be serve in that role and the Registrant does not give the Board written notice of a replacement, the **License Holder** [~~Registrant~~] shall be placed on inactive status.
- (d) A primary contact who assumes that role during the term of the registration shall provide the Board written consent to a criminal history background check, as required by §1104.102, **the AMC Act** [~~Texas Occupations Code~~]. If the person does not satisfy Board’s moral character requirements, the Board shall remove the person from its records and the **License Holder** [~~Registrant~~] will be placed on inactive status. Such a decision by Board staff may be reviewed and reconsidered by the Commissioner if the **License Holder** [~~Registrant~~] submits a written request for reconsideration within ten days of notice that the person does not qualify to serve as primary contact. The **License Holder** [~~Registrant~~] will remain on inactive status while the request for reconsideration is pending.
- (e) The appraiser contact must hold an active, current license [~~or certification~~] issued by an appraiser regulatory agency within the jurisdiction of the Appraisal Subcommittee.

*The provisions of this §159.104 adopted to be effective*

*November 3, 2011, 36 TexReg 7320.*

§159.105. Denial of Registration.

- (a) Appraisal management companies, persons who own more than 10% of an AMC, and individuals who act as the primary contact for an AMC must be honest, trustworthy, and reliable. Accordingly, such persons must satisfy the Board of their honesty, integrity, and trustworthiness before a registration may be issued or renewed.
- (b) The **Board** [~~board~~] deems the following felonies and misdemeanors directly related to the field of appraisal management and suggestive of a lack of the requisite moral character:
  - (1) offenses involving fraud or misrepresentation;
  - (2) offenses against real or personal property belonging to another, if committed knowingly or intentionally;
  - (3) offenses against public administration;
  - (4) offenses involving the sale or other disposition of real or personal property belonging to another without authorization of law;
  - (5) offenses involving moral turpitude; and
  - (6) offenses of attempting or conspiring to commit any of the foregoing offenses.
- (c) In determining whether a criminal offense by an applicant, the primary contact, or an owner of more than 10% of the AMC prevents the issuance of a registration, the Board shall consider the following factors:
  - (1) the nature and seriousness of the crime;
  - (2) the relationship of the crime to the purposes for requiring a registration to provide appraisal management services;
  - (3) the extent to which a registration might offer an opportunity to engage in further criminal activity of the same type as that which the person had previously been involved; and
  - (4) the relationship of the crime to the ability, capacity, or fitness required to be involved, directly or indirectly, in performing the duties and discharge the responsibilities of **AMC** [~~appraisal management company~~].
- (d) In determining the present fitness of a person who has committed an offense under this section, the **Board** [~~board~~] shall consider the following evidence:
  - (1) the extent and nature of the person’s past criminal activity;
  - (2) the age of the person at the time of the commission of the crime;
  - (3) the amount of time that has elapsed since the person’s last criminal activity;
  - (4) the conduct and work activity of the person prior to and following the criminal activity;
  - (5) evidence of the person’s rehabilitation or rehabilitative effort while incarcerated or following release; and
  - (6) other evidence of the person’s present fitness including letters of recommendation from prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the person; the sheriff and chief of police in the community where the person resides; and any other persons in contact with the person.
- (e) A person is presumed to lack the requisite moral character if less than two years has elapsed since the offense was

committed.

(f) An applicant is presumed to be unfit to perform appraisal management services if the person has violated the appraiser independence standards of Section 129E of the Truth in Lending Act (15 U.S.C. §1601 et seq.). This presumption may be rebutted by credible evidence to the contrary.

(g) It shall be the responsibility of the applicant to the extent possible to secure and provide the Board[board] the recommendations of the prosecution, law enforcement, and correctional authorities, as well as evidence, in the form required by the Board[board], relating to whether the applicant has maintained a record of steady employment, has maintained a record of good conduct, and is current on the payment of any outstanding court costs, supervision fees, fines, and restitution.

(h) A currently incarcerated individual does not possess the required good moral character.

(i) The primary contact and each owner of more than 10% of the AMC[appraisal management company] must consent in writing to a criminal history background check at the time the company submits an application.

(j) An application for renewal that is proposed to be denied by Standards and Enforcement Services Division staff may be reviewed and reconsidered by the Commissioner if the applicant submits a written request for reconsideration within ten days of notice of the proposed denial. The right to request reconsideration is distinct from, and in addition to, an applicant's right to appeal a proposed denial before the State Office of Administrative Hearings.

*The provisions of this §159.105 adopted to be effective November 3, 2011, 36 TexReg 7320.*

**§159.107. Expiration.** A registration is valid for the term for which it is issued by the Board [~~unless suspended or revoked for cause~~].

*The provisions of this §159.107 adopted to be effective November 3, 2011, 36 TexReg 7320.*

**§159.108. Renewal.**

(a) The Board shall send a renewal notice to the License Holder's [Registrant's] primary contact at least 180 days prior to the expiration of the registration.

(b) It is the responsibility of the Registrant to apply for renewal in accordance with Chapter 1104, Texas Occupations Code, and this chapter sufficiently in advance of the expiration date to ensure that all renewal requirements, including background checks, are satisfied before the expiration date of the registration. Failure to receive a renewal notice from the Board[board] does not relieve the License Holder [Registrant] of the responsibility to timely apply for renewal.

(c) An application for renewal is not complete, and no renewal will issue, until all application requirements are satisfied.

*The provisions of this §159.108 adopted to be effective November 3, 2011, 36 TexReg 7320.*

**§159.109. Inactive Status.**

(a) To elect to be placed on inactive status, a License Holder [Registrant] must do the following:

(1) file a request for inactive status on a form approved by the Board and pay the required fee; and

(2) confirm in writing to the Board that the License Holder [Registrant] has given written notice of its election to go inactive to all appraisers listed on the License Holder's [Registrant's] appraiser panel at least 30 days prior to filing the request for inactive status.

(b) In order to return from inactive status to active status, a License Holder [Registrant] shall submit to the Board a completed Request for Active Status form and proof of compliance with all outstanding requirements for active registration.

(c) A License Holder [Registrant] that has elected or been placed on inactive status may not engage in any activity for which registration is required until an active registration has been issued by the Board.

(d) The appraiser panel of a License Holder [Registrant] on inactive status will remain in place until the License Holder's [Registrant's] next renewal date.

(e) A License Holder [Registrant] may not renew on inactive status. An inactive License Holder [Registrant] must satisfy all renewal requirements for an active registration.

*The provisions of this §159.109 adopted to be effective November 3, 2011, 36 TexReg 7320; amended to be effective September 11, 2013, 38 TexReg 5879.*

**§159.154. Competency of Appraisers.**

(a) In addition to verifying an appraiser's [~~licensure or certification~~] license status as required by §1104.152 of the AMC Act, an AMC must, at the time of or before making an assignment to an appraiser, obtain a written certification from the appraiser that the appraiser:

(1) is competent in the property type of the assignment;

(2) is competent in the geographical area of the assignment;

(3) has access to appropriate data sources for the assignment;

(4) will immediately notify the AMC if the appraiser later determines that he or she is not qualified under paragraph (1), (2), or (3) of this subsection to complete the assignment; and

(5) is aware that misrepresentation of competency is subject to the mandatory reporting requirement in §1104.160 of the AMC Act.

(b) An AMC that has reviewed an appraiser's work shall consider the findings of the review in verifying competency for the purpose of assigning future work.

(c) For the purposes of verifying that an appraiser has not had a license [~~or certification as an appraiser~~] denied in another jurisdiction, an AMC may rely on information provided by the appraiser.

*The provisions of this §159.154 adopted to be effective March 5, 2012, 37 TexReg 483.*

**§159.155. Periodic Review of Appraisals.**

(a) A License Holder [Registrant] shall review the work of appraisers performing appraisal services on 1-4 family unit

properties collateralizing mortgage obligations by performing a review in accordance with Standard 3 of the Uniform Standards of Professional Appraisal Practice (USPAP) of:

- (1) one of the first five appraisals performed for the [License Holder](#) [~~Registrant~~] by each appraiser, prior to making a sixth assignment; and
- (2) a total of five percent, randomly selected, of the appraisals performed for the AMC for each twelve-month period following the date of the AMC's registration.
- (b) Appraisals performed pursuant to subsection (a)(1) of this section shall be counted toward the calculation of five percent for the purposes of subsection (a)(2) of this section.
- (c) A review pursuant to subsection (a)(1) of this section is not required if the first five appraisals by an appraiser were completed before the AMC was required by Chapter 1104 of the Texas Occupations Code, to be registered with the Board.
- (d) In addition to satisfying the requirements of §1104.153 of the [AMC](#) Act, the review appraiser must have access to appropriate data sources for the appraisal being reviewed.
- (e) A certified residential appraiser may perform a review of a residential real estate appraisal completed by a certified general appraiser if the review appraiser is otherwise permitted by the Texas Appraiser Licensing and Certification Act to perform the assignment.
- (f) An appraiser conducting a review under §1104.155 of the [AMC](#) Act and this rule must ensure compliance with the USPAP and with §1104.154 of the [AMC](#) Act.
- (g) In order to satisfy the requirements of §1104.155 of the [AMC](#) Act, this rule and USPAP, a [License Holder](#) [~~Registrant~~] performing a review must adhere to the following minimum scope of work:
  - (1) research and consult the appropriate data sources for the appraisal being reviewed to, at a minimum, validate the significant characteristics of the comparables and the essential elements of the transactions including:
    - (A) the multiple listing service(s) or other recognized methods, techniques and data sources for the geographic area in which the appraisal under review was performed, if the appraisal under review included a sales comparison approach;
    - (B) published cost data sources and other recognized methods, techniques and data sources for the geographic area in which the appraisal under review was performed, if the appraisal under review included a cost approach;
    - (C) the comparable rental data, income and expense data, and other recognized methods, techniques and data sources for the geographic area in which the appraisal under review was performed, if the appraisal under review included an income approach; and
    - (D) the sales or listing history of the property which is the subject of the appraisal under review, if that property was sold within the three years prior to the effective date of the appraisal under review or listed for sale as of the effective date of the appraisal under review, the scope of review must include research and consultation of that;
  - (2) state the reviewer's opinions and conclusions about the work under review for each of the approaches to value utilized in the appraisal under review, including the reason

for any disagreements;

- (3) identify if the appraisal under review omitted an approach to value, a particular piece of information, or an analysis of either that was necessary for credible assignment results, identify what was omitted and explain why it was necessary for credible assignment results;
  - (4) identify the client, any intended users and the effective date of the appraisal review;
  - (5) state that the appraisal review's intended use and purpose is to satisfy the requirements of §1104.155 of the [AMC](#) Act and this rule, including ensuring that the appraisal under review complies with the edition of USPAP in effect at the time of the appraisal;
  - (6) state that the scope of work for the appraisal review is commensurate with the requirements of §1104.155 of the [AMC](#) Act, this rule and USPAP in effect at the time of the appraisal review and that the scope of work ensures the development of credible assignment results and that no assignment conditions impose limitations which make the results of the review not credible;
  - (7) identify the appraisal under review, including:
    - (A) any ownership interest of the appraiser or reviewer in the property that is the subject of the appraisal under review;
    - (B) the report date and effective date of the appraisal under review;
    - (C) the effective date of the opinions or conclusions in the appraisal under review;
    - (D) the physical, legal, and economic characteristics of the property, properties, property type(s), or market area in the appraisal under review; and
    - (E) the name of all appraisers who signed or provided significant professional assistance in the appraisal under review;
  - (8) state clearly and conspicuously, all extraordinary assumptions and hypothetical conditions and state that their use might have affected the review; and
  - (9) contain a certification which complies with USPAP Standards Rule 3-6.
  - (h) While not required by §1104.155 of the [AMC](#) Act or this rule, if the reviewer elects to develop an opinion of value, review opinion, or real property appraisal consulting conclusion, the review must comply with the additional provisions of USPAP governing the development of an opinion of value, review opinion, or real property appraisal consulting conclusion.
- The provisions of this §159.155 adopted to be effective March 5, 2012, 37 TexReg 483; amended to be effective December 4, 2012, 37 TexReg 9509; amended to be effective September 11, 2013, 38 TexReg 5879.*
- §159.156. Business Records.*
- (a) For the purposes of the requirement in §1104.156(c) of the [AMC](#) Act regarding retention of written records of substantive communications between an AMC and an appraiser, a communication is substantive if it relates to the appraiser's qualifications or to the scope of work of an assignment.
  - (b) An AMC may not require an appraiser to keep the existence of the appraiser's business relationship with an

AMC or the fact that the appraiser has received any specific assignment from the AMC to perform an appraisal confidential.

(c) A business entity registered as an AMC must maintain documentation showing that it has complied with the requirements contained in its governing documents for changing officers or managers. The business entity must promptly provide to TALCB upon request all business formation, ownership and representative authorization records and changes thereto required to be kept by the business entity by law.

(d) Written records include electronic records.

*The provisions of this §159.156 adopted to be effective November 3, 2011, 36 TexReg 7320; amended to be effective September 12, 2012, 37 TexReg 7175.*

*§159.157. Compensation of Appraisers.*

(a) A **License Holder [Registrant]** shall compensate the appraisers on the panel based on a compensation policy, established by the **License Holder [Registrant]**, that provides for customary and reasonable fees by taking into consideration the requirements of and any presumptions available under federal law.

(b) A **License Holder [Registrant]** shall reassess its compensation policy at least annually and shall retain, for a period of five years, records of all compensation information that formed the basis for the policy.

(c) A **License Holder [Registrant]** shall make available to each appraiser on its panel any fee schedule adopted under its compensation policy.

(d) A **License Holder [Registrant]** shall not require an appraiser to sign a certification that a fee is customary and reasonable.

*The provisions of this §159.157 adopted to be effective March 5, 2012, 37 TexReg 483.*

*§159.159. Disclosure of Registered Name and Registration Number.*

(a) For the purposes of the **AMC Act**, "documents used to procure appraisals" include written documents and electronic communications, including e-mail, used for that purpose, but does not include general advertisements and supporting documentation.

(b) On all documents used to procure appraisals, an AMC must disclose the name it registered with the Board, any other name that it uses in business and the registration number received from the Board.

*The provisions of this §159.159 adopted to be effective November 3, 2011, 36 TexReg 7320; amended to be effective September 11, 2013, 38 TexReg 5879.*

*§159.161. Appraiser Panel.*

(a) An **AMC [appraisal management company]** may not make an assignment to an appraiser who is not a member of the AMC's panel at the time of the assignment unless the appraiser is employed by the AMC on an employer-employee basis.

(b) To add an appraiser to a panel, the AMC shall:

(1) initiate the appropriate two-party transaction ~~[, if available,]~~ through the ~~[Texas Appraiser Licensing and Certification]~~ Board's online license management system, including payment of any required fee(s); or

(2) submit a notice on a form approved by the Board for this purpose, including the signatures of the appraiser and the AMC's primary contact, and the appropriate fee(s).

(c) **An appraiser or an AMC may terminate the appraiser's membership on a panel** ~~[Either the appraiser or the AMC may terminate an appraiser's membership on a panel]~~ by:

(1) submitting a termination notice electronically ~~[, if available,]~~ through the ~~[Texas Appraiser Licensing and Certification]~~ Board's online license management system, including payment of any required fee; or

(2) submitting a notice on a form approved by the Board for this purpose and the appropriate fee(s).

(d) If an appraiser terminates his or her membership on a panel, he or she shall immediately notify the AMC of the termination. If an AMC terminates an appraiser's membership on a panel, it shall immediately notify the appraiser of the termination.

(e) If an appraiser's license ~~[or certification]~~ expires or is revoked, the Board shall remove the appraiser from any panels on which he or she is listed with no fee charged to the AMC or to the appraiser.

*The provisions of this §159.161 adopted to be effective November 3, 2011, 36 TexReg 7320; amended to be effective June 10, 2012, 37 TexReg 4224.*

*§159.162. Dispute Resolution.*

(a) **License Holders must provide a dispute resolution process for appraisers.**

~~[A Registrant's dispute resolution process for appraisers shall provide for:—~~

~~(1) a written response to the request for review;—~~

~~(2) a written statement of the outcome of the dispute resolution process; and—~~

~~(3) copies of all relevant documentation to the appraiser upon written request.]~~

(b) The dispute resolution process shall provide for either:

(1) review by an external third party; or

(2) internal review by a person whose position within the company is above the level of the person responsible for the decision or action under review.

**(c) A License Holder's dispute resolution process for appraisers shall provide for:**

**(1) a written response to the request for review;**

**(2) a written statement of the outcome of the dispute resolution process; and**

**(3) copies of all relevant documentation to the appraiser upon written request.**

**(d) An appraiser who is aggrieved under §1104.157 or §1104.161 of the AMC Act must utilize a License Holder's dispute resolution process before filing a complaint with the Board.**

*The provisions of this §159.162 adopted to be effective November 3, 2011, 36 TexReg 7320.*

*§159.201. Guidelines for Revocation, Suspension, or Denial of a Registration.*

(a) The Board may suspend or revoke a registration issued under provisions of ~~[this]~~ the AMC Act, or deny issuing a registration to an applicant, ~~[at]~~ any time ~~[when]~~ it is ~~[has been]~~ determined that the person applying for or holding the registration:

(1) disregards or violates a provision of the AMC Act or of the Rules of the Texas Appraiser Licensing and Certification Board;

(2) is convicted of a felony;

(3) fails to notify the Board not later than the 30th day after the date of the final conviction if the person, in a court of this or another state or in a federal court, has been convicted of or entered a plea of guilty or nolo contendere to a felony or a criminal offense involving fraud or moral turpitude;

(4) fails to notify the Board not later than the 30th day after the date of incarceration if the person, in this or another state, has been incarcerated for a criminal offense involving fraud or moral turpitude;

(5) fails to notify the Board not later than the 30th day after the date disciplinary action becomes final against the person with regard to any occupational license the person holds in Texas or any other jurisdiction;

(6) fails to comply with the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal or appraisal practice;

(7) acts or holds himself or herself or any other person out as a registered AMC~~[appraisal management company]~~ under the AMC Act when not so licensed or certified;

(8) accepts payment for appraisal management services but fails to deliver the agreed service in the agreed upon manner;

(9) refuses to refund payment received for appraisal management services when he or she has failed to deliver the appraiser service in the agreed upon manner;

(10) accepts payment for services contingent upon a minimum, maximum, or pre-agreed value estimate;

(11) offers to perform appraisal management services or agrees to perform such services when employment to perform such services is contingent upon a minimum, maximum, or pre-agreed value estimate;

(12) makes a material misrepresentation or omission of material fact;

(13) has had a registration as an AMC~~[appraisal management company]~~ revoked, suspended, or otherwise acted against by any other jurisdiction for an act which is an offense under Texas law;

(14) procures a registration pursuant to the AMC Act by making false, misleading, or fraudulent representation;

(15) has had a final civil judgment entered against him or her on any one of the following grounds:

(A) fraud;

(B) intentional or knowing misrepresentation; or

(C) grossly negligent misrepresentation in the making of real estate appraiser services;

(16) fails to make good on a payment issued to the Board within 30 days after the Board has mailed a request for payment by certified mail to the License Holder's

[Registrant's] primary contact as reflected by the Board's records;

(17) knowingly or willfully engages in false or misleading conduct or advertising with respect to client solicitation;

(18) acts or holds himself or any other person out as a registered AMC~~[appraisal management company]~~ under this or another state's Act when not so licensed or certified;

(19) uses any title, designation, initial or other insignia or identification that would mislead the public as to that person's credentials, qualifications, competency, or ability to provide appraisal management services;

(20) fails to comply with a final order of the Board; or

(21) fails to answer all inquiries concerning matters under the jurisdiction of the Board within 20 days of notice to said individual's address of record, or within the time period allowed if granted a written extension by the Board.

(b) The Board has discretion in determining the appropriate penalty for any violation under subsection (a) of this section.

(c) The Board may probate a penalty or sanction, and may impose conditions of the probation, including, but not limited to:

(1) the type and scope of appraisal management practice;

(2) requirements for additional education by the AMC~~[appraisal management company]~~'s controlling persons;

(3) monetary administrative penalties; and

(4) requirements for reporting appraisal management activity to the Board.

(d) A person applying for reinstatement after revocation or surrender of a registration must comply with all requirements that would apply if the registration ~~[license or certification]~~ had instead expired.

(e) The provisions of this section do not relieve a person from civil liability or from criminal prosecution under the AMC Act or under the laws of this State.

(f) The Board may not investigate under this section a complaint submitted either more than two years after the date of discovery or more than two years after the completion of any litigation involving the incident, whichever event occurs later, involving the AMC~~[appraisal management company]~~ that is the subject of the complaint.

(g) Except as provided by Texas Government Code §402.031(b) and Texas Penal Code §32.32(d), there shall be no undercover or covert investigations conducted by authority of the AMC Act.

(h) All Board members, officers, directors, and employees of this agency shall be held harmless with respect to any disclosures made to the Board in connection with any complaints filed with the Board.

*The provisions of this §159.201 adopted to be effective November 3, 2011, 36 TexReg 7320.*

*§159.204. Complaint Processing.* A complaint must be in writing on a form prescribed by the Board and must be signed by the complainant. Board staff may initiate a complaint.

(1) Upon receipt of a complaint, staff shall:

(A) assign the complaint a case number in the complaint tracking system; and

(B) send written acknowledgement of receipt to the complainant.

(2) If the staff determines at any time that the complaint is not within the Board's jurisdiction, or that no violation exists, the complaint shall then be dismissed with no further processing. The Board or the Commissioner may delegate to Board staff the duty to dismiss complaints.

(3) A complaint alleging mortgage fraud or in which mortgage fraud is suspected:

(A) may be investigated covertly; and

(B) shall be referred to the appropriate prosecutorial authorities.

(4) Staff may request additional information necessary to proceed with the complaint.

(5) A copy of the complaint and all supporting documentation shall be sent to the respondent unless the complaint qualifies for covert investigation and the Standards and Enforcement Services Division deems covert investigation appropriate.

(6) The respondent shall submit a response within 20 days of receiving a copy of the complaint. The 20-day period may be extended for good cause upon request in writing or by e-mail.

(A) The response shall include the following:

(i) a narrative response to the complaint, addressing each and every element thereof;

(ii) a copy of all requested records and any other relevant records;

(iii) a list of any and all persons known to the respondent to have actual knowledge of any of the matters made the subject of the complaint and, if in the respondent's possession, contact information; and

(iv) the following statement in the letter transmitting the response: EXCEPT AS SPECIFICALLY SET FORTH HEREIN, THE COPIES OF RECORDS ACCOMPANYING THIS RESPONSE ARE TRUE AND CORRECT COPIES OF THE ACTUAL RECORDS.

(B) The respondent may also address other matters not raised in the complaint that the respondent believes likely to be raised.

(7) The complaint shall be assigned to a staff investigator and shall be investigated by the staff investigator or peer investigative committee, as appropriate.

(8) The staff investigator or peer investigative committee assigned to investigate a complaint shall prepare a report detailing its findings on a form approved by the Board for that purpose. Reports prepared by a peer investigative committee shall be reviewed by the Standards and Enforcement Services Division, which shall determine the appropriate disposition of the complaint.

(9) Agreed resolutions of complaint matters must be signed by the respondent, a representative of the Standards and Enforcement Services Division, and the Commissioner.

*The provisions of this §159.204 adopted to be effective November 3, 2011, 36 TexReg 7320.*

**Appraisal Management Company (AMC) Audit Process**

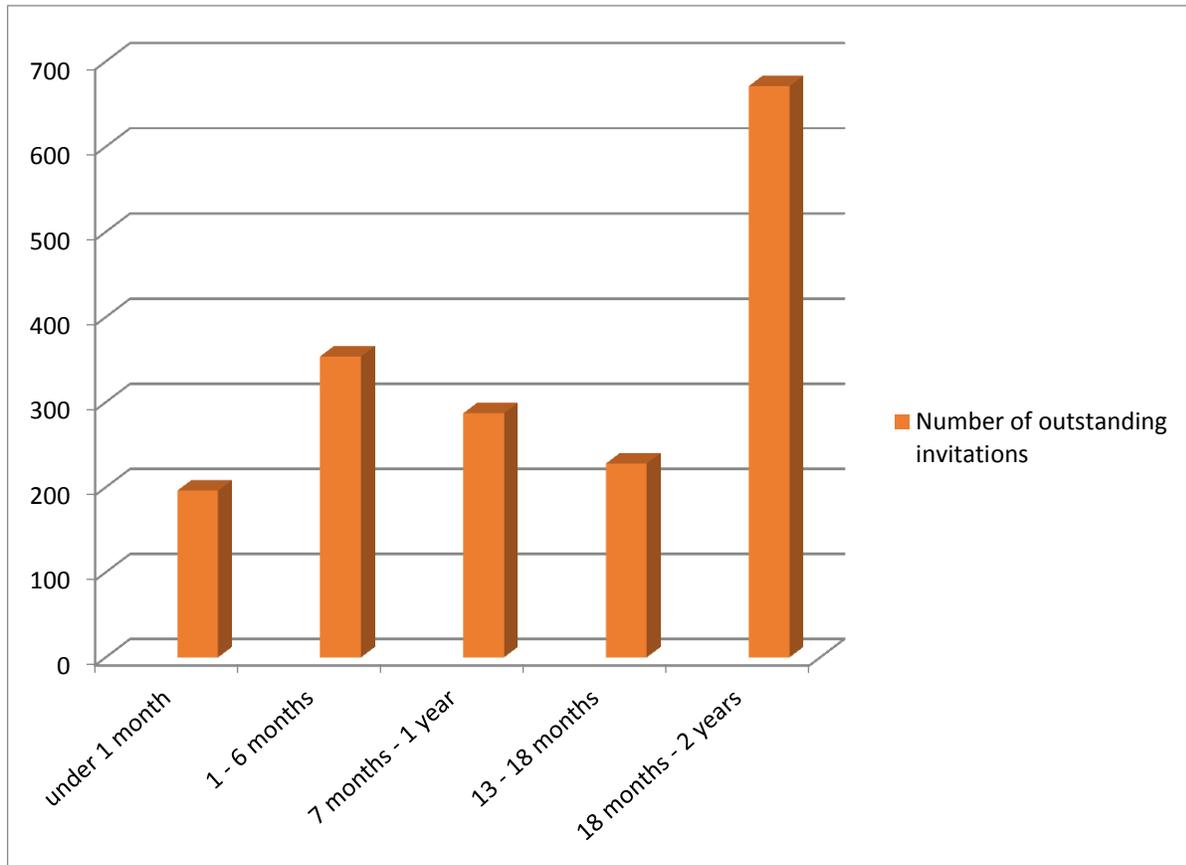
- I. Purpose: The reason for conducting audits of AMCs in Texas is to protect consumers of real estate services by ensuring AMCs registered in Texas are complying with their licensing requirements, as promulgated in Texas Occupations Code Chapter 1104, 22 Texas Administrative Code Chapter 159, and related law. The Texas Appraiser Licensing and Certification Board (the “Board”) is required under Tex. Occ. Code Sec. 1104.156 to ensure AMCs are complying with their licensing requirements. This provision also allows the Board to audit AMCs to ensure compliance.. [OPTIONAL BASED ON FEDERAL REGULATIONS] Additionally, the Appraisal Subcommittee requires the Board to audit AMCs, pursuant to Federal Registry Regulation TBD.
- II. Scope: There will be two types of audits of AMCs in Texas. The first audit will be titled a First Tier Audit. The First Tier Audit will be a random audit of all AMCs registered in Texas, to ensure compliance with statutory and regulatory licensing requirements. The second audit will be titled the Second Tier Audit. The Second Tier Audit will be for those AMCs who fail the First Tier Audit and for those AMCs selected for audit as a result of their disciplinary history. First Tier audits will be done by email. Second Tier Audits may be done by email or in person, depending on the seriousness of the triggering event.
- III. Legal Authority: Pursuant to Tex. Occ. Code Sec(s). 1104.156(b)\_\_\_\_\_ and 22 Tex. Admin. Code Rule(s) \_\_\_\_\_ [159.155, \_\_\_\_\_], the Board is authorized to audit AMCs registered in the State of Texas.
- IV. Audit Standards:
  - a. The standards for both the First Tier and Second Tier Audits can be found in Occ. Code Sec. \_\_\_\_\_ and 22 Tex. Admin. Code Rule \_\_\_\_\_. [THESE WILL BE THE AREAS WHERE THE AUDIT REQUIREMENTS ARE FOUND].
  - b. Standards of Performance: The standards for an AMCs performance resulting from an Audit will be:
    - i. In Compliance
    - ii. Not in General Compliance, Subject to Re-Audit
    - iii. Not in Compliance
- V. Audit Resolution: Upon the completion of an audit, the AMC will receive one of the designated Standards of Performance. The audit resolution will depend on how the AMC performed.
  - a. In Compliance: An AMC that is found to be in compliance will have no further audit requirements.
  - b. Not in General Compliance, Subject to Re-Audit: An AMC that is found to be not in general compliance and subject to re-audit, will be subject to:
    - i. Cease and Desist Letter;
    - ii. Staff Initiated Complaint; and
    - iii. A Subsequent Audit.

- c. Not in Compliance: An AMC that is found to not be in compliance will be subject to:
  - i. Cease and Desist Letter;
  - ii. Temporary Suspension; and
  - iii. Staff Initiated Complaint.
  
- VI. Retention Schedule: [THIS IS A SECTION THAT WILL DETAIL HOW LONG AUDIT RESULTS ARE RETAINED ON RECORD. SUGGEST 4 TO 10 YEARS, BASED ON OUTCOME OF FINDINGS]
  - a. First Tier Audit:
  - b. Second Tier Audit:
  
- VII. First Tier Audit Procedure:
  - a. Scope of First Tier Audit: [WHAT WILL BE AUDITED]
  - b. Random Audit: This audit will be of all registered AMCs in the State of Texas. The Board will randomly audit TBD % [WHAT PERCENTAGE, 5% LIKE 159.155, WITH < 200 AMCs, WE CAN FIGURE OUT A REASONABLE SAMPLE AND WORKLOAD] of all AMCs each quarter [TIME PERIOD?].
    - i. Frequency of Audit: An AMC that is subject to a First Tier Audit and passes the audit with an In Compliance standard of performance, will not be subject to audit for two years, unless a Second Tier Audit is initiated by Staff as a result of the AMCs disciplinary history. [THOUGHTS ON THIS TIME PERIOD?]
    - ii. Selection Process: [HOW CAN WE RANDOMLY GENERATE     % OF REGISTERED AMCS TO AUDIT? IT SHOULD BE ABLE TO CODE SOMETHING FOR THIS]
  - c. Board Education and Licensing Services Division Report: [WHAT INFORMATION DO WE WANT TO GET FROM ELS BEFORE WE INITIATE THE AUDIT PROCESS?]
  - d. Audit Notice: [WHEN AND HOW WE SEND NOTICE]
  - e. AMC Response:
    - i. Response: [WHEN AND HOW THEY HAVE TO RESPOND]
    - ii. Documents Subject to Audit: [WHICH BUSINESS RECORDS WILL THEY HAVE TO PRODUCE WITH THEIR RESPONSE]
    - iii. Failure to Respond: Failure to timely respond to an audit notice will result in a Staff-initiated complaint against the AMC.
  - f. Audit Report: [THIS WILL BE A REPORT THAT IS SIMILAR TO OUR INVESTIGATIVE REPORT. SHOULD BE SET UP SIMILARLY AND INCLUDE INFORMATION THAT IS FOUND IN OUR Disciplinary Factors Analysis Worksheet, WE COULD TITLE THE SECTION “AUDIT STANDARDS OF PERFORMANCE FACTORS”, WHICH WOULD BE ADDITIONAL FACTORS TO CONSIDER IN RATING THE AUDIT STANDARD]

- VIII. Second Tier Audit Procedure:
- a. Scope of Second Tier Audit: [WHAT WILL BE AUDITED]
  - b. Target Audit: This audit will be for AMCs registered in the State of Texas who either fail the First Tier Audit or are selected for audit as a result of their disciplinary history.
  - c. First Tier Audit Failure: [HOW LONG AFTER THE FIRST TIER AUDIT SHOULD WE PERFORM THE SECOND TIER AUDIT?]
  - d. Disciplinary History for Second Tier Audit:
    - i. First Time Offenders: These AMCs will be selected for a Second Tier Audit as a result of having one prior discipline instance.
    - ii. Second Time Offenders: These AMCs will be selected for a Second Tier Audit as a result of having two prior discipline instances.
    - iii. Third Time Offenders: These AMCs will be selected for a Second Tier Audit as a result of having three prior discipline instances.
    - iv. Fourth Time Offenders: These AMCs will be selected for a Second Tier Audit as a result of having four prior discipline instances.
    - v. Automatic Offenses: These offenses automatically trigger a Second Tier Audit, regardless of how many prior discipline instances an AMC has.
      - 1. Offenses Automatically Triggering Audit:
  - e. Board Education and Licensing Services Division Report: [WHAT INFORMATION DO WE WANT TO GET FROM ELS BEFORE WE INITIATE THE AUDIT PROCESS?]
  - f. Audit Notice: [WHEN AND HOW WE SEND NOTICE]
  - g. AMC Response:
    - i. Response: [WHEN AND HOW THEY HAVE TO RESPOND]
    - ii. Documents Subject to Audit: [WHICH BUSINESS RECORDS WILL THEY HAVE TO PRODUCE WITH THEIR RESPONSE]
    - iii. Failure to Respond: Failure to timely respond to an audit notice will result in a Staff-initiated complaint against the AMC.
  - h. Audit Report: [THIS WILL BE A REPORT THAT IS SIMILAR TO OUR INVESTIGATIVE REPORT. I WANT IT SET UP THE SAME WAY. I ALSO WANT IT TO INCLUDE INFORMATION THAT IS FOUND IN OUR DFAW, WE COULD TITLE THE SECTION “AUDIT STANDARDS OF PERFORMANCE FACTORS”, WHICH WOULD BE ADDITIONAL FACTORS TO CONSIDER IN RATING THE AUDIT STANDARD]

OUTSTANDING PANEL INVITATIONS AS OF 5/7/2014

Age in Months	Number of outstanding invitations
under 1 month	196
1 - 6 months	354
7 months - 1 year	287
13 - 18 months	228
18 months - 2 years	671



AMC PANELISTS

Panelists	Number of AMCs
<15	45
15 - 50	37
51-100	28
101-200	38
>200	43
<b>Total AMCs Registered as of May 31, 2014</b>	<b>191</b>
Fewest number of panelists	0
Largest number of panelists	737