



MEETING AGENDA

AMC Advisory Committee

TALCB Headquarters Office

4th Floor, Stephen F. Austin State Office Building
1700 North Congress, Austin, Texas 78701

Friday, July 24, 2015, 9:30 a.m.

Via Teleconference

1. Call to order
2. SES report on AMC complaint cases
3. ELS report on AMC registrations
4. Discussion and possible action regarding suggested revisions to AMC application and renewal forms
5. Discussion and possible action regarding federal AMC rules
6. Discussion and possible action regarding audits of AMCs regarding compliance with certain statutory and rule requirements
7. Discussion and possible action regarding the definition of "review" and scope of work in Rule 159.155
8. Review of AMC Committee action items
9. Discussion regarding agenda items for future meetings
10. Discussion regarding future meetings dates
11. Adjourn

**APPRAISAL MANAGEMENT COMPANY REGISTRATIONS
JUNE 2015**

| | Month | Paper Apps. Received | Online Apps. Received | Total Apps. Received | Total AMC Registrations Issued | Total AMC Renewals Issued | |
|-----------------|-----------------|-------------------------------------|--------------------------------------|-------------------------------------|---|--|--|
| FY-2012 | 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 | | |
| | <hr/> | | | | | | |
| | FY- 2013 | 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 | | |
| <hr/> | | | | | | | |
| FY- 2014 | 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 | 1 | 2 | 0 | 28 | |
| | Jun-14 | 1 | 1 | 2 | 4 | 38 | |
| | Jul-14 | 0 | 0 | 0 | 0 | 24 | |
| | Aug-14 | 0 | 0 | 0 | 0 | 15 | |
| | <hr/> | | | | | | |
| FY- 2015 | Sep-14 | 1 | 1 | 2 | 1 | 4 | |
| | Oct-14 | 0 | 0 | 0 | 1 | 2 | |
| | Nov-14 | 1 | 1 | 2 | 2 | 2 | |
| | Dec-14 | 3 | 1 | 4 | 1 | 0 | |
| | Jan-15 | 3 | 0 | 3 | 1 | 1 | |
| | Feb-15 | 0 | 0 | 0 | 5 | 1 | |
| | Mar-15 | 1 | 0 | 1 | 0 | 0 | |
| | Apr-15 | 0 | 1 | 1 | 0 | 1 | |
| | May-15 | 0 | 0 | 0 | 1 | 0 | |
| | Jun-15 | 0 | 0 | 0 | 1 | 0 | |
| TOTALS | | 148 | 70 | 218 | 218 | 149 | |

| | |
|--|-------|
| Registrations Surrendered as of June 2015 | -12 |
| Registrations Revoked as of June 2015 | -3 |
| Registrations Expired > 6 months as of June 2015 | -24 |
| | <hr/> |

TOTAL AMC REGISTRATIONS **179**

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APPRAISER LICENSING & CERTIFICATION BOARD

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APPLICATION FOR REGISTRATION AS AN APPRAISAL MANAGEMENT COMPANY (AMC)

Table with 5 columns: FEES, RECEIPT NUMBER, AMOUNT, MONEY TYPE, DATE RECEIVED. Row 1: AMC APPLICATION, \$3,419

DO NOT WRITE ABOVE THIS LINE

ALL INFORMATION MUST BE TYPED OR PRINTED IN INK. MAKE CHECKS OR MONEY ORDERS PAYABLE TO TALCB. THE AMOUNT ABOVE INCLUDES A \$20 PAPER FILING FEE THAT YOU CAN AVOID IF YOU APPLY ONLINE. FEES ARE NON-REFUNDABLE.

Note: If the AMC is a business entity, a current "Certificate of Good Standing" (aka Account Status), dated within 21 days prior to the date of the application, issued by the governing state agency where the business entity was incorporated or organized, recognizing the standing of the business entity in that state must be provided with this application.

1. Full Legal Name of AMC: Name _____ TIN or EIN _____

2. Assumed Business Name or DBA (if any): _____

3. Place of Business Address: (must be a fixed street address, not a Post Office Box)
Number, Street and Suite No. _____
City _____ State _____ Zip Code _____ Phone Number _____

4. Primary Contact Information: (must meet the definition of "controlling person" in Section 1104.003(b)(6) Texas Occupations Code)
The Primary Contact must sign and submit a separate Owner/Primary Contact Background History Form.
Name _____
Number, Street and Suite No. _____
City _____ State _____ Zip Code _____ Phone Number _____
E-mail Address _____

5. The Primary Contact: (check one)
 is a certified appraiser _____ Certification No. _____ State _____ Expiration Date _____
OR
 has taken the 15-Hour National USPAP course (submit copy of course completion certificate)

6. Owner Information: (for each individual or business entity owning more than 10% of AMC)

Space is provided for two owners. Attach an additional copy of this page if there are more than two owners of more than 10% .

Individual

- **Submit a separate Owner/Primary Contact Background History form.**

Business Entity

- **Submit a separate Owner/Primary Contact Background History form.**
- **Attach a copy of the business formation documents showing the ownership structure of the business entity.**
- **If the Business Entity has multiple owners, calculate % ownership for each Business Entity Owner:**

A is the Business Entity's % ownership of the AMC and B is the Business Entity Owner's % ownership of the Business Entity; If C is ≥ 10%, then the Business Entity Owner must also submit a separate Owner/Primary Contact Background History form.

Business Entity Owner #1 _____ A: X B: = C:

Business Entity Owner #2 _____ A: X B: = C:

Business Entity Owner #3 _____ A: X B: = C:

_____ **% Ownership of AMC**

Name

E-mail Address

Phone Number

Individual

- **Submit a separate Owner/Primary Contact Background History form.**

Business Entity

- **Submit a separate Owner/Primary Contact Background History form.**
- **Attach a copy of the business formation documents showing the ownership structure of the business entity.**
- **If the Business Entity has multiple owners, calculate % ownership for each Business Entity Owner:**

A is the Business Entity's % ownership of the AMC and B is the Business Entity Owner's % ownership of the Business Entity; If C is ≥ 10%, then the Business Entity Owner must also submit a separate Owner/Primary Contact Background History form.

Business Entity Owner #1 _____ A: X B: = C:

Business Entity Owner #2 _____ A: X B: = C:

Business Entity Owner #3 _____ A: X B: = C:

_____ **% Ownership of AMC**

Name

E-mail Address

Phone Number

7. Appraiser Contact Information: (must be a licensed or certified appraiser)

Name

Certification/License No. State Expiration Date

Business Street Address OR P.O. Box No.

City State Zip Code Phone Number

Email Address

8. Has the AMC ever (1) had any professional or occupational license or certification suspended, canceled or revoked; (2) received a reprimand or disciplinary action; or (3) had an application for such denied in Texas or any other state? Yes No
If YES, submit a complete written explanation and appropriate documentation such as final orders, etc.

9. Are there any complaints, disciplinary hearings or investigations pending against any professional or occupational licenses held by the AMC? Yes No
If YES, submit a complete written explanation and appropriate documentation such as final orders, etc.

10. (a) Has the AMC ever been convicted of a criminal offense? (Include **ALL** felonies and misdemeanors) Yes No
 (b) Has the AMC ever been placed on probation, community supervision or deferred adjudication? Yes No
 (c) Are there any criminal charges pending against the AMC? Yes No
If the answer to (a), (b), or (c) is YES, submit copies of all indictments, orders and charges, and a written explanation.

11. In the past four (4) years, has the AMC had a civil judgment rendered against it, or are there any civil suits pending against it on 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? Yes No
If YES, submit copies of all petitions and judgments and a complete written explanation, including whether or not the judgment has been paid.

IRREVOCABLE CONSENT TO SERVICE OF PROCESS

I do hereby irrevocably make, constitute, and appoint the Commissioner of the Texas Appraiser Licensing and Certification Board and its successors as my agent, for and in the State of Texas, upon whom service in a legal proceeding arising out of my activities as an appraisal management company may be made, if the plaintiff in the action cannot, in the exercise of due diligence, effect personal service on the AMC through the AMC's agent in Texas. Service of process upon the Commissioner shall be deemed valid personal service upon the AMC pursuant to applicable Texas law. I understand that the AMC has a legal duty to keep the Board informed of its current address. I understand that if and when the Commissioner is served with process, the notice will be forwarded to the primary contact at the current address provided on record with the Board. I also understand that if I fail to notify the Board of any changes, I may not receive notice of legal proceeding against the AMC.

If the AMC is not domiciled in Texas, the AMC must list a legally authorized agent to accept service of process in Texas below:

Agent for Service of Process

Business Street Address (must be a fixed street address, not a Post Office Box)

City State Zip Code Phone Number

CERTIFICATION STATEMENT

On behalf of Applicant, I certify that I have personally prepared this application and all supporting information and documentation, and that all such information given is true, correct, and complete. If so requested by the Texas Appraiser Licensing and Certification Board (the "Board"), I will furnish all additional information or documentation as may be deemed necessary for the verification of the information provided. I authorize and consent to the Board's conducting such investigations of Applicant and the matters addressed herein as it deems necessary. I understand that information revealed in an investigation may be cause for disapproval of the application even though other requirements for registration have been met. I acknowledge that this registration may be disapproved for cause in accordance with the Texas Appraisal Management Company Registration and Regulation Act (Texas Occupations Code, Chapter 1104 (the "Act")) and that any registration may be revoked if I provide false or misleading information to the Board. I further understand that information submitted in conjunction with this registration may be subject to public disclosure or inspection in accordance with the Public Information Act (Chapter 552, Government Code). If granted the registration, Applicant will abide by the provisions of the Act and the Rules of the Board (22TAC Chapter 159), Applicant will not hold itself out as a registered AMC or perform any acts that only a registered AMC may perform until and unless so registered by the Board.

I certify that Applicant has reviewed each entity owning more than 10% of the AMC and has verified that none are more than 10% owned by a person who has had a license or certification to act as an appraiser denied, revoked, or surrendered in lieu of revocation and has not subsequently had a license or certification granted or reinstated.

I certify that Applicant has submitted a separate Owner/Primary Contact Background History form for each person who owns more than 10% of the AMC.

I certify that Applicant has a system in place to ensure compliance with Subchapter D and Section 129E of the Truth in Lending Act (15 U.S.C. Section 1601 et seq.).

I certify that Applicant will retain ownership records for a period of five years.

This application and this certification are made under penalty of perjury.

| | |
|---|-------------|
| Signature of Person with Authority to Sign on Behalf of AMC | Date Signed |
| Typed or Printed Name | Title |

Be certain that your application:

- * Is complete - incomplete applications cannot be processed and will be returned
- * Is signed and dated
- * Includes original, signed Owner/Primary Contact Background History forms for all required individuals and entities
- * Includes copies of required course completion document(s)
- * Includes copies of required documents for any "YES" answers
- * Includes current Certificate of Good Standing

PRIVACY NOTICE

In accordance with Chapter 559, Government Code, the following notice about certain information laws and practices is given.

- (1) With few exceptions, an individual is entitled on request to be informed about the information that a state governmental body collects about the individual.
- (2) Under Sections 552.021 and 552.023 of the Governmental Code, the individual is entitled to receive and review the information.
- (3) Under Section 559.004 of the Governmental Code, the individual is entitled to have the governmental body correct information about the individual that is incorrect.

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RENEWAL OF REGISTRATION AS AN APPRAISAL MANAGEMENT COMPANY (AMC)

| FEE | RECEIPT NUMBER | AMOUNT | MONEY TYPE | DATE RECEIVED |
|--|----------------|---|------------|---------------|
| TIMELY RENEWAL | | \$3,419 + (\$10.30 x number of panelists) | | |
| EXPIRED 90 DAYS OR LESS | | \$5,069 + (\$10.30 x number of panelists) | | |
| EXPIRED MORE THAN 90 DAYS BUT LESS THAN 6 MONTHS | | \$6,719 + (\$10.30 x number of panelists) | | |

DO NOT WRITE ABOVE THIS LINE

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1. Full Legal Name of AMC:

2. Assumed Business Name or DBA (if any):

3. TALCB Registration Number: _____ 4. Expiration Date: _____

5. Place of Business Address: (must be a fixed street address, not a Post Office Box)

Number, Street and Suite No.

City State Zip Code Phone Number

6. Primary Contact Information: (must meet the definition of "controlling person" in Section 1104.003(b)(6) Texas Occupations Code)
The Primary Contact must sign and submit a separate Owner/Primary Contact Background History Form.

Name

Number, Street and Suite No. City State Zip Code

Phone Number E-mail Address

7. The Primary Contact: (check one)

is a certified appraiser _____
Certification No. State Expiration Date

OR

has taken a 7-Hour National USPAP Update course within two years of AMC renewal
(submit copy of course completion certificate)

8. Owner Information: (for each individual or business entity owning more than 10% of AMC)

Space is provided for two owners. Attach an additional copy of this page if there are more than two owners of more than 10% .

Individual

- **Submit a separate Owner/Primary Contact Background History form.**

Business Entity

- **Submit a separate Owner/Primary Contact Background History form.**
- **Attach a copy of the business formation documents showing the ownership structure of the business entity.**
- **If the Business Entity has multiple owners, calculate % ownership for each Business Entity Owner:**

A is the Business Entity's % ownership of the AMC and B is the Business Entity Owner's % ownership of the Business Entity; If C is ≥ 10%, then the Business Entity Owner must also submit a separate Owner/Primary Contact Background History form.

Business Entity Owner #1 _____ A: X B: = C:

Business Entity Owner #2 _____ A: X B: = C:

Business Entity Owner #3 _____ A: X B: = C:

_____ **% Ownership of AMC**

Name

E-mail Address

Phone Number

Individual

- **Submit a separate Owner/Primary Contact Background History form.**

Business Entity

- **Submit a separate Owner/Primary Contact Background History form.**
- **Attach a copy of the business formation documents showing the ownership structure of the business entity.**
- **If the Business Entity has multiple owners, calculate % ownership for each Business Entity Owner:**

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Business Entity Owner #1 _____ A: X B: = C:

Business Entity Owner #2 _____ A: X B: = C:

Business Entity Owner #3 _____ A: X B: = C:

_____ **% Ownership of AMC**

Name

E-mail Address

Phone Number

9. Appraiser Contact Information: (must be a licensed or certified appraiser)

Name

Certification/License No. _____ State _____ Expiration Date

Business Street Address OR P.O. Box No.

City _____ State _____ Zip Code _____ Phone Number

Email Address

10. Since registration or the last renewal, has the AMC (1) had any professional or occupational license or certification suspended, canceled or revoked; (2) received a reprimand, warning letter, or disciplinary action; or (3) had an application for such denied in Texas or any other state? Yes No
If YES, submit a complete written explanation and appropriate documentation such as final orders, etc.

11. Are there any pending complaints, investigations, or disciplinary hearings against any professional or occupational licenses held by the AMC? Yes No
If YES, submit a complete written explanation and appropriate documentation such as final orders, etc.

12. Since registration or the last renewal, has the AMC (1) been convicted of or pleaded *nolo contendere* to a criminal offence (Include **ALL** felonies and misdemeanors); (2) been placed on probation, community supervision, or deferred adjudication; or (3) are there any criminal charges pending against the AMC? Yes No
If the answer to (1), (2), or (3) is YES, submit copies of all indictments, information, judgments, orders and charges, and a written explanation.

13. Since registration or the last renewal, has the AMC had a civil judgment rendered against it, or are there any civil suits pending against it? Yes No
If YES, submit a complete written explanation and copies of all petitions and judgments.

IRREVOCABLE CONSENT TO SERVICE OF PROCESS

I do hereby irrevocably make, constitute, and appoint the Commissioner of the Texas Appraiser Licensing and Certification Board and its successors as my agent, for and in the State of Texas, upon whom service in a legal proceeding arising out of my activities as an appraisal management company may be made, if the plaintiff in the action cannot, in the exercise of due diligence, effect personal service on the AMC through the AMC's agent in Texas. Service of process upon the Commissioner shall be deemed valid personal service upon the AMC pursuant to applicable Texas law. I understand that the AMC has a legal duty to keep the Board informed of its current address. I understand that if and when the Commissioner is served with process, the notice will be forwarded to the primary contact at the current address provided on record with the Board. I also understand that if I fail to notify the Board of any changes, I may not receive notice of legal proceeding against the AMC.

If the AMC is not domiciled in Texas, the AMC must list a legally authorized agent to accept service of process in Texas below:

Agent for Service of Process

Business Street Address (must be a fixed street address, not a Post Office Box)

City _____ State _____ Zip Code _____ Phone Number

CERTIFICATION STATEMENT

I certify that I am authorized to sign this form on behalf of the AMC, that I have personally prepared this form and all information is true, complete and correct. If so requested by TALCB, I will furnish all additional information or documentation as may be deemed necessary for the verification of information provided. I authorize and consent to TALCB conducting investigations of any individual or entity owning more than 10% of the AMC and the primary contact. I understand that information revealed in an investigation may be cause for the AMC to be placed on inactive status, suspended or revoked if the owners or primary contact do not qualify under Subchapter C of Texas Occupations Code 1104, even though other requirements for renewal have been met. I acknowledge that any registration may be revoked if I provide false or misleading information to the Board. I further understand that information submitted in conjunction with this renewal may be subject to public disclosure or inspection in accordance with the Public Information Act (Chapter 552, Government Code).

I certify that the AMC has reviewed each entity owning more than 10% of the AMC and has verified that none are more than 10% owned by a person who has had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of revocation and has not subsequently had a license or certification granted or reinstated.

I certify that the AMC has submitted a separate Owner/Primary Contact Background History form for each person who owns more than 10% of the AMC.

I certify that the AMC has a system in place to ensure compliance with Subchapter D and Section 129E of the Truth in Lending Act (15 U.S.C. Section 1601 et seq.).

If the AMC is a corporation, LLC or partnership (entity), I certify that the entity is in compliance with all statutes, rules and regulations required of it to conduct business in the State of Texas.

I understand that the AMC's registration is not renewed until TALCB reissues my registration.

| | |
|--|--------------------|
| Signature of Person with Authority to Sign on Behalf of AMC | Date Signed |
| Typed or Printed Name | Title |

Be certain that your renewal application:

- * Is complete - incomplete renewals cannot be processed and will be returned
- * Is signed and dated
- * Is postmarked no later than the expiration date
- * Includes original, signed Owner/Primary Contact Background History forms for all required individuals and entities
- * Includes copies of course completion document(s) for this renewal
- * Includes copies of required documents for any "YES" answers

PRIVACY NOTICE

In accordance with Chapter 559, Government Code, the following notice about certain information laws and practices is given.

- (1) With few exceptions, an individual is entitled on request to be informed about the information that a state governmental body collects about the individual.
- (2) Under Sections 552.021 and 552.023 of the Governmental Code, the individual is entitled to receive and review the information.
- (3) Under Section 559.004 of the Governmental Code, the individual is entitled to have the governmental body correct information about the individual that is incorrect.

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APPRAISAL MANAGEMENT COMPANY (AMC) OWNER/PRIMARY CONTACT BACKGROUND HISTORY

| FEES | RECEIPT NUMBER | AMOUNT | MONEY TYPE | DATE RECEIVED |
|---|----------------|--------|------------|---------------|
| BACKGROUND HISTORY <i>*No fee required if submitted with original application or renewal of AMC</i> | | \$50 | | |

DO NOT WRITE ABOVE THIS LINE

**ALL INFORMATION MUST BE TYPED OR PRINTED IN INK.
 MAKE CHECKS OR MONEY ORDERS PAYABLE TO TALCB. FEES ARE NON-REFUNDABLE.**

Note: Complete the following information for an individual or business entity as applicable.

1. Full Legal Name: _____

2. SSN/TIN/EIN: _____

3. Appraiser Certification/License: _____
Number State Expiration Date

4. Date of Birth: _____ 5. Gender: Male Female

6. Ethnic Group: Black/African American White Hispanic Asian
 Other (specify): _____
 Decline to respond

7. Mailing Address and Contact Information: (Post Office Box may be used)

 Number, Street and Suite/Apt No.

 City State Zip Code Phone Number

 E-mail Address

8. I am an Owner of: OR I agree to serve as Primary Contact for:

 AMC Name

 TALCB Registration Number (if previously issued)

Note: In the following questions, "you" refers to the individual or entity as applicable.

| | |
|---|--|
| <p>9. Have you ever (1) had any professional or occupational license or certification suspended, canceled or revoked; (2) received a reprimand or disciplinary action; (3) surrendered a license or certification pending disciplinary action; or (4) had an application for such denied in Texas or any other state? If YES, submit a complete written explanation and appropriate documentation such as final orders, etc.</p> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <p>10. Are there any complaints, disciplinary hearings, or investigations pending against any professional or occupational licenses or certifications you hold? If YES, submit a complete written explanation and appropriate documentation such as final orders, etc.</p> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <p>11. (a) Have you ever been convicted of a criminal offense (Include ALL felonies and misdemeanors) (b) Have you ever been placed on probation, community supervision, or deferred adjudication? (c) Are there any criminal charges pending against you? If the answer to (a), (b), or (c) is YES, submit copies of all indictments, orders and charges, and a written explanation.</p> | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <p>12. In the past four (4) years, have you ever had a civil judgment rendered against you, or are there any civil suits pending against you on 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? If YES, submit copies of all petitions and judgments and a complete written explanation, including whether or not the judgment has been paid.</p> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

CERTIFICATION STATEMENT

I certify that I have personally prepared this background history form and all supporting information and documentation, and that all such information given is true, correct, and complete. If so requested by the Texas Appraiser Licensing and Certification Board (the "Board"), I will furnish all additional information or documentation as may be deemed necessary for the verification of the information provided. I authorize and consent to the Board's conducting and investigation of me and the matters addressed herein as it deems necessary. I understand that information revealed in an investigation may be cause for disapproval of the AMC's original application or renewal application even though other requirements for registration have been met.

| | |
|-----------------------|---|
| Signature | Date Signed |
| Typed or Printed Name | Title (if signing on behalf of an entity) |

PRIVACY NOTICE

In accordance with Chapter 559, Government Code, the following notice about certain information laws and practices is given.

- (1) With few exceptions, an individual is entitled on request to be informed about the information that a state governmental body collects about the individual.
- (2) Under Sections 552.021 and 552.023 of the Governmental Code, the individual is entitled to receive and review the information.
- (3) Under Section 559.004 of the Governmental Code, the individual is entitled to have the governmental body correct information about the individual that is incorrect.

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**APPRAISAL MANAGEMENT COMPANY (AMC)
OWNER/PRIMARY CONTACT BACKGROUND HISTORY**

| | | |
|---|-----------------------|----------------------|
| REQUIRED FEE \$50 <small>*No fee required if submitted with original application or renewal</small> | RECEIPT NUMBER | DATE RECEIVED |
|---|-----------------------|----------------------|

**For use by: (1) any individual or business entity owning more than 10% of AMC
(2) the AMC's primary contact**

Primary contact must be one or more of the following:

- an owner, officer, or director of the AMC
- an individual employed, appointed, or authorized by the AMC to enter into a contractual relationship with other persons for the performance of appraisal management services and to enter into agreements with appraisers for the performance of appraisals
- an individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of the AMC

Name (Individual/Entity) _____

Certification/License Number (if applicable) _____ State _____ Expiration Date _____

Business Street Address or P.O. Box No. _____ Apt. or Suite _____

City _____ State _____ Zip Code _____ Telephone No. _____

Email address _____ SSN or TIN No. (for person or entity named) _____

Note: Section 231.302 of the Texas Family Code REQUIRES all applicants to disclose their Social Security Numbers (SSN) when filing an application. The SSN that is provided will be confidential and is required to enforce Child Support orders. Failure to provide the SSN will prevent a license from being issued and could ultimately lead to termination of the application.

Date of Birth: _____ (if applicable) (mm/dd/yyyy)

Gender: Male Female NA

Ethnic Group: Black/African American White Hispanic Asian
 Other (specify): _____
 Decline to respond NA

I am an owner of agree to serve as the primary contact for: _____
 (AMC Name)

 TALCB Registration No. (if applicable)

Note: In the following questions "you" refers to the individual or entity as applicable. If this form is being completed in conjunction with an Application for Renewal of Registration and you have previously submitted this Background History Form, the information provided for the questions below may be limited to the time period since the date of your last application for registration or renewal.

1. Have you ever had any professional or occupational license or certification suspended, canceled or revoked; received a reprimand or disciplinary action; surrendered a license or certification pending disciplinary action; or had an application for such denied in Texas or in any other state? Yes No
If "YES" please attach a complete written explanation and appropriate documentation such as final orders, etc.

2. Are any complaints, disciplinary hearings, or investigations pending against any professional or occupational licenses you hold? Yes No
If "YES" please attach a complete written explanation with copies of all orders, notices, disapprovals, investigative reports, and other documentation.
3. (a) Have you ever been convicted of a criminal offense? (Include **ALL** felonies and misdemeanors, including DWI and DUI. You do not have to include traffic tickets.) Yes No
 (b) Have you ever been placed on probation, community supervision, or deferred adjudication? Yes No
 (c) Are there any criminal charges pending against you? Yes No
If the answer to (a), (b), or (c) is YES, submit copies of all indictments, information, judgments, orders and charges, and a written explanation.
4. In the past four (4) years, have you ever had a civil judgment rendered against you, or are there any civil suits pending against you on 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. Yes No

If "YES" attach copies of all petitions and judgments and a complete written explanation, including whether or not the judgment has been paid.

CERTIFICATION

I certify that I have personally prepared this background history form and all supporting information and documentation, and that all such information given is true, correct, and complete. If so requested by the Texas Appraiser Licensing and Certification Board (the "Board"), I will furnish all additional information or documentation as may be deemed necessary for the verification of the information provided. I authorize and consent to the Board's conducting an investigation of me and the matters addressed herein as it deems necessary. I understand that information revealed in an investigation may be cause for disapproval of the AMC's original or renewal application even though other requirements for registration have been met.

Signature

Date Signed

Typed or Printed Name

Position (if signing on behalf of an entity)

PRIVACY NOTICE

The following notice about certain information, laws, and practices is given in accordance with Chapter 559, Texas Government Code.

- (1) With few exceptions, an individual is entitled on request to be informed about the information that a state governmental body collects about the individual.**
- (2) Under Sections 552.021 and 552.023 of the Government Code, the individual is entitled to receive and review the information.**
- (3) Under Section 559.004 of the Government Code, the individual is entitled to have the governmental body correct information about the individual that is incorrect.**

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 34

[Docket No. OCC–2014–0002]

RIN 1557–AD64

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Docket No. R–1486]

RIN 7100–AE15

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 323 and 390

RIN 3064–AE10

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1026

[Docket No. CFPB 2014–0006]

RIN 3170–AA44

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1222

RIN 2590–AA61

Minimum Requirements for Appraisal Management Companies

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); National Credit Union Administration (NCUA); Bureau of Consumer Financial Protection (Bureau); and Federal Housing Finance Agency (FHFA).

ACTION: Joint notice of proposed rulemaking.

SUMMARY: The OCC, Board, FDIC, NCUA, Bureau, and FHFA (collectively, the Agencies) are jointly proposing a rule to implement the minimum requirements in the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act or Act) to be applied by States in the registration and supervision of appraisal management companies (AMCs). The proposed rule also implements the requirement in the Dodd-Frank Act for States to report to the Appraisal Subcommittee of the Federal Financial Institutions

Examination Council (FFIEC) the information required by the Appraisal Subcommittee (ASC) to administer the new national registry of appraisal management companies (AMC National Registry or Registry). In conjunction with this implementation, the FDIC is proposing to integrate its appraisal regulations for State nonmember banks and State savings associations.

DATES: Comments must be received on or before June 9, 2014.

ADDRESSES: Interested parties are encouraged to submit written comments jointly to all of the Agencies. Commenters are encouraged to use the title “Minimum Requirements for Appraisal Management Companies” to facilitate the organization and distribution of comments among the Agencies. Interested parties are invited to submit written comments to:

OCC: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by the Federal eRulemaking Portal or email, if possible. Please use the title “Minimum Requirements for Appraisal Management Companies” to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal—“regulations.gov”:* Go to <http://www.regulations.gov>. Enter “Docket ID OCC–2014–0002” in the Search Box and click “Search”. Results can be filtered using the filtering tools on the left side of the screen. Click on “Comment Now” to submit public comments.

- Click on the “Help” tab on the Regulations.gov home page to get information on using Regulations.gov, including instructions for submitting public comments.

- *Email:* regs.comments@occ.treas.gov.

- *Mail:* Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219.

- *Hand Delivery/Courier:* 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219.

- *Fax:* (571) 465–4326.

Instructions: You must include “OCC” as the agency name and “Docket ID OCC–2014–0002” in your comment. In general, the OCC will enter all comments received into the docket and publish those comments on the Regulations.gov Web site without change, including any business or personal information that you provide such as name and address information,

email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this rulemaking action by any of the following methods:

- *Viewing Comments Electronically:* Go to <http://www.regulations.gov>. Enter “Docket ID OCC–2014–0002” in the Search box and click “Search”. Comments can be filtered by Agency using the filtering tools on the left side of the screen.

- Click on the “Help” tab on the Regulations.gov home page to get information on using Regulations.gov, including instructions for viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.

- *Viewing Comments Personally:* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

- *Docket:* You may also view or request available background documents and project summaries using the methods described above.

Board: Follow the instructions for submitting comments at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Email:* regs.comments@federalreserve.gov. Include the docket number in the subject line of the message.

- *Fax:* (202) 452–3819 or (202) 452–3102.

- *Mail:* Address to Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551. All public

comments will be made available on the Board's Web site at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm> as submitted, unless modified for technical reasons. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP-500 of the Board's Martin Building (20th and C Streets NW.) between 9:00 a.m. and 5:00 p.m. on weekdays.

FDIC: You may submit comments by any of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.

- **Agency Web site:** <http://www.FDIC.gov/regulations/laws/federal/propose.html>.

- **Mail:** Robert E. Feldman, Executive Secretary, Attention: Comments/Legal ESS, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

- **Hand Delivered/Courier:** The guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

- **Email:** comments@FDIC.gov. Comments submitted must include "FDIC" and "RIN 3064-AE10." Comments received will be posted without change to <http://www.FDIC.gov/regulations/laws/federal/propose.html>, including any personal information provided.

NCUA: You may submit comments, identified by RIN 3133-AE22 by any of the following methods (Please send comments by one method only):

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.

- **NCUA Web site:** <http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx>. Follow the instructions for submitting comments.

- **Email:** Address to regcomments@ncua.gov. Include "[Your name] Comments on Minimum Requirements for Appraisal Management Companies" in the email subject line.

- **Fax:** (703) 518-6319. Use the subject line described above for email.

- **Mail:** Address to Gerard Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.

- **Hand Delivery/Courier in Lieu of Mail:** Same as mail address.

You can view all public comments on NCUA's Web site at <http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx> as submitted, except for those we cannot post for technical

reasons. NCUA will not edit or remove any identifying or contact information from the public comments submitted. You may inspect paper copies of comments in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9:00 a.m. and 3:00 p.m. To make an appointment, call (703) 518-6546 or send an email to OGCMail@ncua.gov.

Bureau: You may submit comments, identified by Docket No. CFPB-2014-0006 or RIN 3170-AA44, by any of the following methods:

- **Electronic:** <http://www.regulations.gov>. Follow the instructions for submitting comments.

- **Mail:** Monica Jackson, Office of the Executive Secretary, Bureau of Consumer Financial Protection, 1700 G Street NW., Washington, DC 20552.

- **Hand Delivery/Courier in Lieu of Mail:** Monica Jackson, Office of the Executive Secretary, Bureau of Consumer Financial Protection, 1700 G Street NW., Washington, DC 20552.

All submissions must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. In general, all comments received will be posted without change to <http://www.regulations.gov>. In addition, comments will be available for public inspection and copying at 1700 G Street NW., Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning (202) 435-7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or social security numbers, should not be included. Comments will not be edited to remove any identifying or contact information.

FHFA: You may submit your comments, identified by regulatory information number (RIN) 2590-AA61, by any of the following methods:

- **Email:** Comments to Alfred M. Pollard, General Counsel, may be sent by email to RegComments@fhfa.gov. Please include "RIN 2590-AA61" in the subject line of the message.

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by email to RegComments@fhfa.gov to ensure timely receipt by FHFA. Please include

"RIN 2590-AA61" in the subject line of the message.

- **Hand Delivered/Courier:** The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590-AA61, Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW., Washington, DC 20024. Deliver the package to the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. to 5 p.m.

- **U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:** The mailing address for comments is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590-AA61, Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW., Washington, DC 20024.

Copies of all comments will be posted without change, including any personal information you provide, such as your name, address (mailing and email), and phone number, on the FHFA Web site at <http://www.fhfa.gov>. In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m., Eastern Time, at the Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW., Washington, DC 20024. To make an appointment to inspect comments, please call the Office of General Counsel at (202) 649-3804.

FOR FURTHER INFORMATION CONTACT:

OCC: Robert L. Parson, Appraisal Policy Specialist, (202) 649-6423, G. Kevin Lawton, Appraiser (Real Estate Specialist), (202) 649-7152, Mitchell E. Plave, Special Counsel, or Charlotte M. Bahin, Senior Counsel, Legislative & Regulatory Activities Division, (202) 649-5490, for persons who are deaf or hard of hearing, TTY, (202) 649-5597, or Christopher Manthey, Special Counsel, Bank Activities and Structure Division, (202) 649-5500.

Board: Carmen Holly, Supervisory Financial Analyst, Division of Banking Supervision and Regulation, at (202) 973-6122, Walter McEwen, Senior Counsel, Legal Division, at (202) 452-3321, or Will C. Giles, Counsel, Legal Division, at (202) 452-3351, Board of Governors of the Federal Reserve System, Washington, DC 20551.

FDIC: Beverlea S. Gardner, Senior Examination Specialist, Division of Risk Management and Supervision, at (202) 898-3640, Sandra S. Barker, Senior Policy Analyst, Division of Consumer Protection, at (202) 898-3915, Mark Mellon, Counsel, Legal Division, at (202) 898-3884, Kimberly Stock, Counsel, Legal Division, at (202) 898-3815, or Benjamin K. Gibbs, Senior

Regional Attorney, at (678) 916-2458, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

NCUA: John Brolin or Pamela Yu, Staff Attorneys, Office of General Counsel, at (703) 518-6540, or Vincent Vieten, Program Officer, Office of Examination and Insurance, at (703) 518-6360, or 1775 Duke Street, Alexandria, Virginia 22314.

Bureau: Owen Bonheimer, Counsel, Office of Regulations, David Friend, Counsel, Office of Regulations, or Connor Raso, Attorney-Advisor, Legal Division, 1700 G Street NW., Washington, DC 20552, at (202) 435-7000.

FHFA: Robert Witt, Senior Policy Analyst, Office of Housing and Regulatory Policy, (202) 649-3128, or Ming-Yuen Meyer-Fong, Assistant General Counsel, Office of General Counsel, (202) 649-3078, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024.

SUPPLEMENTARY INFORMATION:

I. Background

AMC Minimum Requirements

On July 21, 2010, the Dodd-Frank Act¹ was signed into law. Section 1473 of the Dodd-Frank Act added a new section 1124 to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA)² and established minimum requirements to be applied by States in the registration and supervision of AMCs. An AMC is an entity that serves as an intermediary for, and provides certain services to, appraisers and lenders.³ These minimum requirements apply to States that have elected to establish, pursuant to section 1117 of FIRREA,⁴ an appraiser certifying and licensing agency with authority to register and supervise AMCs (participating States). Section 1473 of the Dodd-Frank Act⁵ also created the AMC National Registry, which will be administered by the ASC, and requires participating States to report AMC registration information to the ASC to support the Registry.⁶ The AMC National Registry will include AMCs that are either: (1) Registered with, and subject to supervision of, a State appraiser certifying and licensing

agency; or (2) subsidiaries owned and controlled by an insured depository institution or an insured credit union and regulated by a Federal financial institutions regulatory agency.

Under section 1124, participating States must require that AMCs: (1) Register with, and be subject to, supervision by the State appraiser certifying and licensing agency in the State or States in which such company operates; (2) verify that only State-certified or State-licensed appraisers are used for Federally related transactions;⁷ (3) require that appraisals comply with the Uniform Standards of Professional Appraisal Practice (USPAP); and (4) require that appraisals are conducted in accordance with the statutory appraisal independence standards under the Truth in Lending Act (TILA) (15 U.S.C. 1639e) and implementing regulations.⁸ An AMC that is a subsidiary owned and controlled by an insured depository institution or an insured credit union, and that is regulated by a Federal financial institutions regulatory agency is subject to all of the minimum requirements, except the requirement to register with a State. The minimum requirements will apply to any AMC that provides appraisal management services, as defined in the proposed regulation, and meets the statutory size threshold, which is that the AMC oversees an appraiser panel of more than 15 State-certified or State-licensed appraisers in a State or of 25 or more appraisers nationally in a given year. States may establish requirements for AMC registration and supervision that are in addition to these minimum requirements.⁹

Under section 1124, beginning 36 months from the time the Agencies issue the final AMC rule, an AMC may not provide services for a Federally related transaction in a State unless the AMC is registered with the State or is subject to oversight by a Federal financial institutions regulatory agency. This effectively allows each State up to 36 months to set up registration and supervision systems that meet the requirements of the final rule. The ASC, with the approval of the FFIEC, may extend the 36-month deadline for an additional 12 months if the ASC makes

a finding that the State has made substantial progress toward implementation of a system that meets the criteria in the final rule.

Section 1124 does not compel a State to establish an AMC registration and supervision program, nor is there a penalty imposed on a State that does not establish a regulatory structure for AMCs within 36 months of issuance of the final AMC rule. However, in such a State, unless and until it establishes such a regulatory structure, AMCs are barred by section 1124 from providing appraisal management services for Federally related transactions.¹⁰

Under section 1124 of Title XI, the Agencies must establish, by rule, minimum requirements to be imposed by a participating State appraiser certifying and licensing agency on AMCs doing business in the State.¹¹ The statute also directs the Agencies to issue regulations that identify certain activities of AMCs that participating State appraiser certifying and licensing agencies should report to the ASC. This proposed rule implements these statutory requirements.

Consolidation of FDIC and OTS Rules on Appraisals

Title III of the Dodd-Frank Act transferred the powers, duties, and functions formerly performed by the Office of Thrift Supervision (OTS), the Federal entity formerly responsible for the supervision of federally insured savings associations and their holding companies, to the FDIC for State savings associations and authorized the FDIC to consolidate OTS and FDIC rules.¹² This proposed rule implements this authority by rescinding the OTS regulatory provisions on appraisals pertaining to State savings associations as such associations are covered by the FDIC's existing appraisal rules.

II. The Proposed Rule

The Agencies are issuing this proposal to implement the minimum requirements for registration and supervision of AMCs in the Dodd-Frank Act, Title XIV, Subtitle F (Appraisal Activities). As required by the Dodd-Frank Act, this proposal was developed jointly by the OCC, the Board, the FDIC, the Bureau, the FHFA, and the NCUA. The proposed rule would: (1) Establish

¹ Public Law 111-203, 124 Stat. 1376.

² Public Law 101-73, 103 Stat. 183; 12 U.S.C. 3353.

³ The term "appraisal management company" is defined in more detail in section 1121 of Title XI of FIRREA, 12 U.S.C. 3350(11), and in proposed § 34.211(c).

⁴ 12 U.S.C. 3346.

⁵ Hereafter, section references are to Title XI of FIRREA unless otherwise noted.

⁶ 12 U.S.C. 3332(a)(6); 3338(a)(3); 3353(e).

⁷ Under FIRREA, a Federally related transaction is a real estate related financial transaction that involves an institution regulated by the OCC, Board, FDIC, or NCUA and that requires the services of an appraiser under the interagency appraisal rules. OCC: 12 CFR part 34, subpart C and 12 CFR part 164; Board: 12 CFR part 208, subpart E and 12 CFR part 225, subpart G; FDIC: 12 CFR part 323; and NCUA: 12 CFR part 722.

⁸ See Board: 12 CFR 226.42; Bureau: 12 CFR 1026.42.

⁹ 12 U.S.C. 3353(b).

¹⁰ 12 U.S.C. 3353(f)(1). Under section 1124, this restriction will not apply to AMCs that are subsidiaries owned and controlled by an insured depository institution or an insured credit union, and regulated by a Federal financial institutions regulatory agency. Such AMCs are subject to all the requirements of section 1124, with the exception of the requirement to register with a State.

¹¹ 12 U.S.C. 3353(a).

¹² The OTS was abolished on October 19, 2011.

the minimum requirements in section 1473 of the Dodd-Frank Act for registration of AMCs; (2) establish the minimum requirements for AMCs that register with the State under section 1473 of the Dodd-Frank Act; (3) require Federally regulated AMCs to meet the minimum requirements of section 1473 (other than registering with the State); and (4) require the reporting of certain AMC information to the ASC. The proposed rule is being published in the CFR separately by the OCC, the Board, the FDIC, and the FHFA. No substantive difference between the rules is intended. The proposed rule would also integrate FDIC appraisal regulations for State nonmember banks and State savings associations.

Key Definitions

Appraisal management company. Proposed § 34.211(c)¹³ defines an AMC as a person¹⁴ that: (1) provides appraisal management services to creditors or secondary mortgage market participants; (2) provides such services in connection with valuing a consumer's principal dwelling as security for a consumer credit transaction (including consumer credit transactions incorporated into securitizations); and (3) within a given year, oversees an appraiser panel of more than 15 State-certified or State-licensed appraisers in a State or 25 or more State-certified or State-licensed appraisers in two or more States. The proposed definition cross-references proposed § 34.212 for the rules on how to calculate the numeric threshold for the appraiser panel.

Securitization within the definition of appraisal management company. The proposed definition of AMC applies to appraisal management services provided in connection with residential mortgage transactions and securitizations involving residential mortgages. The proposed rule does not extend to appraisal management services provided in connection with commercial real estate transactions or securitizations involving commercial real estate mortgages. In drafting the definition of AMC for the proposal, the Agencies considered whether the statutory definition of AMC in section 1121 should be construed to encompass not only appraisal management services

provided for securitizations of residential mortgages, but also appraisal services in connection with securitizations of commercial mortgages.

The Agencies' reading of the statute—that it only extends to residential mortgage transactions and securitizations involving residential mortgages—is consistent with the text of section 1124 and of other relevant portions of the Dodd-Frank Act taken as a whole. Non-residential or commercial mortgages are not mentioned in any AMC provisions in section 1473 (or elsewhere in Title XIV of the Dodd-Frank Act). The lack of a reference to commercial mortgage lending in the relevant Dodd-Frank Act provisions suggests that AMCs were not intended to be covered by the AMC minimum requirements when they are providing appraisal management services for underwriters or other principals of commercial mortgage securitizations. Moreover, the Agencies understand that individual appraisers, as opposed to AMCs, are more typically retained to provide an appraisal of properties that will be included in securitizations of commercial mortgage loans because of the size and complexity of those properties.¹⁵

“External third party” within the definition of appraisal management company. Section 1121 defines an AMC as any “external third party” authorized to take certain actions by a creditor of a consumer credit transaction secured by a consumer's principal dwelling or by an underwriter of or other principal in the secondary mortgage markets.¹⁶ Consistent with the statutory definition, the proposal would define the term AMC to exclude a department or division of an entity when such department or division provides appraisal management services only to that entity. These departments or divisions are not “external third parties” as required by the statute. An AMC that is an affiliate (rather than a department or division) of a creditor or secondary market principal, however, would be treated as an AMC under the proposed rule, even if the AMC provides appraisal management services only to the entity with which it is affiliated, because the affiliate is a separate legal entity.

The Agencies believe that this interpretation is consistent with the plain meaning of “external” and “third party,” as well as with section 1124(c), which by its terms contemplates that the requirements of section 1124 would apply to subsidiaries of financial institutions. In the Agencies' view, this interpretation is also consistent with section 1124 as a whole, which is directed at regulating parties that provide appraisal management services on behalf of creditors and secondary market principals, but does not regulate creditors or secondary market principals directly.

Question 1. The Agencies request comment on all aspects of the proposed definition of AMC.

Appraisal management services. Proposed § 34.211(d) defines “appraisal management services” to mean one or more of the following: (1) recruiting, selecting, and retaining appraisers; (2) contracting with State-certified or State-licensed appraisers to perform appraisal assignments; (3) managing the process of having an appraisal performed, including providing administrative duties such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and secondary mortgage market participants, collecting fees from creditors and secondary mortgage market participants for services provided, and paying appraisers for services performed; or (4) reviewing and verifying the work of appraisers. This definition reflects the appraisal management services outlined in the definition of AMC in section 1121.

Appraiser panel. The definition of AMC in section 1473 of the Dodd-Frank Act provides that an entity will be treated as an AMC for purposes of State registration if it has an “appraiser network or panel” of more than 15 State-certified or State-licensed appraisers in a State or 25 or more nationally within a given year. Section 1473 does not specify whether a “network or panel” consists of employees of an AMC or independent contractors retained by the AMC (or both). To help address this issue, the Agencies conducted outreach with associations that represent AMCs and appraisers to gather information about the AMC business model. The Agencies also conducted outreach with State appraiser certifying and licensing agencies to gather information on the experience of States that have adopted AMC laws that define “appraiser panel.”¹⁷

¹⁷ The Agencies conducted outreach in 2013 with State appraiser certifying and licensing agencies

¹³ For ease of reference, the preamble refers to section numbers in the proposed rule text for the OCC.

¹⁴ The proposed rule incorporates the definition of “person” from Regulation Z, which defines a person as “a natural person or an organization, including a corporation, partnership, proprietorship, association, cooperative, estate, trust, or government unit.” 12 CFR 1026.2(22).

¹⁵ This understanding is based on the supervisory experience of the Agencies as well as outreach to a major trade association for AMCs and a large AMC, which confirmed that, under the current business model, AMCs do not generally provide services in connection with securitizations of commercial mortgages.

¹⁶ 12 U.S.C. 3350(11).

Based on this outreach, the Agencies understand that a majority of States that have adopted AMC laws define “appraiser panel” as being comprised of independent contractors.¹⁸ A minority of States use a broader definition for “appraiser panel” that encompasses a combination of independent contractors and employees.¹⁹ The majority approach is consistent with the model AMC code offered by a trade association for appraisers and the minority approach is consistent with a model code offered by a trade association for AMCs.

Proposed § 34.211(e) defines an appraiser network or panel as a network of State-licensed or State-certified appraisers who are independent contractors to an AMC. This definition reflects the approach taken by the majority of States that have adopted AMC registration laws or have proposed such laws, as discussed above. The proposed definition of appraiser panel also reflects the Agencies’ understanding, based on the outreach, that AMCs typically engage appraisers as independent contractors under the current AMC business model, rather than having employees perform appraisals. Proposed § 34.211(e) also reflects the definition of appraisal management company in section 1121, which outlines typical tasks carried out by AMCs, such as contracting with State-licensed or State-certified appraisers. This definition of AMC and its description of appraisal management services *do not include* performing appraisals.

Although the Agencies believe that defining an “appraiser network or panel” as including independent contractors is consistent with the Dodd-Frank Act and the current business model of AMCs, the Agencies, in conjunction with the ASC, will monitor AMCs to assess whether they are hiring appraisers as part-time employees to avoid State registration requirements. Outreach with State officials did not indicate this is currently occurring or at significant risk of occurring.

Question 2. The Agencies request comment on the proposed definition of

through the Association of Appraisal Regulatory Officials (AARO), see <http://www.aaro.net/>.

¹⁸ See, e.g., N.C. Gen. Stat. section 93E–2–2 (defining an appraiser panel as a network or panel of appraisers who are independent contractors to the AMC); Vernon’s Tex. Code Ann. Occupations Code section 1104.003(b)(3) (same); Louisiana La. Rev. Stat. Ann section 37:3415.2(a) (same); see also Ohio (draft code) (same).

¹⁹ See, e.g., Cal. Bus. & Prof. Code section 11302 (defining AMC to include both independent contractors and employees); Ark. Code Ann. section 17–14–402(2) (same); Ky. Rev. Stat. section 324A.150(2)(same).

“appraiser network or panel” and on the alternative of defining this term to include employees as well as independent contractors. The Agencies also request comment on whether the term “independent contractor” should be defined, and if so why and how, including whether it should be defined based upon Federal law (e.g., using the standards issued by the Internal Revenue Service²⁰ or standards adopted in other Federal regulations, such as those issued under the Secure and Fair Enforcement for Mortgage Licensing Act²¹ (S.A.F.E. Act)),²² or left to State law (so as to be consistent with existing AMC laws).

Appraisal firms. An appraisal firm is a firm that is engaged to perform appraisals. Section 1473 of the Dodd-Frank Act appears to distinguish AMCs that contract with others to perform appraisals from appraisal firms that are comprised of groups of appraisers that perform appraisals as part of a single firm or partnership. For the following reasons, the Agencies believe that appraisal firms should not be treated as AMCs under section 1473.

One basic reason to distinguish between AMCs and appraisal firms is that the business models of AMCs and appraisal firms are different. AMCs provide appraisal management services to third parties, including retaining appraisers to perform appraisals, but AMCs do not perform appraisals. This is a core characteristic of an AMC that distinguishes its model from appraisal firms, given that appraisal firms perform appraisals using one of the firm’s employees or partners.²³

²⁰ See, e.g., IRS Publication 1779, “Independent Contractor or Employee,” available at <http://www.irs.gov/pub/irs-pdf/p1779.pdf>; IRS Publication 15–A, “Employer’s Supplemental Tax Guide,” at p. 7 et seq. (discussing factors for distinguishing employees from independent contractors), available at <http://www.irs.gov/pub/irs-pdf/p15a.pdf>.

²¹ 12 CFR 1008.23 (“*Independent contractor* means an individual who performs his or her duties other than at the direction of and subject to the supervision and instruction of an individual . . .”). The term “independent contractor” is distinguished from “employee,” which is defined as an individual (1) whose manner and means of performance of work are subject to the right of control of, or are controlled by, a person, and (2) whose compensation for Federal income tax purposes is reported, or required to be reported, on a W–2 form issued by the controlling person.).

²² The S.A.F.E. Act was enacted as part of the Housing and Economic Recovery Act of 2008, Public Law 110–289, Division A, Title V, sections 1501–1517, 122 Stat. 2654, 2810–2824 (July 30, 2008), codified at 12 U.S.C. 5101–5116.

²³ See, e.g., U.S. House of Reps., Comm. on Fin. Servs., *Report on H.R. 1728, Mortgage Reform and Anti-Predatory Lending Act*, No. 111–94, 75 (May 4, 2009) (noting that the AMC statutory provision would authorize the ASC to oversee companies that retain or contract with appraisers and manage the process of having an appraisal performed (appraisal management companies)).

The text of section 1473 also reflects these difference in the business models of AMCs and appraisal firms. Section 1473 describes the duties of AMCs as including “contracting with State-certified or State-licensed appraisers to perform appraisal assignments.” While Congress could have explicitly included “performing appraisal assignments” in this list of business lines, it did not. Another basis for excluding appraisal firms from State AMC registration is that section 1124 uses the term “Appraisal Management Company,” which, again, is understood generally to refer to an entity that provides appraisal management services by retaining appraisers as independent contractors and not by performing appraisals.

Given this statutory language, the proposal differentiates between entities that contract with appraisers to perform appraisals (such entities being AMCs), versus those whose employees directly perform appraisals (those entities being appraisal firms). For this reason, and for other reasons discussed above, the Agencies have proposed that business entities that perform appraisals should not be treated as AMCs for purposes of implementing the Dodd-Frank Act’s State registration and supervision requirements, with the exception of a hybrid firm, as discussed below. Thus, the proposed regulation does not authorize participating States to require appraisal firms to register as AMCs or to require that appraisal firms be subject to supervision under the AMC registration and supervision programs implemented by the proposed regulation (again, however, with the exception of a hybrid firm).²⁴

Hybrid firms or entities. The Agencies have considered the possibility that there are, or may be in the future, “hybrid” entities, meaning entities that both hire appraisers as employees to perform appraisals, and engage independent contractors to perform appraisals. In this situation, the entity could be considered both an AMC and an appraisal firm. In such a case, the entity should be treated as an AMC for purposes of State registration if it meets the numerical test (of overseeing more than 15 State-certified or State-licensed appraisers in a State or 25 or more State-certified or State-licensed appraisers in two or more States within a given year). The numerical calculation for hybrid entities should only include appraisers engaged as independent contractors.

²⁴ The Agencies note that participating States would have authority, under their general power to regulate commerce within their borders, and not in implementation of this rule, to regulate appraisal firms.

Question 3. The Agencies request comment on the distinction the Agencies have drawn between employees and independent contractors as a basis for exclusion of appraisal firms from the definition of an AMC.

Covered transaction. The proposed rule applies to AMCs that provide appraisal management services relating to a “covered transaction.” Proposed § 34.211(h) defines a covered transaction as any consumer credit transaction secured by the consumer’s principal dwelling. The proposed definition does not limit the definition of “covered transaction” to Federally related transactions (generally, credit transactions involving a Federally regulated depository institution, *see* 12 U.S.C. 3350(4)), even though Title XI of FIRREA and its implementing regulations have historically applied only to appraisals for Federally related transactions.

This interpretation is proposed to reflect the statutory text of section 1121(11), which defines the term “appraisal management company” in connection with “valuing properties collateralizing mortgage loans or mortgages incorporated into a securitization.” This interpretation is also consistent with the structure and text of other parts of section 1124, which distinguish between “appraisals” generally and appraisal services related specifically to Federally related transactions.²⁵ Furthermore, the text of section 1124(a)(4) indicates that one of the chief purposes of the minimum requirements for AMCs is to ensure compliance with the appraisal independence standards established under section 129E of TILA.²⁶ Those standards apply to AMCs whenever they engage in a consumer credit transaction secured by a principal dwelling, regardless of whether the transaction is a Federally related transaction.²⁷

For these reasons, the proposed rule would establish minimum requirements in participating States for *all* entities that meet the definition of AMC, regardless of whether the AMC participates in Federally related transactions.

Federally regulated AMCs and Federally related transaction regulations. Under section 1124(c), an AMC that is a subsidiary owned and controlled by an insured depository institution or an insured credit union and that is regulated by a Federal

financial institutions regulatory agency²⁸ is not required to register with a State.²⁹ Proposed § 34.211(j) defines such an AMC as a “Federally regulated AMC,” meaning an AMC that is owned and controlled by an insured depository institution, as defined in 12 U.S.C. 1813, or an insured credit union, as defined in 12 U.S.C. 1752, and that is regulated by the OCC, Board, NCUA, or the FDIC.

A Federally regulated AMC must follow the minimum requirements that are applicable to State-registered AMCs and is subject to supervision for compliance with these standards by the appropriate Federal financial institutions regulatory agency. In addition, a Federally regulated AMC must report to the State or States in which it operates the information required to be submitted by the State to the ASC for inclusion of the AMC on the AMC National Registry.

The NCUA, unlike the other banking agencies to this rulemaking, does not directly oversee or regulate any subsidiaries owned and controlled by credit unions, including AMC subsidiaries. Rather, the NCUA’s regulations permit Federal credit unions to invest in or lend only to credit union service organizations (CUSOs) that conform to specific requirements outlined in part 712 of the NCUA’s regulations.³⁰ As explained above, the Agencies are interpreting section 1124(c)³¹ to apply only to AMC subsidiaries owned and controlled by an insured depository institution, or an insured credit union, *and* regulated by a Federal financial institutions regulatory agency. NCUA has not, historically, asserted that CUSOs or their employees are exempt from applicable State registration and licensing regimes, and this proposed rule would not alter that approach.³² Nor does NCUA directly regulate or oversee CUSOs owned by State-chartered credit unions. Accordingly, under the proposal, AMC CUSOs,

whether owned by a State or Federally chartered credit union, are not considered to be regulated by a Federal financial institutions regulatory agency at this time and would be required to be registered in accordance with applicable State requirements.

Question 4. The agencies request comment on whether references to the NCUA and insured credit unions should be removed from the definition of ‘Federally regulated AMC’ and other parts of the final regulation to clarify that AMC CUSOs are subject to State registration and supervision.

Proposed § 34.211(k) defines “Federally related transaction regulations” to mean the regulations issued by the OCC, Board, FDIC, and NCUA pursuant to sections 1112, 1113, and 1114 of FIRREA Title XI, 12 U.S.C. 3341–3343. These interagency regulations established certain safety and soundness standards for appraisals conducted in connection with lending by institutions regulated by the OCC, Board, FDIC, or NCUA. The Agencies added this definition to implement the minimum standard in section 1124(a)(2) that requires an AMC to verify that only certified or licensed appraisers are used for Federally related transactions.

Secondary mortgage market participant. The term “secondary mortgage market participant” is used in the proposed regulation to implement the corresponding reference in the statute to “an underwriter of or other principal in the secondary mortgage markets.” Proposed § 34.211(n) defines “secondary mortgage market participant” to mean a guarantor or insurer of mortgage-backed securities, or an underwriter or issuer of mortgage-backed securities. The definition includes individual investors in a mortgage-backed security only if they also serve in the capacity of a guarantor, insurer, underwriter, or issuer for the mortgage-backed security.

Question 5. The Agencies request comment on the proposed definition of “secondary mortgage market participant.” Are the types of entities cited in the proposed definition appropriately included in this context? Should any other types of entities be expressly included or excluded from this definition, for the sake of clarity? Should any other types of entities be considered “an underwriter or other principal in the secondary mortgage markets” for the purpose of the definition of AMC in the Dodd-Frank Act?

²⁸ The term “Federal financial institutions regulatory agencies” means the Board, the FDIC, the OCC, the former OTS, and the NCUA. 12 U.S.C. 3350(6). Title III of the Dodd-Frank Act provides that the OCC is now the Federal financial institutions regulatory agency for Federal savings associations. Title III of the Dodd-Frank Act also provides that the FDIC is the Federal financial institutions regulatory agency for state savings associations. Finally, the Dodd-Frank Act provides that the Board is responsible for regulation of savings and loan holding companies.

²⁹ 12 U.S.C. 3353(c).

³⁰ 12 CFR Part 712.

³¹ 12 U.S.C. 3353(c).

³² *See* 75 FR 44656, 44659 (July 28, 2010) (Applying similar reasoning to the licensing of mortgage loan originators who were employees of CUSOs under the Secure and Fair Enforcement for Mortgage Licensing Act of 2008).

²⁵ *See* 12 U.S.C. 3353(a)(3) and (4); *contra* 12 U.S.C. 3353(a)(2) and (f)(1).

²⁶ 12 U.S.C. 3353(a)(4).

²⁷ *See* 15 U.S.C. 1639e(a) (defining scope); 12 CFR 1026.42(b)(1)–(2) (implementing regulations defining scope).

Minimum AMC Requirements and Implementation Issues

Method for assessing the number of appraisers on AMC panels. The proposed rule provides parameters for determining whether, within a given year, an AMC oversees an appraiser panel of more than 15 State-certified or State-licensed appraisers in a State or 25 or more State-certified or State-licensed appraisers in two or more States.³³ Under the proposed rule, an appraiser is deemed part of the AMC's appraiser panel as of the earliest date the AMC accepts the appraiser for consideration for future appraisal engagements, or contracts with the appraiser to perform one or more appraisals on behalf of a creditor or secondary mortgage market principal, including an affiliate of such a creditor or principal.

An appraiser who is considered to be part of the AMC's appraiser panel is deemed to remain on the panel until the date on which the AMC sends written notice to the appraiser removing the appraiser from the appraiser panel, with an explanation of its action; receives written notice from the appraiser asking to be removed from the appraiser panel; or receives notice of the death or incapacity of the appraiser. If an appraiser is removed from an AMC's appraiser panel, but the AMC subsequently re-admits the appraiser or engages the appraiser at any time during the twelve months after the appraiser's removal, the removal will be deemed not to have occurred, and the appraiser will be deemed to have been part of the AMC's appraiser panel without interruption. The Agencies believe that these procedural provisions will provide clarity to States and prevent circumvention of the registration requirement.

Minimum requirements for State registration and supervision of AMCs. Under the proposed rule, participating States must have in place within the State appraiser certifying and licensing agency a licensing program that has authority to: (1) Review and approve or deny an AMC's application for initial registration; (2) review and renew or refuse to renew an AMC's registration periodically; (3) examine the books and records of an AMC operating in the State and require the AMC to submit reports, information, and documents to the State; (4) verify that the appraisers on the AMC's appraiser list, network,

³³ The Agencies recognize that States, in exercise of their general powers to license and regulate commerce within their borders and not in implementation of this rule, may choose to adopt registration provisions for AMCs that do not meet the size thresholds in the proposed rule.

panel, or roster hold valid State certifications or licenses, as applicable; (5) conduct investigations of AMCs to assess potential violations of applicable appraisal-related laws, regulations, or orders; (6) discipline, suspend, terminate, and refuse to renew the registration of an AMC that violates applicable appraisal-related laws, regulations, or orders; and (7) report an AMC's violation of applicable appraisal-related laws, regulations, or orders, as well as disciplinary and enforcement actions and other relevant information about an AMC's operations, to the ASC.

These proposed authorities and mechanisms reflect the Agencies' interpretation of the provisions of section 1124(a), including the minimum requirement in section 1124(a)(1) that AMCs be "subject to supervision" by the State agency.³⁴ The Agencies interpret section 1124(a) as being consistent with the criteria outlined in sections 1103, 1109, and 1118(a) of FIRREA, as amended by the Dodd-Frank Act, which describe the elements of State regulation of AMCs that will be monitored by the ASC.³⁵ For example, the ASC will monitor whether States have supervision systems in place that would allow a State to process complaints against an AMC and conduct investigations in connection with those complaints. The ASC will also monitor whether a State takes appropriate enforcement actions against an AMC that is found to have violated applicable laws and regulations.

The Agencies believe that the proposed rule will provide notice to States of the enforcement and supervision obligations the States have under FIRREA and ensure that State appraiser certifying and licensing agencies have the required minimum structures for registration and supervision of AMCs.

Question 6. The Agencies request comment on the proposed minimum requirements for State registration and supervision of AMCs.

³⁴ The Agencies believe that section 1124 allows the Agencies to establish more specific requirements for supervision and registration of AMCs that implement the general requirements enumerated in section 1124(a). In addition, by providing that the regulation shall "include" the requirements enumerated in section 1124, it is implied that the Agencies have the discretion to establish additional supervisory standards for State oversight of AMCs beyond the general requirements specifically enumerated in section 1124(a).

³⁵ See 12 U.S.C. 3332(a)(1)(B) (requiring the ASC to monitor requirements established by the States for supervision of AMCs); 12 U.S.C. 3338(a) (requiring each participating State to transmit reports to the ASC on supervisory activities involving AMCs and disciplinary actions taken); and 12 U.S.C. 3347(a) (requiring the ASC to monitor States to assess whether a State has an effective regulatory program).

Minimum requirements for State-registered AMCs. Under section 1124, participating States are required to ensure that AMCs that provide appraisal management services for a creditor or "underwriter of or other principal in the secondary mortgage markets" related to a covered transaction follow certain minimum requirements. The proposed rule implements these requirements.

Under the proposed rule, an AMC must register with, and be subject to supervision by, a State appraiser certifying and licensing agency in each State in which the AMC operates. (Again, however, the requirement to register with a State does not apply to Federally regulated AMCs; the rules for these AMCs are discussed further below.) In addition, an AMC must verify that only State-certified or State-licensed appraisers are used when a creditor or secondary mortgage market participant engages in a transaction that requires the services of a State-certified or State-licensed appraiser under the Federally related transaction regulations. An AMC must also have processes and controls reasonably designed to ensure that the AMC, in engaging an appraiser, selects an appraiser who has the requisite education, expertise, and experience necessary to complete competently the assignment for the particular market and property type. This minimum requirement implements the requirement of section 1124(a)(3) and emphasizes a core principle of the Interagency Appraisal and Evaluation Guidelines and USPAP, which is that an appraiser must be not only be competent generally, but also have specific competency to perform a particular appraisal.³⁶

The proposed rule also requires that an AMC establish and comply with processes and controls reasonably designed to ensure that the AMC conducts its appraisal management services in accordance with: (1) The AMC's obligations as a covered person with respect to mandatory reporting, conflicts of interest, and other acts or practices that would violate appraisal independence pursuant to section 129E(a) through (e) of TILA; and (2) the AMC's obligations as a creditor's agent with respect to appraiser compensation pursuant to section 129E(i) of TILA, 15 U.S.C. 1639e(i).³⁷ The proposed rule directly imposes these requirements on Federally regulated AMCs.

³⁶ Interagency Appraisal and Evaluation Guidelines, 75 FR 77450, 77458 (December 10, 2010).

³⁷ See 12 CFR 226.42 (Board); 12 CFR 1026.42 (Bureau).

The purpose and scope section of the proposed rule notes that the AMC minimum standards do not affect the responsibility of banks, Federal savings associations, state savings associations, bank holding companies, and credit unions for compliance with applicable regulations and guidance concerning appraisals. Under the interagency appraisal standards, for example, if an appraisal is prepared by a fee appraiser (as opposed to in-house, by the institution), the appraiser must be engaged directly by the regulated institution or its agent, and have no direct or indirect interest, financial or otherwise, in the property or the transaction.³⁸ As such, as stated in the Interagency Appraisal and Evaluation Guidelines, an institution that engages a third party such as an AMC to act as its agent in administering any part of the institution's appraisal program remains responsible for compliance with applicable laws concerning appraisers and appraisals.³⁹

In drafting these minimum requirements, and the definition of appraisal management services discussed previously, the Agencies considered whether to require AMCs to follow minimum standards when performing appraisal reviews. The Agencies note that section 1110 of FIRREA, as amended by section 1473 of the Dodd-Frank Act,⁴⁰ requires a separate rulemaking to require "appropriate" appraisal review for compliance with USPAP in connection with Federally related transactions. The Agencies believe that the section 1110 rulemaking provides the appropriate opportunity to address the requirement for appraisal reviews. For this reason, the Agencies are not proposing to issue appraisal review standards in this AMC rulemaking.

Question 7. The Agencies request comment on the proposed approach to the appraisal review issue.

Minimum requirements for Federally regulated AMCs. As explained earlier in this preamble, section 1124 provides that AMCs that are owned and controlled subsidiaries of an insured depository institution or an insured credit union and regulated by a Federal financial institutions regulatory agency, are not required to register with a State.⁴¹ These Federally regulated

AMCs are, however, subject to the same minimum requirements as AMCs that are not regulated by a Federal financial institutions agency.

The proposed rule implements these minimum requirements in § 34.214(a) using the same substantive standards that are proposed for AMCs that are not subject to regulation by a Federal financial institutions regulatory agency. Specifically, the proposed rule requires Federally regulated AMCs to have systems in place to ensure that only State-certified or State-licensed appraisers perform appraisals for Federally related transactions; that appraisers with the requisite education, expertise, and experience necessary for the assignment are used; that the appraisers comply with USPAP; and that the appraisal independence requirements of TILA section 129E are complied with.⁴²

In addition, in order to establish a means for Federally regulated AMCs to be included in the ASC National Registry, the proposed rule would require Federally regulated AMCs to provide to each participating State in which it operates the information required by the ASC for administration of the AMC National Registry. First, the proposed rule would require Federally regulated AMCs to provide information related to the determination by the ASC of the AMC National Registry fee. This provision implements section 1124(e) of FIRREA.⁴³ Second, the proposed rule would require Federally regulated AMCs to provide to each participating State the information needed to determine whether the limitations on registration or inclusion in the AMC National Registry under § 34.215 apply. See proposed § 34.215 and accompanying section-by-section analysis, below. The proposed rule recognizes, however, the possibility that a State might not establish a system for collecting such information from Federally regulated AMCs. If the State does not have a system for accepting such information and reporting it to the ASC, the proposed rule would direct the Federally regulated AMC to the ASC for more information on alternative means for submitting the information outlined in § 34.214(b).

Registration limitations. Proposed § 34.215 would place certain limitations on whether an AMC (whether or not Federally regulated) can be registered in a State or included in the National Registry. Proposed § 34.215 is based on

section 1124(d) of FIRREA,⁴⁴ which provides that an AMC shall not be registered by a State or included on the AMC National Registry if such company, in whole or in part, directly or indirectly, is owned by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any State. Section 1124(d) provides further that each person who owns more than 10 percent of an AMC must be of good moral character, as determined by the State appraiser certifying and licensing agency, and must submit to a background investigation carried out by the State appraiser certifying and licensing agency.

To implement this provision, proposed § 34.215(a) would provide that an AMC may not be registered by a State or included on the AMC National Registry if such company, in whole or in part, directly or indirectly, is owned by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any State. As indicated above, the statute clearly states that the limitations regarding appraiser licensure and certification determine both whether an AMC may be "registered by a State" and whether an AMC may be "included on the national registry" of AMCs.⁴⁵

Proposed § 34.215(b) provides that, for AMCs seeking to be registered in a State, each person who owns more than 10 percent of an AMC must be of good moral character, as determined by the State appraiser certifying and licensing agency, and must submit to a background investigation carried out by the State appraiser certifying and licensing agency. The statute is ambiguous regarding whether the limitation regarding the moral character of AMC owners applies to both registration with a State and inclusion on the AMC National Registry. Given that the title of the statutory section is "Registration Limitations," the Agencies have proposed that the limitation would apply only with respect to AMC registration with a State. Under the proposal, this limitation would apply to Federally regulated AMCs only if they seek to register voluntarily with a State.

Under the proposal, these threshold requirements concerning licensure would be ongoing obligations for State appraiser certifying and licensing agencies. As such, a State would be expected to review whether an AMC meets the proposed registration

³⁸ 12 CFR 34.45 and 164.5 (OCC); 12 CFR 225.65 (Board); 12 CFR 323.5 (FDIC).

³⁹ See Interagency Appraisal and Evaluation Guidelines, 75 FR 77450, 77463 (December 10, 2010)(discussing third party arrangements).

⁴⁰ Section 1110(3), 12 U.S.C. 3339(3).

⁴¹ However, nothing in the proposed rule would prohibit a Federally regulated AMC from registering with a State if the State permitted it to do so.

⁴² See proposed § 34.214(a) and 15 U.S.C. 1639e (implemented at 12 CFR 1026.42) (implementing section 129E of TILA).

⁴³ 12 U.S.C. 3353(e).

⁴⁴ 12 U.S.C. 3353(d).

⁴⁵ 12 U.S.C. 3353(d).

limitations, as described in the statute and in proposed § 34.215, at the time of registration of an AMC, and at the time of renewal of the AMC license each year, or more frequently as determined necessary by that State.

Submission of reports to the ASC. Under § 34.216 of the proposed rule, States that establish AMC registration programs must submit to the ASC the information regarding AMCs required by ASC regulations and guidance. The proposed rule implements the requirement in section 1124(e) for the Agencies to establish these reporting requirements.

Integration of FDIC and OTS Rules on Appraisals

As noted previously, pursuant to Title III of the Dodd-Frank Act, the FDIC is proposing to integrate its appraisal regulations for both nonmember banks and State savings associations. Specifically, the FDIC proposes to rescind 12 CFR Part 390, Subpart X (Part 390, Subpart X), of the former OTS regulation entitled “*Appraisals*.” The proposed rescission of Part 390, Subpart X completes the FDIC’s review of this subpart of the OTS rules for rescission, amendment, or adoption. This subpart was included in the regulations that were transferred to the FDIC from the OTS on July 21, 2011, in connection with the implementation of applicable provisions of Title III of the Dodd-Frank Act. Upon removal of Part 390, Subpart X, the appraisal regulations applicable for all insured depository institutions (“IDIs”), for which the FDIC has been designated the appropriate Federal banking agency (including State savings associations), will be found at 12 CFR Part 323, entitled “*Appraisals*.”

Rescinding Part 390, Subpart X will serve to streamline the FDIC’s rules and eliminate redundancy and unnecessary regulations. The FDIC does not, however, see any need to make conforming amendments to Part 323 of its Regulations to accomplish this goal. This is because Part 323 already applies to “regulated institutions,” defined by section 323.1(b) as “institutions regulated by the FDIC.” As noted previously, under Title III of the Dodd-Frank Act, the FDIC is now responsible for the regulation of State savings association. The FDIC is therefore of the opinion that Part 323 as currently drafted is sufficiently broad to include State savings associations without any further amendment. If the proposal is adopted in final form, all insured depository institutions regulated by the FDIC, including State savings associations, will be regulated in a uniform manner. The FDIC nonetheless

solicits comment on these proposed changes.

III. Request for Comment on the Proposed Rule

The Agencies request comments on all aspects of this proposed rule, including specific requests for comment that appear throughout the Supplementary Information above. In addition, we ask for specific comment on the following questions:

Question 8. What barriers, if any, exist that may make it difficult for a State to implement the proposed AMC rules?

Question 9. What aspects of the rule, if any, will be challenging for States to implement within 36 months? To the extent such challenges exist, what alternative approaches do commenters suggest that would make implementation easier, while maintaining consistency with the statute?

Question 10. Are there any barriers to a State collecting information on Federally regulated AMCs and submitting such information to the ASC? And if so what are they?

Question 11. Are any questions raised by any differences between State laws and the proposed AMC rules? Should these be addressed in the final AMC rules and, if so, how?

IV. Regulatory Analysis

Paperwork Reduction Act

Certain provisions of the proposed rule contain “information collection” requirements within the meaning of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.). Under the PRA, the Agencies may not conduct or sponsor, and a person is not required to respond to, an information collection unless the information collection displays a valid Office of Management and Budget (OMB) control number. The information collection requirements contained in this proposed rule are being submitted to OMB for review and approval by the FDIC, FHFA, and OCC under section 3506 of the PRA and section 1320.11 of the OMB’s implementing regulations (5 CFR part 1320). The Board reviewed the proposed rule under the authority delegated to the Board by OMB.

The collection of information requirements in the proposed rule are found in §§ 34.212–34.216. This information is required to implement section 1473 of the Dodd-Frank Act.

Title of Information Collection: Minimum Requirements for Appraisal Management Companies.

OMB Control Nos.: The Agencies will be seeking new control numbers for these collections.

Frequency of Response: Event generated.

Affected Public: States; businesses or other for-profit and not-for-profit organizations.

Abstract

State Recordkeeping Requirements

States seeking to register AMCs must have an AMC certifying and licensing program. Section 34.213(a) requires participating States to establish and maintain within its appraiser certifying and licensing agency a licensing program with the legal authority and mechanisms to: (i) review and approve or deny an application for initial registration; (ii) periodically review and renew, or deny renewal of, an AMC’s registration; (iii) examine an AMC’s books and records and require the submission of reports, information, and documents; (iv) verify an AMC’s certifications or licenses; (v) investigate and assess potential law, regulation, or order violations; (vi) discipline, suspend, terminate, or deny registration renewals of, AMCs that violate laws, regulations, or orders; and (vii) report violations of appraisal-related laws, regulations, or orders, and disciplinary and enforcement actions to the Appraisal Subcommittee.

Section 34.213(b) requires each participating State to impose requirements on AMCs not owned and controlled by an insured depository institution and regulated by a Federal financial institution regulatory agency to: (i) Register with and be subject to supervision by a State appraiser certifying and licensing agency in each State in which the AMC operates; (ii) use only State-certified or State-licensed appraisers for Federally regulated transactions in conformity with any Federally regulated transaction regulations; (iii) establish and comply with processes and controls reasonably designed to ensure that the AMC, in engaging an appraiser, selects an appraiser who is independent of the transaction and who has the requisite education, expertise, and experience necessary to competently complete the appraisal assignment for the particular market and property type; (iv) direct the appraiser to perform the assignment in accordance with USPAP; and (v) establish and comply with processes and controls reasonably designed to ensure that the AMC conducts its appraisal management services in accordance with section 129E(a)–(i) of the Truth in Lending Act.

State Reporting Burden

Section 34.216 requires that each State electing to register AMCs for purposes of permitting AMCs to provide appraisal management services relating to covered transactions in the State must submit to the Appraisal Subcommittee the information required to be submitted under this Subpart and any additional information required by the Appraisal Subcommittee concerning AMCs.

AMC Reporting Requirements

Section 34.214(b) requires that a Federally regulated AMC must report to the State or States in which it operates the information required to be submitted by the State pursuant to the Appraisal Subcommittee's policies, including: (i) Policies regarding the determination of the AMC National Registry fee; and (ii) the information listed in § 34.215.

Section 34.215 provides that an AMC may not be registered by a State or included on the AMC National Registry if such company is owned, directly or indirectly, by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any State. Each person that owns more than 10 percent of an appraisal management company shall submit to a background investigation carried out by the State appraiser certifying and licensing agency. While section 34.215 does not authorize States to conduct background investigations of Federally regulated AMCs, it would allow a State to do so if the Federally regulated AMC chooses to register voluntarily with the State.

AMC Recordkeeping Requirements

Section 34.212(b) provides that an appraiser in an AMC's network or panel is deemed to remain on the network or panel until: (i) The AMC sends a written notice to the appraiser removing the appraiser with an explanation; or (ii) receives a written notice from the appraiser asking to be removed or a notice of the death or incapacity of the appraiser. The AMC would retain these notices in its files.

Burden Estimates

Total Number of Respondents: 500 AMCs, 50 States.

Bureau: The Bureau is not seeking OMB approval for the information collection requirements already accounted for by the other agencies' information collection requests submitted to OMB in association with this rule.

FDIC Burden Total: 1,545 hours.

FHFA Burden Total: 617 hours.

OCC Burden Total: 1,545 hours.

Board Burden Total: 1,545 hours.

Total Burden: 5,252 hours.

The Agencies have a continuing interest in the public opinion of our collections of information. Comments regarding the questions set forth below may be sent to the OMB desk officer for the Agencies by mail to U.S. Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, or by the Internet to oir_submission@omb.eop.gov, with copies to the Agencies at the addresses listed in the **ADDRESSES** section of this **SUPPLEMENTARY INFORMATION**.

a. Whether the information collection is necessary for the proper performance of the Agencies' functions, and how the instructions can be clarified so that information gathered has more practical utility;

b. The accuracy of the Agencies' estimates of the burdens of the information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Regulatory Flexibility Act

OCC: The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, generally requires that, in connection with a notice of proposed rulemaking, an agency prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities. However, the regulatory flexibility analysis otherwise required under the RFA is not required if an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (defined in regulations promulgated by the Small Business Administration to include banking organizations with total assets of less than or equal to \$500 million) and publishes its certification and a brief explanatory statement in the **Federal Register** together with the rule.

The OCC currently supervises 1,745 banks (1,139 commercial banks, 66 trust companies, 492 federal savings associations, and 48 branches or agencies of foreign banks). Approximately 1,195 of OCC-supervised

banks are small entities based on the Small Business Administration's (SBA's) definition of small entities for RFA purposes. The OCC classifies the economic impact of total costs on a bank as significant if the total costs in a single year are greater than 5 percent of total salaries and benefits, or greater than 2.5 percent of total non-interest expense.

As discussed in the **SUPPLEMENTARY INFORMATION** above, section 1473 of the Dodd-Frank Act requires the Agencies to jointly prescribe regulations to implement the minimum requirements for State registration and supervision of AMCs. The proposal meets this obligation by requiring States that elect to register and supervise AMCs to impose certain requirements on AMCs. The proposal also requires participating States to have certain basic supervisory authorities, such as the ability to investigate complaints against AMCs, and take disciplinary action with respect to AMCs that violate applicable laws.

The OCC believes the proposed rule will not have a significant economic impact on a substantial number of small entities for several reasons. First, the proposed rule imposes requirements primarily on States, not on national banks or Federal savings associations. Second, to the extent that the proposal imposes burden on national banks or Federal savings associations that own and control an AMC, there are only two such AMCs, and these are owned by large national banks. For these reasons, the OCC estimates that the average cost per small bank or Federal savings association will be zero. Therefore, the OCC certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities. Accordingly, an initial regulatory flexibility analysis is not required.

Board: The RFA requires an agency to provide and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities. A regulatory flexibility analysis is not required, if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (defined in regulations of the Small Business Administration to include banking organizations with total assets of less than or equal to \$500 million or \$35.5 million or less in annual revenues for the majority of nonbank entities that are likely to be subject to the proposed regulations) and publishes its certification and a short explanatory statement in the **Federal Register**

together with the rule.⁴⁶ Based on its analysis, and for the reasons stated below, the Board believes that the final rule will not have a significant economic impact on a substantial number of small entities.

The proposed AMC rule applies to States that establish licensing and certifying authorities to regulate AMCs. In the Board's regulatory flexibility analysis for this rule, the Board determined that approximately 32 entities subject to Board regulation and supervision would be subject to the requirements of the rule. Data currently available to the Board are not sufficient to estimate how many of the approximately 32 entities subject to Board regulation and supervision would be classified as "small entities." In addition, the number of these 32 entities that will be subject to State regulation and supervision is currently unknown since one or more of the entities may have a network or panel of contract appraisers that is too small to satisfy a threshold requirement of the proposed AMC rule and therefore may be exempt from registration.

The proposed AMC rule does not impose directly any significant new recordkeeping, reporting, or compliance requirements on small entities. The proposed AMC rule requires those States electing to establish licensing and certifying authorities for AMCs to impose certain requirements on AMCs registered in the State. Generally, the RFA requires an agency to perform a regulatory flexibility analysis of small entity impacts only when the agency's rule directly regulates the small entities. The impact of the proposed rule on small entities is indirect.

In addition, while certain minimum requirements are imposed on participating States by the language of section 1473 of the Dodd-Frank Act, each State may establish additional requirements in addition to those required by section 1473. Furthermore, an entity with a network or panel of appraisers that does not meet the numerical test specified in section 1473 may *voluntarily* register with a participating state and the ASC, thus incurring some nominal expenses in establishing and maintaining the required registration information and meeting the minimum operational requirements. Because of these uncertainties, calculation of the impact of the proposed rule on an affected institution or entity is uncertain,

⁴⁶ U.S. Small Business Administration, Table of Small Business Size Standards Matched to North American Industry Classification System Codes, available at http://www.sba.gov/sites/default/files/files/size_table_07222013.pdf.

although the number of Board-supervised institutions or entities subject to the rule is expected to be less than 32.

Based on its analysis, and for the reasons stated above, the Board believes that the proposed rule, if adopted in final form, will not have a significant economic impact on a substantial number of small entities. The Board is publishing an initial regulatory flexibility analysis and, if necessary, will conduct a final regulatory flexibility analysis after consideration of comments received during the public comment period.

The Board requests public comment on all aspects of this analysis.

FDIC: The RFA generally requires that, in connection with a notice of proposed rulemaking, an agency prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities.⁴⁷ A regulatory flexibility analysis is not required, however, if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (defined in regulations promulgated by the Small Business Administration to include banking organizations with total assets of less than or equal to \$500 million) and publishes its certification and a short, explanatory statement in the **Federal Register** together with the rule. As of September 30, 2013, there were approximately 3,632 small FDIC-supervised institutions, which include 3,324 State nonmember banks and 308 State-chartered savings institutions.

The FDIC analyzed the organizational structure information in the Board of Governors of the Federal Reserve System's National Information Center database. This analysis found that few FDIC-supervised institutions owned or controlled an entity that provides the types of appraisal management services specified in Section 1473. Of these institutions, none oversees a network or panel of appraisers that meets the numerical test requirement specified in Section 1473 for an entity to be an AMC. Therefore, the proposed rule would not have any impact on any FDIC-supervised institutions. If any FDIC-supervised institution that owns or controls an entity with a network or panel of appraisers that does not meet the numerical test specified in Section 1473 *voluntarily* decides to register that entity with the States, then the institution may incur some nominal expenses in establishing and maintaining a process for providing the

⁴⁷ See 5 U.S.C. 601 *et seq.*

required registration information and meeting the minimum operational requirements.

It is the opinion of the FDIC that the proposed rule will not have a significant economic impact on a substantial number of small entities that it regulates in light of the fact that no FDIC-supervised institutions own or control an entity with a network or panel of appraisers that meets the numerical test requirement specified in Section 1473 for an entity to be an AMC. Accordingly, the FDIC certifies that the proposed rule would not, if promulgated, have a significant economic impact on a substantial number of small entities. Thus, an initial regulatory flexibility analysis is not required.

The FDIC seeks comment on whether the proposed rule, if adopted in final form, would impose undue burdens, or have unintended consequences for, small FDIC-supervised institutions and whether there are ways such potential burdens or consequences could be minimized in a manner consistent with section 1473(f) of the Dodd-Frank Act.

Bureau: The Regulatory Flexibility Act (RFA) generally requires an agency to conduct an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) of any rule subject to notice-and-comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.⁴⁸ The Bureau also is subject to certain additional procedures under the RFA involving the convening of a panel to consult with small business representatives prior to proposing a rule for which an IRFA is required.⁴⁹

An IRFA is not required for this proposed rule because the proposal, if adopted, would not have a significant economic impact on a substantial number of small entities.

The Bureau notes that the proposed rule would not impose requirements on AMCs, but instead seeks to encourage States to adopt minimum requirements in their regulation of AMCs.

⁴⁸ For purposes of assessing the impacts of the proposed rule on small entities, "small entities" is defined in the RFA to include small businesses, small not-for-profit organizations, and small government jurisdictions. 5 U.S.C. 601(6). A "small business" is determined by application of Small Business Administration regulations and reference to the North American Industry Classification System (NAICS) classifications and size standards. 5 U.S.C. 601(3). A "small organization" is any "not-for-profit enterprise which is independently owned and operated and is not dominant in its field." 5 U.S.C. 601(4). A "small governmental jurisdiction" is the government of a city, county, town, township, village, school district, or special district with a population of less than 50,000. 5 U.S.C. 601(5).

⁴⁹ 5 U.S.C. 609.

Nonetheless, to inform the rulemaking and to inform the public, the Bureau has exercised its discretion to analyze economic impacts that may be imposed by States on AMCs if the proposed rule were adopted.⁵⁰ For this purpose, the Bureau assumed States that have not yet passed an AMC licensing and registration law (14 States, as of July 2013; this number is expected to decrease by the time the Agencies adopt a final rule) would all elect to pass such a law and establish an AMC licensing and supervision program that satisfies the standards of the proposed rule. This assumption is taken to establish an outer bound. Because the proposed rule does not require States to adopt the minimum requirements in the proposed rule, however, it is possible that not all 14 States would do so.⁵¹

State registration fees would constitute the primary economic impact of the proposed rule. In estimating the impact of the proposed rule in the 14 States that have not yet passed an AMC licensing and registration law as of July 2013, the Bureau notes that State fees vary widely. Such State registration and renewal fees are not necessarily for the sole purpose of recovering costs of administering the minimum requirements under the proposed rule. States can impose charges for a variety of reasons, including to raise revenue (independent of the cost of the registration regime) or to fund the administration of a regime that exceeds the minimum requirements under the proposed rule. The Bureau believes that the fee charged by Vermont—\$125 for registration and \$250 for annual renewal—would be sufficient to comply with the proposed rule.⁵² The Bureau

⁵⁰ The Bureau does not assume costs associated with the proposed rule's requirements to ensure compliance with USPAP and other regulations because AMCs would be subject to these standards even without their being referenced in the proposed rule.

⁵¹ A state could accept the consequences on AMCs' business in the state from not implementing the proposed rule. FIRREA section 1124(f) provides that three years after the proposed rule takes effect, AMCs cannot provide services related to Federally related transactions in a state that has not implemented the proposed rule. However, the Bureau understands that only a minority of mortgage transactions are "Federally related transactions" within the meaning of FIRREA. See, e.g., 12 CFR 225.62(f) (transaction must "[r]equire the services of an appraiser" to be federally related). But see *id.* at 225.63(a)(1),(9),(10) (exemptions from FIRREA appraisal requirements for transactions of \$250,000 or less, transactions insured by or sold to a U.S. government agency, and transactions that conform to GSE appraisal standards). However, the Bureau believes all states will choose to participate.

⁵² As of the Bureau's 2013 review of State laws, the application fee in Vermont was \$125. See http://vtprofessionals.org/opr1/real_estate_appraisers/AMC/AMC_Application.pdf. The application fee in Vermont is \$125. The annual renewal fee is \$250.

therefore considered this fee in estimating the economic impact of the proposed rule in the 14 States that do not yet have AMC registration requirements. As discussed below, however, the Bureau also considered more conservative estimates of the impact of the proposed rule using significantly higher fee amounts.

With respect to the Federal registration fee, the Bureau notes that the proposed rule neither requires collection of registration fees by the Appraisal Subcommittee (ASC) nor authorizes the collection of such fees. The Dodd-Frank Act grants that authority exclusively to the ASC.⁵³ Therefore, the Bureau does not consider any fees imposed on AMCs by the ASC (whether directly or through the States for forwarding to the ASC) as an impact of the proposed rule.

An additional requirement in the proposed rule is that the State AMC licensing programs have authority and mechanisms to examine books and records of the AMCs, to otherwise obtain information from the AMCs, and to discipline AMCs. The Bureau believes that existing State registration fees generally already account for the cost to the States of having such authority and mechanisms, and that the requirement in the proposed rule therefore would not lead to higher registration fees in any significant amount.⁵⁴ Accordingly, in the 14 States that would adopt new registration and renewal systems, the Bureau believes the registration fee currently charged in Vermont would cover the State's cost associated with implementing this requirement.

The Bureau notes that the proposed rule is not prescriptive as to how or when the States must exercise the authority or mechanisms. Exercise of such authority and mechanisms is determined by the discretion of the States, subject to monitoring by the ASC for effectiveness in the judgment or

See http://vtprofessionals.org/opr1/real_estate_appraisers/AMC/Appraisal%20Management%20Company%20Renewal%202013.pdf. In addition, while some States may elect to impose additional requirements relating to examination and inspection of their AMCs, the Bureau does not believe that the minimum requirements that states must provide would lead to significant costs for AMCs.

⁵³ See 12 U.S.C. 3338.

⁵⁴ See, e.g., Vermont Statutes Title 26 section 3324 (requiring AMCs to "retain all records related to an appraisal, review, or consulting assignment for no less than five years . . . [and] with reasonable notice, a licensee or registrant shall produce any records governed by this section for inspection and copying by the board or its authorized agent.").

discretion of the ASC. Accordingly, to the extent that State exercise of such authority and mechanisms leads to burden on small entities, such burden would be attributable to such State implementation and/or ASC oversight expectations rather than to the proposed rule itself. Therefore, State statutes that implement this requirement relating to establishing examination authority and mechanisms are not expected to cause fee increases or new burden above the \$125 overall baseline assumed for purposes of this analysis.⁵⁵

Similarly, the Bureau believes that other minimum requirements for AMCs under the proposed rule (verifying the use of licensed or certified status of appraisers, requiring that appraisers comply with USPAP, complying with any contractual review provisions, and establishing and complying with processes to ensure appraisers are qualified and independent and that the AMC acts in compliance with applicable appraisal independence regulations), as well as the standard for removing appraisers from the appraiser panel, would not result in new burden on AMCs because these standards merely reinforce existing compliance requirements as well as industry practice.⁵⁶ The Bureau further notes that States have discretion to interpret the requirements to establish processes and controls to ensure compliance, subject to monitoring by the ASC for effectiveness in the judgment or discretion of the ASC. Accordingly, to the extent that State interpretations of such requirements leads to burden on small entities, such burden would be attributable to such State implementation and/or ASC oversight

⁵⁵ In addition, the Bureau does not believe that in States that add this requirement there will be any significant new burden on the AMCs. The Bureau believes that the AMCs already keep their books and records in order as a standard course of business practice, and thus the occasional State examiner visits should not impose any significant burden. In addition, the proposed rule requires only that the State have the authority and mechanism to request records and information. The proposed rule does not require that the State exercise this authority and any burdensome exercise of this authority would therefore not be caused by the proposed rule. Finally, to the extent State supervision programs do increase burden, the Bureau believes this burden would be within the sensitivity tolerances described in the footnote at the end of this section.

⁵⁶ These requirements also would not result in new burden on Federally regulated AMCs, for the same reason. Federally regulated AMCs do not have to comply with state registration and renewal requirements, which can entail fees. Conservatively, however, the Bureau applied the State fee burden to all of the small AMCs in its calculation method described herein. As a result, the estimated burden of State fees associated with the proposed rule may be overestimated.

expectations rather than to the proposed rule itself.

Just as these conduct standards would not impose a significant burden on AMCs required to register at the State level, the Bureau does not believe they would impose significant burdens on Federally regulated AMCs either. See Interagency Appraisal and Evaluation Guidelines, 75 FR 77450 (Dec. 10, 2010) (Interagency Guidelines). The Interagency Guidelines, part VI, already require Federal financial institutions to select appraisers who are certified or licensed, qualified, in compliance with USPAP, and independent. 75 FR at 77458. AMCs that are affiliated with Federal financial institutions frequently perform appraisals for their affiliates. Therefore, it can be assumed that in delegating these functions to AMCs, these Federal financial institutions also delegate these requirements from part VI of the Interagency Guidelines to these AMCs.

To estimate the impact of the proposed rule on small AMCs, the Bureau conducted a survey. The Bureau called nine AMCs, picked randomly from a list of approximately 500 AMCs provided by industry trade associations. The AMCs were asked for certain basic data including the number of States in which they operate, their revenue (including the revenue from any non-appraisal business), and the number of appraisals that they performed in 2012.⁵⁷ The Bureau estimated the revenue to be the number of appraisals performed in 2012 multiplied by \$350—the average appraisal cost assumed in the Agencies' analysis under section 1022 of the Dodd-Frank Act in the 2013 Interagency Appraisals Rule. This revenue estimate is likely to be underestimated, given that several AMCs out of nine reported additional revenue that was not due to the residential appraisal business. Out of the nine AMCs, seven had revenues of less than \$7,000,000 in 2012, and thus would be within the scope of the RFA analysis based upon Small Business Administration guidelines.⁵⁸ The Bureau computed the cost of registration and renewal fees in States that do not already have them, allocated these costs to individual AMCs based upon the number of States in which the AMC

operated,⁵⁹ and computed the ratio of these allocated costs to the AMCs' revenues.

The Bureau acknowledges that requiring AMCs to send letters to the appraisers that the AMC decides to remove from its panel might add burden in States that do not already have registration requirements (which typically include notice provisions). The Bureau does not possess any evidence on the number of appraisers to whom an AMC would have to send these letters. According to the Bureau of Labor and Statistics' October 2013 preliminary numbers (available at <http://www.bls.gov/news.release/jolts.t11.htm>), 1.9 percent of the labor force in the real estate and rental and leasing industry was either laid off or discharged in the most recent month. Thus, the Bureau estimates that an AMC will dismiss approximately a quarter of appraisers from its panel in any given year. The Bureau assumes that each AMC will have several standardized letters explaining the reason for dismissal: For example, changing economic conditions or the appraiser's violation of USPAP or work performance issues. Each AMC might incur a minimal one-time cost to draft these letters, with some industry associations potentially providing templates. After this minimal one-time cost is incurred, the ongoing cost would include a minimal adjustment of the letter based on the appraiser's particular circumstances and the actual printing and mailing cost. These letters also could be sent in batches, periodically, such as on an annual basis. Thus, for the purposes of this analysis, the Bureau implicitly accounts for these costs in the sensitivity analyses below (which use a State fee to \$5,250 and include a \$300 administrative expense). The Bureau requests comments on availability of data on these costs.

The Bureau then fit the received ratios using three different distributions: normal, generalized extreme value, and logistic. The three different distributions were used because *no a priori* assumptions regarding how these ratios are distributed can be made. The three distributions mentioned above are commonly used by empirical researchers to fit observed values. Considering the costs imposed by the States as a result of the proposed rule, the Bureau believes that less than 1 percent of the small entities would experience a cost of over 1 percent of

their revenue, using either the normal, or the logistic, or the generalized extreme value distributions.⁶⁰ The Bureau also notes that because the sample did not include any AMCs that were either too small (for example, less than 15 appraisers in one State) or that were subsidiaries of Federally regulated financial institutions, these estimates are likely overstated.

The Bureau seeks comment on the data used in its analysis as well as the methodology for estimating burden described in this analysis, including data from States that have existing registration and renewal regimes on whether the proposed minimum requirements would lead them to change their laws and impose any new fees (which this analysis assumes would not occur). In addition, as noted in the section-by-section analysis above, the Agencies are seeking comment on the proposed approach of not imposing minimum requirements for appraisal reviews or defining appraisal review and verification activities. The Bureau seeks data on the types of review and verification services provided by AMCs, and in particular, AMCs that meet the definition of small entities, as well as the frequency with which each type of practice is performed. Further, the Bureau seeks data on the potential impact of any minimum review requirements or review and verification definitions—such as requirements or definitions that would be set at a level above administrative checks for grammatical errors or other technical or computerized quality checks that are not performed by licensed appraisers.

Certification

Accordingly, the Bureau Director, by signing below, certifies that this

⁶⁰ The Bureau notes that the percentage of small institutions for which the estimated burden of the proposed rule would amount to over 3 percent of the revenue would remain under 1 percent even if the Bureau had used the following alternative assumptions: (1) \$5,250 as the assumed burden of the proposed rule for states that adopt new registration regimes—the highest among the existing State registration fees as of the Bureau's 2013 review of state laws (in Minnesota), and assumed this same amount as the annual renewal fee (even though the Minnesota renewal fee at the time of the review was only \$2,650); and (2) an additional annual labor cost of \$300 for any possible associated burden of (a) filling out registration and renewal forms in those states (assuming an AMC operates in approximately 20 States on average, such that 6.26 of those States adopt new AMC licensing programs) and any additional burden related to notices from small AMCs removing appraisers from their panels in those states. The percentages of institutions for which this cost would amount to over 1 percent of the revenue changed, respectively, to 18 percent, 13 percent, and 9 percent of the small institutions affected, according to the normal, generalized extreme value, and logistic distributions.

⁵⁷ One of the AMCs did not report its revenue.

⁵⁸ NAICS code 531320—Offices of Real Estate Appraisers—includes "appraisal services," which we believe would include services provided by AMCs in the processing and review of appraisals. An alternative classification would be NAICS code 561110—Office Administrative Services. In any event, this code also has an SBA threshold of \$7,000,000.

⁵⁹ The Bureau assumed that an AMC that operated in x states needs to register in additional $(14/50)*x$ states. This assumption results in a $(14/50)*x*\$250$ state registration and renewal fee burden on an AMC operating in x states.

proposal, if adopted, would not have a significant economic impact on a substantial number of small entities.

FHFA: The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to analyze a proposed regulation's impact on small entities if the final rule is expected to have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). The proposed rule implements Section 1124 of the Financial Institutions Reform, Recovery, and Enforcement Act and establishes minimum requirements to be imposed by a participating State appraiser certifying and licensing agency on AMCs doing business in the State. FHFA has considered the impact of this regulation and determined that it is not likely to have a significant economic impact on a substantial number of small entities because States and FHFA's regulated entities—Fannie Mae, Freddie Mac, and the Federal Home Loan Banks—are not small entities for purposes of the Regulatory Flexibility Act. *See* 5 U.S.C. 601(6).

NCUA: The Regulatory Flexibility Act (RFA)⁶¹ requires NCUA to provide an initial regulatory flexibility analysis with a proposed rule to certify that the rule will not have a significant economic impact on a substantial number of small entities and publish its certification and a short explanatory statement in the **Federal Register** also with the proposed rule.⁶² As explained above, the requirements of this proposed rule would only apply directly to AMC subsidiaries owned and controlled by an insured depository institution, or an insured credit union, and regulated by a Federal financial institutions regulatory agency. NCUA, unlike the other banking agencies to this rulemaking, does not directly oversee or regulate any subsidiaries owned and controlled by credit unions, including AMC subsidiaries. Rather, NCUA's regulations permit Federal credit unions to invest in or lend only to credit union service organizations (CUSOs) that conform to specific requirements outlined in part 712 of the NCUA's regulations. Because NCUA does not directly regulate or oversee CUSOs owned by State or federally chartered credit unions, NCUA is not proposing regulatory text or proposing any requirements through this rulemaking that would directly affect small entities. Accordingly, the NCUA Board certifies the proposed rule will not have a

significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995 Determination

OCC: The OCC has analyzed the proposed rule under the factors in the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532). Under this analysis, the OCC considered whether the proposed rule includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (adjusted annually for inflation). For the following reasons, the OCC finds that the proposal does not trigger the \$100 million UMRA threshold. First, the mandates in the proposed rule apply only to those States that choose to establish an AMC registration system. Second, the costs specifically related to requirements set forth in law are excluded from expenditures under the UMRA. Given that the proposed rule reflects requirements that arise from section 1473, the UMRA cost estimate for the proposal, if implemented, is zero. For this reason, and for the other reasons cited above, the OCC has determined that this proposed rule will not result in expenditures by State, local, and tribal governments, or the private sector, of \$100 million or more in any one year. Accordingly, this proposal is not subject to section 202 of the Unfunded Mandates Act.

List of Subjects

12 CFR Part 34

Appraisal, Appraiser, Banks, Banking, Consumer protection, Credit, Mortgages, National banks, Reporting and recordkeeping requirements, Savings associations, Truth in lending.

12 CFR Part 208

Accounting, Agriculture, Banks, Banking, Confidential business information, Consumer protection, Crime, Currency, Insurance, Investments, Mortgages, Reporting and recordkeeping requirements, Securities.

12 CFR Part 225

Administrative practice and procedure, Banks, Banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

12 CFR Part 323

Banks, banking, Mortgages, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 1026

Advertising, Appraisal, Appraiser, Banks, Banking, Consumer protection, Credit, Credit unions, Mortgages, National banks, Reporting and recordkeeping requirements, Savings associations, Truth in lending.

12 CFR Part 1222

Appraisals, Government sponsored enterprises, Mortgages.

Department of the Treasury

Office of the Comptroller of the Currency

Authority and Issuance

For the reasons set forth in the preamble, the OCC proposes to amend 12 CFR part 34 as follows:

PART 34—REAL ESTATE LENDING AND APPRAISALS

■ 1. The authority citation for part 34 is revised to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 25b, 29, 93a, 371, 1463, 1465, 1701j–3, 1828(o), 3331 *et seq.*, 5101 *et seq.*, and 5412(b)(2)(B) and 15 U.S.C. 1639h.

■ 2. Subpart H to part 34 is added to read as follows:

Subpart H—Appraisal Management Company Minimum Requirements

Sec.

- 34.210 Authority, purpose, and scope.
- 34.211 Definitions.
- 34.212 Appraiser panel.
- 34.213 Appraisal management company registration.
- 34.214 Requirements for Federally regulated appraisal management companies.
- 34.215 Registration limitations.
- 34.216 Information to be presented to the Appraisal Subcommittee by participating States.

§ 34.210 Authority, purpose, and scope.

(a) *Authority.* This subpart is issued by the Office of the Comptroller of the Currency under 12 U.S.C. 93a and Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA), as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) (Pub. L. 111–203, 124 Stat. 1376 (2010)), 12 U.S.C. 3331 *et seq.*

(b) *Purpose.* The purpose of this subpart is to implement sections 1109, 1117, 1121, and 1124 of FIRREA Title XI, 12 U.S.C. 3338, 3346, 3350, and 3353.

(c) *Scope.* This subpart applies to States and to appraisal management companies (AMCs) providing appraisal management services in connection

⁶¹ 5 U.S.C. 601 *et seq.*

⁶² 78 FR 4032 (Jan. 18, 2013).

with consumer credit transactions secured by a consumer's principal dwelling or securitizations of those transactions.

(d) *Rule of construction.* Nothing in this subpart should be construed to prevent a State from establishing requirements in addition to those in this subpart. In addition, nothing in this subpart should be construed to alter guidance in, and applicability of, the Interagency Appraisal and Evaluation Guidelines⁴ or other relevant agency guidance that cautions banks, bank holding companies, Federal savings associations, state savings associations, and credit unions, as applicable, that each such entity is accountable for overseeing the activities of third party service providers and ensuring that any services provided by a third party comply with applicable laws, regulations, and supervisory guidance applicable directly to the financial institution.

§ 34.211 Definitions.

For purposes of this subpart:

(a) *Affiliate* has the meaning provided in 12 U.S.C. 1841.

(b) *AMC National Registry* means the registry of State-registered appraisal management companies (AMCs) and Federally regulated AMCs maintained by the Appraisal Subcommittee.

(c)(1) *Appraisal management company* (AMC) means a person that:

(i) Provides appraisal management services to creditors or to secondary mortgage market participants, including affiliates;

(ii) Provides such services in connection with valuing a consumer's principal dwelling as security for a consumer credit transaction or incorporating such transactions into securitizations; and

(iii) Within a given year, oversees an appraiser panel of more than 15 State-certified or State-licensed appraisers in a State or 25 or more State-certified or State-licensed appraisers in two or more States, as described in § 34.212;

(2) An AMC does not include a department or division of an entity that provides appraisal management services only to that entity.

(d) *Appraisal management services* means one or more of the following:

(1) Recruiting, selecting, and retaining appraisers;

(2) Contracting with State-certified or State-licensed appraisers to perform appraisal assignments;

(3) Managing the process of having an appraisal performed, including providing administrative services such

as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and secondary market participants, collecting fees from creditors and secondary market participants for services provided, and paying appraisers for services performed; and

(4) Reviewing and verifying the work of appraisers.

(e) *Appraiser panel* means a network or panel of licensed or certified appraisers who are independent contractors to the AMC.

(f) *Appraisal Subcommittee* means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(g) *Consumer credit* has the meaning provided in 12 CFR 1026.2(a)(12).

(h) *Covered transaction* means any consumer credit transaction secured by the consumer's principal dwelling.

(i) *Creditor* has the meaning provided in 12 CFR 1026.2(a)(17).

(j) *Federally regulated AMC* means an AMC that is owned and controlled by an insured depository institution, as defined in 12 U.S.C. 1813, or an insured credit union, as defined in 12 U.S.C. 1752, and that is regulated by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the National Credit Union Administration, or the Federal Deposit Insurance Corporation.

(k) *Federally related transaction regulations* means regulations established by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, or the National Credit Union Administration, pursuant to sections 1112, 1113, and 1114 of FIRREA Title XI, 12 U.S.C. 3341–3343.

(l) *Person* has the meaning in 12 CFR 1026.2(a)(22).

(m) *Principal dwelling* means a residential structure that contains one to four units, whether or not that structure is attached to real property, that is also a consumer's primary residence. The term includes an individual condominium unit, cooperative unit, mobile home, and trailer, if it is used as a residence. A vacation or other second home is not a principal dwelling. A consumer can have only one principal dwelling at a time. However, if a consumer buys or builds a new dwelling that will become the consumer's principal dwelling within a year or upon the completion of construction, the new dwelling is considered the principal dwelling.

(n) *Secondary mortgage market participant* means a guarantor or insurer of mortgage-backed securities, or an

underwriter or issuer of mortgage-backed securities. Secondary mortgage market participant only includes an individual investor in a mortgage-backed security if that investor also serves in the capacity of a guarantor, insurer, underwriter, or issuer for the mortgage-backed security.

(o) *States* mean the 50 States and the District of Columbia and the territories of Guam, Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

(p) *Uniform Standards of Professional Appraisal Practice* (USPAP) means the appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation.

§ 34.212 Appraiser panel.

For purposes of determining whether, within a given year, an AMC oversees an appraiser panel of more than 15 State-certified or State-licensed appraisers in a State or 25 or more State-certified or State-licensed appraisers in two or more States under § 34.211(c)(1)(iii)—

(a) An appraiser is deemed part of the AMC's appraiser panel as of the earliest date on which the AMC:

(1) Affirms eligibility or acceptance of the appraiser for the AMC's consideration for future appraisal assignments; or

(2) Engages the appraiser to perform one or more appraisals on behalf of a creditor or secondary mortgage market principal.

(b) An appraiser who is deemed part of the AMC's appraiser panel pursuant to paragraph (a) of this section is deemed to remain on the panel until the date on which the AMC:

(1) Sends written notice to the appraiser removing the appraiser from the appraiser panel, with an explanation of its action; or

(2) Receives written notice from the appraiser asking to be removed from the appraiser panel or notice of the death or incapacity of the appraiser.

(c) If an appraiser is removed from an AMC's appraiser panel pursuant to paragraph (b) of this section, but the AMC subsequently re-admits or engages the appraiser at any time during the twelve months after the AMC's removal, the removal will be deemed not to have occurred, and the appraiser will be deemed to have been part of the AMC's appraiser panel without interruption.

(d) The annual period for purposes of counting appraisers on an AMC's appraiser panel may be the calendar year or a 12-month period established by law or rule of each State with which the AMC is required to register.

⁴ 75 FR 77450 (December 10, 2010).

§ 34.213 Appraisal management company registration.

Each State electing to register AMCs pursuant to paragraph (b)(1) of this section must:

(a) Establish and maintain within the State appraiser certifying and licensing agency a licensing program that is subject to the limitations set forth in § 34.215 and with the legal authority and mechanisms to:

(1) Review and approve or deny an AMC's application for initial registration;

(2) Review and renew or review and deny an AMC's registration periodically;

(3) Examine the books and records of an AMC operating in the State and require the AMC to submit reports, information, and documents;

(4) Verify that the appraisers on the AMC's appraiser list, network, panel, or roster hold valid State certifications or licenses, as applicable;

(5) Conduct investigations of AMCs to assess potential violations of applicable appraisal-related laws, regulations, or orders;

(6) Discipline, suspend, terminate, or deny renewal of the registration of an AMC that violates applicable appraisal-related laws, regulations, or orders; and

(7) Report an AMC's violation of applicable appraisal-related laws, regulations, or orders, as well as disciplinary and enforcement actions and other relevant information about an AMC's operations, to the Appraisal Subcommittee.

(b) Impose requirements on AMCs that are not owned and controlled by an insured depository institution or by an insured credit union and not regulated by a Federal financial institutions regulatory agency to:

(1) Register with and be subject to supervision by the State appraiser certifying and licensing agency;

(2) Use only State-certified or State-licensed appraisers for Federally related transactions in conformity with any Federally related transaction regulations;

(3) Establish and comply with processes and controls reasonably designed to ensure that the AMC, in engaging an appraiser, selects an appraiser who is independent of the transaction and who has the requisite education, expertise, and experience necessary to competently complete the appraisal assignment for the particular market and property type;

(4) Direct the appraiser to perform the assignment in accordance with USPAP; and

(5) Establish and comply with processes and controls reasonably designed to ensure that the AMC

conducts its appraisal management services in accordance with the requirements of section 129E(a)–(i) of the Truth in Lending Act, 15 U.S.C. 1639e(a)–(i), and regulations thereunder.

§ 34.214 Requirements for Federally regulated appraisal management companies.

(a) *Requirements in providing services.* To provide appraisal management services for a creditor or secondary mortgage market participant relating to a covered transaction, a Federally regulated AMC must comply with the requirements in §§ 34.213(b)(2) through (5).

(b) *Reporting information for the AMC National Registry.* A Federally regulated AMC must:

(1) Report to the State or States in which it operates the information required to be submitted by the State pursuant to the Appraisal Subcommittee's policies regarding:

(i) The determination of the AMC National Registry fee, including but not necessarily limited to a statement that the AMC is a Federally regulated AMC; and

(ii) The collection of information related to the limitations set forth in § 34.215, as applicable.

(2) Contact the Appraisal Subcommittee for alternative arrangements to submit the information described in paragraph (b)(1) of this section if a State in which a Federally regulated AMC operates has not established a process for accepting the information from Federally regulated AMCs.

§ 34.215 Registration limitations.

(a) *Appraiser certification or licensing of owners.* An AMC shall not be registered by a State or included on the AMC National Registry if such AMC, in whole or in part, directly or indirectly, is owned by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any State.

(b) *Good moral character of owners.* An AMC shall not be registered by a State if any person that owns more than 10 percent of the AMC—

(1) Is determined by the State appraiser certifying and licensing agency not to have good moral character; or

(2) Fails to submit to a background investigation carried out by the State appraiser certifying and licensing agency.

§ 34.216 Information to be presented to the Appraisal Subcommittee by participating States.

Each State electing to register AMCs for purposes of permitting AMCs to provide appraisal management services relating to covered transactions in the State must submit to the Appraisal Subcommittee the information required to be submitted by Appraisal Subcommittee regulations or guidance concerning AMCs that operate in the State.

Board of Governors of the Federal Reserve System

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR parts 208 and 225, as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

■ 3. The authority citation for part 208 is revised to read as follows:

Authority: 12 U.S.C. 24, 36, 92a, 93a, 248(a), 248(c), 321–338a, 371d, 461, 481–486, 601, 611, 1814, 1816, 1818, 1820(d)(9), 1833(j), 1828(o), 1831, 1831o, 1831p–1, 1831r–1, 1831w, 1831x, 1835a, 1882, 2901–2907, 3105, 3310, 3331–3351, 3353, and 3905–3909; 15 U.S.C. 78b, 78l(b), 78l(i), 780–4(c)(5), 78q, 78q–1, 78w, 1681s, 1681w, 6801 and 6805; 31 U.S.C. 5318; 42 U.S.C. 4012a, 4104b, 4106, and 4128.

■ 4. Revise the heading of subpart E to read as follows:

Subpart E—Real Estate Lending, Appraisal Standards, and Minimum Requirements for Appraisal Management Companies

■ 5. Section 208.50 is revised to read as follows:

§ 208.50 Authority, purpose, and scope.

(a) *Authority.* Subpart E of Regulation H (12 CFR part 208, subpart E) is issued by the Board of Governors of the Federal Reserve System under section 304 of the Federal Deposit Insurance Corporation Improvement Act of 1991, (12 U.S.C. 1828(o)), Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act, (12 U.S.C. 3331–3351), and section 1473 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, (12 U.S.C. 3353).

(b) *Purpose and scope.* This subpart E prescribes standards for real estate lending to be used by member banks in adopting internal real estate lending policies. The standards applicable to appraisals rendered in connection with federally related transactions entered into by member banks and the minimum requirements for Appraisal Management Companies are set forth in

12 CFR part 225, subparts G and M respectively (Regulation Y).

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

■ 6. The authority citation for part 225 is revised to read as follows:

Authority: 12 U.S.C. 1844(b), 3106 and 3108, 1817(j)(13), 1818(b), 1831i, 1972, 3310, 3331–3351 and 3353 and the International Lending Supervision Act of 1983 (Pub. L. 98–181, title IX). The BHC Act is codified at 12 U.S.C. 1841, *et seq.*

■ 7. Subpart M is added to part 225 to read as follows:

Subpart M—Minimum Requirements for Appraisal Management Companies

- Sec.
- 225.190 Authority, purpose, and scope.
- 225.191 Definitions.
- 225.192 Appraiser panel.
- 225.193 Appraisal management company registration.
- 225.194 Requirements for Federally regulated appraisal management companies.
- 225.195 Registration limitations.
- 225.196 Information to be presented to the Appraisal Subcommittee by participating States.

§ 225.190 Authority, purpose, and scope.

(a) *Authority.* This subpart is issued by the Board of Governors of the Federal Reserve System (the Board) under title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (Pub. L. No. 101–73, 103 Stat. 183 (1989)), 12 U.S.C. 3310, 3331–3351, section 1473 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. 3353, and section 5(b) of the Bank Holding Company Act, 12 U.S.C. 1844(b).

(b) *Purpose and scope.* (1) The purpose of this subpart is to implement sections 1109, 1117, 1121, and 1124 of FIRREA Title XI, 12 U.S.C. 3338, 3346, 3350, and 3353.

Title XI provides protection for federal financial and public policy interests in real estate related transactions by requiring real estate appraisals used in connection with federally related transactions to be performed in writing, in accordance with uniform standards, by appraisers whose competency has been demonstrated and whose professional conduct will be subject to effective supervision. This subpart implements the requirements of title XI as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act and applies to all federally related transactions entered into by the Board or by institutions regulated by the Board

and applies to States and to appraisal management companies (AMCs) performing appraisal management services in connection with consumer credit transactions secured by a consumer's principal dwelling or securitizations of those transactions.

- (2) This subpart:
 - (i) Identifies which real estate related financial transactions require the services of an appraiser.
 - (ii) Prescribes which categories of federally related transactions shall be appraised by a State certified appraiser and which by a State licensed appraiser;
 - (iii) Prescribes minimum standards for the performance of real estate appraisals in connection with federal related transactions under the jurisdiction of the Board;
 - (iv) Prescribes minimum requirements to be applied by participating States in the registration and supervision of appraisal management companies (AMCs); and
 - (v) Prescribes minimum requirements to be applied by participating States to report certain information concerning appraisal management companies registered with the States to a national registry of appraisal management companies.

(c) *Rule of construction.* Nothing in this subpart should be construed to prevent a State from establishing requirements in addition to those in this subpart. In addition, nothing in this subpart should be construed to alter guidance in, and applicability of, the Interagency Appraisal and Evaluation Guidelines¹ or other relevant agency guidance that cautions banks and bank holding companies, that each organization is accountable for overseeing the activities of third party service providers and ensuring that any services provided by a third party comply with applicable laws, regulations, and supervisory guidance applicable directly to the creditor.

§ 225.191 Definitions.

- For purposes of this subpart:
 - (a) *Affiliate* has the meaning provided in 12 U.S.C. 1841.
 - (b) *AMC National Registry* means the registry of State-registered appraisal management companies (AMCs) and Federally regulated AMCs maintained by the Appraisal Subcommittee.
 - (c) *Appraisal Foundation* means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois.
 - (d)(1) *Appraisal management company* (AMC) means a person that:
 - (i) Provides appraisal management services to creditors or to secondary

mortgage market participants, including affiliates;

- (ii) Provides such services in connection with valuing a consumer's principal dwelling as security for a consumer credit transaction or incorporating such transactions into securitizations; and
 - (iii) Within a given year, oversees an appraiser panel of more than 15 State-certified or State-licensed appraisers in a State or 25 or more State-certified or State-licensed appraisers in two or more States, as described in § 225.192;
- (2) An AMC does not include a department or division of an entity that provides appraisal management services only to that entity.

(e) *Appraisal management services* means one or more of the following:

- (1) Recruiting, selecting, and retaining appraisers;
- (2) Contracting with State-certified or State-licensed appraisers to perform appraisal assignments;
- (3) Managing the process of having an appraisal performed, including providing administrative services such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and secondary market participants, collecting fees from creditors and secondary market participants for services provided, and paying appraisers for services performed; and
- (4) Reviewing and verifying the work of appraisers.

(f) *Appraiser panel* means a network or panel of licensed or certified appraisers who are independent contractors to the AMC.

(g) *Consumer credit* has the meaning provided in 12 CFR 1026.2(a)(12).

(h) *Covered transaction* means any consumer credit transaction secured by the consumer's principal dwelling.

(i) *Creditor* has the meaning provided in 12 CFR 1026.2(a)(17).

(j) *Federally regulated AMC* means an AMC that is owned and controlled by an insured depository institution, as defined in 12 U.S.C. 1813, or an insured credit union, as defined in 12 U.S.C. 1752, and regulated by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation or the National Credit Union Administration.

(k) *Federally related transaction regulations* means regulations established by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, or the National Credit Union Administration, pursuant to

¹ 75 FR 77450 (December 10, 2010).

sections 1112, 1113, and 1114 of FIRREA Title XI, 12 U.S.C. 3341–3343.

(l) *Person* has the meaning in 12 CFR 1026.2(a)(22).

(m) *Principal dwelling* means a residential structure that contains one to four units, whether or not that structure is attached to real property, that is also a consumer's primary residence. The term includes an individual condominium unit, cooperative unit, mobile home, and trailer, if it is used as a residence. A vacation or other second home is not a principal dwelling. A consumer can have only one principal dwelling at a time. However, if a consumer buys or builds a new dwelling that will become the consumer's principal dwelling within a year or upon the completion of construction, the new dwelling is considered the principal dwelling.

(n) *Secondary mortgage market participant* means a guarantor or insurer of mortgage-backed securities, or an underwriter or issuer of mortgage-backed securities. Secondary mortgage market participant only includes an individual investor in a mortgage-backed security if that investor also serves in the capacity of a guarantor, insurer, underwriter, or issuer for the mortgage-backed security.

(o) *States* mean the 50 States and the District of Columbia and the territories of Guam, Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

(p) *Uniform Standards of Professional Appraisal Practice* (USPAP) means the appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation.

§ 225.192 Appraiser panel.

For purposes of determining whether, within a given year, an AMC oversees an appraiser panel of more than 15 State-certified or State-licensed appraisers in a State or 25 or more State-certified or State-licensed appraisers in two or more States under § 225.191(d)(1)(iii)—

(a) An appraiser is deemed part of the AMC's appraiser panel as of the earliest date on which the AMC:

(1) Affirms eligibility or acceptance of the appraiser for the AMC's consideration for future appraisal assignments; or

(2) Engages the appraiser to perform one or more appraisals on behalf of a creditor or secondary mortgage market principal.

(b) An appraiser who is deemed part of the AMC's appraiser panel pursuant to paragraph (a) of this section is deemed to remain on the panel until the date on which the AMC:

(1) Sends written notice to the appraiser removing the appraiser from the appraiser panel, with an explanation of its action; or

(2) Receives written notice from the appraiser asking to be removed from the appraiser panel or notice of the death or incapacity of the appraiser.

(c) If an appraiser is removed from an AMC's appraiser panel pursuant to paragraph (b) of this section, but the AMC subsequently re-admits or engages the appraiser at any time during the twelve months after the AMC's removal, the removal will be deemed not to have occurred, and the appraiser will be deemed to have been part of the AMC's appraiser panel without interruption.

(d) The annual period for purposes of counting appraisers on an AMC's appraiser panel may be the calendar year or a 12-month period established by law or rule of each State with which the AMC is required to register.

§ 225.193 Appraisal management company registration.

Each State electing to register AMCs pursuant to paragraph (b)(1) of this section must:

(a) Establish and maintain within the State appraiser certifying and licensing agency a licensing program that is subject to the limitations set forth in § 225.195 and with the legal authority and mechanisms to:

(1) Review and approve or deny an AMC's application for initial registration;

(2) Review and renew or review and deny an AMC's registration periodically;

(3) Examine the books and records of an AMC operating in the State and require the AMC to submit reports, information, and documents;

(4) Verify that the appraisers on the AMC's appraiser list, network, panel, or roster hold valid State certifications or licenses, as applicable;

(5) Conduct investigations of AMCs to assess potential violations of applicable appraisal-related laws, regulations, or orders;

(6) Discipline, suspend, terminate, or deny renewal of the registration of an AMC that violates applicable appraisal-related laws, regulations, or orders; and

(7) Report an AMC's violation of applicable appraisal-related laws, regulations, or orders, as well as disciplinary and enforcement actions and other relevant information about an AMC's operations, to the Appraisal Subcommittee.

(b) Impose requirements on AMCs that are not owned and controlled by an insured depository institution, an insured credit union, and not regulated by a Federal financial institutions regulatory agency to:

(1) Register with and be subject to supervision by the State appraiser certifying and licensing agency;

(2) Use only State-certified or State-licensed appraisers for Federally related transactions in conformity with any Federally related transaction regulations;

(3) Establish and comply with processes and controls reasonably designed to ensure that the AMC, in engaging an appraiser, selects an appraiser who is independent of the transaction and who has the requisite education, expertise, and experience necessary to competently complete the appraisal assignment for the particular market and property type;

(4) Direct the appraiser to perform the assignment in accordance with USPAP; and

(5) Establish and comply with processes and controls reasonably designed to ensure that the AMC conducts its appraisal management services in accordance with the requirements of section 129E(a)–(i) of the Truth in Lending Act, 15 U.S.C. 1639e(a)–(i), and regulations thereunder.

§ 225.194 Requirements for Federally regulated appraisal management companies.

(a) *Requirements in providing services.* To provide appraisal management services for a creditor or secondary mortgage market participant relating to a covered transaction, a Federally regulated AMC must comply with the requirements in §§ 225.193(b)(2) through (5).

(b) *Reporting information for the AMC National Registry.* A Federally regulated AMC must:

(1) Report to the State or States in which it operates the information required to be submitted by the State pursuant to the Appraisal Subcommittee's policies regarding:

(i) The determination of the AMC National Registry fee, including but not necessarily limited to a statement that the AMC is a Federally regulated AMC; and

(ii) The collection of information related to the limitations set forth in § 225.195.

(2) Contact the Appraisal Subcommittee for alternative arrangements to submit the information described in paragraph (b)(1) of this section if a State in which a Federally regulated AMC operates has not established a process for accepting the information from Federally regulated AMCs.

§ 225.195 Registration limitations.

(a) *Appraiser certification or licensing of owners.* An AMC shall not be registered by a State or included on the AMC National Registry if such AMC, in whole or in part, directly or indirectly, is owned by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any State.

(b) *Good moral character of owners.* An AMC shall not be registered by a State if any person that owns more than 10 percent of the AMC—

(1) Is determined by the State appraiser certifying and licensing agency not to have good moral character; or

(2) Fails to submit to a background investigation carried out by the State appraiser certifying and licensing agency.

§ 225.196 Information to be presented to the Appraisal Subcommittee by participating States.

Each State electing to register AMCs for purposes of permitting AMCs to provide appraisal management services relating to covered transactions in the State must submit to the Appraisal Subcommittee the information required to be submitted by Appraisal Subcommittee regulations or guidance concerning AMCs that operate in the State.

Federal Deposit Insurance Corporation

Authority and Issuance

For the reasons set forth in the preamble, the FDIC proposes to amend 12 CFR parts 323 and 390 as follows:

PART 323—APPRAISALS

■ 8. Revise the authority citation for part 323 to read as follows:

Authority: 12 U.S.C. 1818, 1819 [“Seventh” and “Tenth”] and 3331 *et seq.*

■ 9. Add a heading for new subpart A to read as follows:

Subpart A—Appraisals Generally

§§ 323.1 through 323.7— [Designated as subpart A]

■ 10. Designate §§ 323.1 through 323.7 under new subpart A.

§§ 323.1, 323.3, 323.4, and 323.5— [Amended]

■ 11. Amend Sections 323.1, 323.3, 323.4, and 323.5 by removing “part” and adding “subpart” in its place in each instance in which it appears.

■ 12. Add subpart B to part 323 to read as follows:

Subpart B—Appraisal Management Company Minimum Requirements

Sec.

323.210 Authority, purpose, and scope.

323.211 Definitions.

323.212 Appraiser panel.

323.213 Appraisal management company registration.

323.214 Requirements for Federally regulated appraisal management companies.

323.215 Registration limitations.

323.216 Information to be presented to the Appraisal Subcommittee by participating States.

§ 323.210 Authority, purpose, and scope.

(a) *Authority.* This subpart is issued under 12 U.S.C. 1818, 1819 [“Seventh” and “Tenth”] and Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA), as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) (Pub. L. 111–203, 124 Stat. 1376 (2010)), 12 U.S.C. 3331 *et seq.*

(b) *Purpose.* The purpose of this subpart is to implement sections 1109, 1117, 1121, and 1124 of FIRREA Title XI, 12 U.S.C. 3338, 3346, 3350, and 3353.

(c) *Scope.* This subpart applies to States and to appraisal management companies (AMCs) providing appraisal management services in connection with consumer credit transactions secured by a consumer’s principal dwelling or securitizations of those transactions.

(d) *Rule of construction.* Nothing in this subpart should be construed to prevent a State from establishing requirements in addition to those in this subpart. In addition, nothing in this subpart should be construed to alter guidance in, and applicability of, the Interagency Appraisal and Evaluation Guidelines¹ or other relevant agency guidance that cautions banks, bank holding companies, Federal savings associations, state savings association, and credit unions, as applicable, that each such entity is accountable for overseeing the activities of third party service providers and ensuring that any services provided by a third party comply with applicable laws, regulations, and supervisory guidance applicable directly to the financial institution.

§ 323.211 Definitions.

For purposes of this subpart:

(a) *Affiliate* has the meaning provided in 12 U.S.C. 1841.

(b) *AMC National Registry* means the registry of State-registered appraisal

management companies (AMCs) and Federally regulated AMCs maintained by the Appraisal Subcommittee.

(c)(1) *Appraisal management company* (AMC) means a person that:

(i) Provides appraisal management services to creditors or to secondary mortgage market participants, including affiliates;

(ii) Provides such services in connection with valuing a consumer’s principal dwelling as security for a consumer credit transaction or incorporating such transactions into securitizations; and

(iii) Within a given year, oversees an appraiser panel of more than 15 State-certified or State-licensed appraisers in a State or 25 or more State-certified or State-licensed appraisers in two or more States, as described in § 323.212;

(2) An AMC does not include a department or division of an entity that provides appraisal management services only to that entity.

(d) *Appraisal management services* means one or more of the following:

(1) Recruiting, selecting, and retaining appraisers;

(2) Contracting with State-certified or State-licensed appraisers to perform appraisal assignments;

(3) Managing the process of having an appraisal performed, including providing administrative services such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and secondary market participants, collecting fees from creditors and secondary market participants for services provided, and paying appraisers for services performed; and

(4) Reviewing and verifying the work of appraisers.

(e) *Appraiser panel* means a network or panel of licensed or certified appraisers who are independent contractors to the AMC.

(f) *Appraisal Subcommittee* means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(g) *Consumer credit* has the meaning provided in 12 CFR 1026.2(a)(12).

(h) *Covered transaction* means any consumer credit transaction secured by the consumer’s principal dwelling.

(i) *Creditor* has the meaning provided in 12 CFR 1026.2(a)(17).

(j) *Federally regulated AMC* means an AMC that is owned and controlled by an insured depository institution, as defined in 12 U.S.C. 1813, or an insured credit union, as defined in 12 U.S.C. 1752, and that is regulated by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the National Credit

¹ 75 FR 77450 (December 10, 2010).

Union Administration, or the Federal Deposit Insurance Corporation.

(k) *Federally related transaction regulations* means regulations established by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, or the National Credit Union Administration, pursuant to sections 1112, 1113, and 1114 of FIRREA Title XI, 12 U.S.C. 3341–3343.

(l) *Person* has the meaning in 12 CFR 1026.2(a)(22).

(m) *Principal dwelling* means a residential structure that contains one to four units, whether or not that structure is attached to real property, that is also a consumer's primary residence. The term includes an individual condominium unit, cooperative unit, mobile home, and trailer, if it is used as a residence. A vacation or other second home is not a principal dwelling. A consumer can have only one principal dwelling at a time. However, if a consumer buys or builds a new dwelling that will become the consumer's principal dwelling within a year or upon the completion of construction, the new dwelling is considered the principal dwelling.

(n) *Secondary mortgage market participant* means a guarantor or insurer of mortgage-backed securities, or an underwriter or issuer of mortgage-backed securities. Secondary mortgage market participant only includes an individual investor in a mortgage-backed security if that investor also serves in the capacity of a guarantor, insurer, underwriter, or issuer for the mortgage-backed security.

(o) *States* mean the 50 States and the District of Columbia and the territories of Guam, Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

(p) *Uniform Standards of Professional Appraisal Practice* (USPAP) means the appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation.

§ 323.212 Appraiser panel.

For purposes of determining whether, within a given year, an AMC oversees an appraiser panel of more than 15 State-certified or State-licensed appraisers in a State or 25 or more State-certified or State-licensed appraisers in two or more States under § 323.211(c)(1)(iii)—

(a) An appraiser is deemed part of the AMC's appraiser panel as of the earliest date on which the AMC:

(1) Affirms eligibility or acceptance of the appraiser for the AMC's consideration for future appraisal assignments; or

(2) Engages the appraiser to perform one or more appraisals on behalf of a creditor or secondary mortgage market principal.

(b) An appraiser who is deemed part of the AMC's appraiser panel pursuant to paragraph (a) of this section is deemed to remain on the panel until the date on which the AMC:

(1) Sends written notice to the appraiser removing the appraiser from the appraiser panel, with an explanation of its action; or

(2) Receives written notice from the appraiser asking to be removed from the appraiser panel or notice of the death or incapacity of the appraiser.

(c) If an appraiser is removed from an AMC's appraiser panel pursuant to paragraph (b) of this section, but the AMC subsequently re-admits or engages the appraiser at any time during the twelve months after the AMC's removal, the removal will be deemed not to have occurred, and the appraiser will be deemed to have been part of the AMC's appraiser panel without interruption.

(d) The annual period for purposes of counting appraisers on an AMC's appraiser panel may be the calendar year or a 12-month period established by law or rule of each State with which the AMC is required to register.

§ 323.213 Appraisal management company registration.

Each State electing to register AMCs pursuant to paragraph (b)(1) of this section must:

(a) Establish and maintain within the State appraiser certifying and licensing agency a licensing program that is subject to the limitations set forth in § 323.215 and with the legal authority and mechanisms to:

(1) Review and approve or deny an AMC's application for initial registration;

(2) Review and renew or review and deny an AMC's registration periodically;

(3) Examine the books and records of an AMC operating in the State and require the AMC to submit reports, information, and documents;

(4) Verify that the appraisers on the AMC's appraiser list, network, panel, or roster hold valid State certifications or licenses, as applicable;

(5) Conduct investigations of AMCs to assess potential violations of applicable appraisal-related laws, regulations, or orders;

(6) Discipline, suspend, terminate, or deny renewal of the registration of an AMC that violates applicable appraisal-related laws, regulations, or orders; and

(7) Report an AMC's violation of applicable appraisal-related laws, regulations, or orders, as well as

disciplinary and enforcement actions and other relevant information about an AMC's operations, to the Appraisal Subcommittee.

(b) Impose requirements on AMCs that are not owned and controlled by an insured depository institution or an insured credit union and not regulated by a Federal financial institution regulatory agency to:

(1) Register with and be subject to supervision by the State appraiser certifying and licensing agency;

(2) Use only State-certified or State-licensed appraisers for Federally regulated transactions in conformity with any Federally related transaction regulations;

(3) Establish and comply with processes and controls reasonably designed to ensure that the AMC, in engaging an appraiser, selects an appraiser who is independent of the transaction and who has the requisite education, expertise, and experience necessary to competently complete the appraisal assignment for the particular market and property type;

(4) Direct the appraiser to perform the assignment in accordance with USPAP; and

(5) Establish and comply with processes and controls reasonably designed to ensure that the AMC conducts its appraisal management services in accordance with the requirements of section 129E(a)–(i) of the Truth in Lending Act, 15 U.S.C. 1639e(a)–(i), and regulations thereunder.

§ 323.214 Requirements for Federally regulated appraisal management companies.

(a) *Requirements in providing services.* To provide appraisal management services for a creditor or secondary mortgage market participant relating to a covered transaction, a Federally regulated AMC must comply with the requirements in §§ 323.213(b)(2) through (5).

(b) *Reporting information for the AMC National Registry.* A Federally regulated AMC must:

(1) Report to the State or States in which it operates the information required to be submitted by the State pursuant to the Appraisal Subcommittee's policies regarding:

(i) The determination of the AMC National Registry fee, including but not necessarily limited to a statement that the AMC is a Federally regulated AMC; and

(ii) The collection of information related to the limitations set forth in § 323.215, as applicable.

(2) Contact the Appraisal Subcommittee for alternative

arrangements to submit the information described in paragraph (b)(1) of this section if a State in which a Federally regulated AMC operates has not established a process for accepting the information from Federally regulated AMCs.

§ 323.215 Registration limitations.

(a) *Appraiser certification or licensing of owners.* An AMC shall not be registered by a State or included on the AMC National Registry if such AMC, in whole or in part, directly or indirectly, is owned by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any State.

(b) *Good moral character of owners.* An AMC shall not be registered by a State if any person that owns more than 10 percent of the AMC—

(1) Is determined by the State appraiser certifying and licensing agency not to have good moral character; or

(2) Fails to submit to a background investigation carried out by the State appraiser certifying and licensing agency.

§ 323.216 Information to be presented to the Appraisal Subcommittee by participating States.

Each State electing to register AMCs for purposes of permitting AMCs to provide appraisal management services relating to covered transactions in the State must submit to the Appraisal Subcommittee the information required to be submitted by Appraisal Subcommittee regulations or guidance concerning AMCs that operate in the State.

PART 390—REGULATIONS TRANSFERRED FROM THE OFFICE OF THRIFT SUPERVISION

■ 13. The authority citation for part 390 continues to read as follows:

- Authority:** 12 U.S.C. 1819.
- Subpart A also issued under 12 U.S.C. 1820.
- Subpart B also issued under 12 U.S.C. 1818.
- Subpart C also issued under 5 U.S.C. 504; 554–557; 12 U.S.C. 1464; 1467; 1468; 1817; 1818; 1820; 1829; 3349, 4717; 15 U.S.C. 78j; 78o–5; 78u–2; 28 U.S.C. 2461 note; 31 U.S.C. 5321; 42 U.S.C. 4012a.
- Subpart D also issued under 12 U.S.C. 1817; 1818; 1820; 15 U.S.C. 78l.
- Subpart E also issued under 12 U.S.C. 1813; 1831m; 15 U.S.C. 78.
- Subpart F also issued under 5 U.S.C. 552; 559; 12 U.S.C. 2901 *et seq.*
- Subpart G also issued under 12 U.S.C. 2810 *et seq.*, 2901 *et seq.*; 15 U.S.C. 1691; 42 U.S.C. 1981, 1982, 3601–3619.
- Subpart I also issued under 12 U.S.C. 1831x.

- Subpart J also issued under 12 U.S.C. 1831p–1.
- Subpart K also issued under 12 U.S.C. 1817; 1818; 15 U.S.C. 78c; 78l.
- Subpart L also issued under 12 U.S.C. 1831p–1.
- Subpart M also issued under 12 U.S.C. 1818.
- Subpart N also issued under 12 U.S.C. 1821.
- Subpart O also issued under 12 U.S.C. 1828.
- Subpart P also issued under 12 U.S.C. 1470; 1831e; 1831n; 1831p–1; 3339.
- Subpart Q also issued under 12 U.S.C. 1462; 1462a; 1463; 1464.
- Subpart R also issued under 12 U.S.C. 1463; 1464; 1831m; 1831n; 1831p–1.
- Subpart S also issued under 12 U.S.C. 1462; 1462a; 1463; 1464; 1468a; 1817; 1820; 1828; 1831e; 1831o; 1831p–1; 1881–1884; 3207; 3339; 15 U.S.C. 78b; 78l; 78m; 78n; 78p; 78q; 78w; 31 U.S.C. 5318; 42 U.S.C. 4106.
- Subpart T also issued under 12 U.S.C. 1462a; 1463; 1464; 15 U.S.C. 78c; 78l; 78m; 78n; 78w.
- Subpart U also issued under 12 U.S.C. 1462a; 1463; 1464; 15 U.S.C. 78c; 78l; 78m; 78n; 78p; 78w; 78d–1; 7241; 7242; 7243; 7244; 7261; 7264; 7265.
- Subpart V also issued under 12 U.S.C. 3201–3208.
- Subpart W also issued under 12 U.S.C. 1462a; 1463; 1464; 15 U.S.C. 78c; 78l; 78m; 78n; 78p; 78w.
- Subpart Y also issued under 12 U.S.C. 1831o.
- Subpart Z also issued under 12 U.S.C. 1462; 1462a; 1463; 1464; 1828 (note).

Subpart X—[Removed and Reserved]

■ 14. Remove and reserve subpart X consisting of §§ 390.440 through 390.447.

Bureau of Consumer Financial Protection

Authority and Issuance

For the reasons stated above, the Bureau amends Regulation Z, 12 CFR part 1026, as follows:

PART 1026—TRUTH IN LENDING (REGULATION Z)

■ 14. The authority citation for part 1026 is revised to read as follows:

Authority: 12 U.S.C. 2601, 2603–2605, 2607, 2609, 2617, 3353, 5511, 5512, 5532, 5581; 15 U.S.C. 1601 *et seq.*

Subpart A—General

■ 15. Section 1026.1 is amended by revising paragraph (a) to read as follows:

§ 1026.1 Authority, purpose, coverage, organization, enforcement, and liability.

(a) *Authority.* This part, known as Regulation Z, is issued by the Bureau of Consumer Financial Protection to implement the Federal Truth in Lending

Act, which is contained in title I of the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 *et seq.*). This part also implements title XII, section 1204 of the Competitive Equality Banking Act of 1987 (Public Law 100–86, 101 Stat. 552). Furthermore, this part implements certain provisions of the Real Estate Settlement Procedures Act of 1974, as amended (12 U.S.C. 2601 *et seq.*). In addition, this part implements certain provisions of the Financial Institutions Reform, Recovery, and Enforcement Act, as amended (12 U.S.C. 3331 *et seq.*). The Bureau’s information-collection requirements contained in this part have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. 3501 *et seq.* and have been assigned OMB No. 3170–0015 (Truth in Lending).

* * * * *

Subpart E—Special Rules for Certain Home Mortgage Transactions

■ 16. Section 1026.42 is amended by adding paragraph (h), as follows:

§ 1026.42 Valuation independence.

* * * * *

(h) The Bureau issued a joint rule to implement the appraisal management company minimum requirements in the Financial Institutions Reform, Recovery, and Enforcement Act, as amended by section 1473 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. See 12 CFR part 34.

Federal Housing Finance Agency

Authority and Issuance

For the reasons set forth in the Supplementary Information, FHFA proposes to amend 12 CFR part 1222, as follows:

PART 1222—APPRAISALS

■ 17. The authority citation for part 1222 is revised to read as follows:

Authority: 12 U.S.C. 4501 *et seq.*, 12 U.S.C. 4526 and 15 U.S.C. 1639h.

■ 18. Add subpart B to part 1222 to read as follows:

Subpart B—Appraisal Management Company Minimum Requirements

- Sec. 1222.20 Authority, purpose, and scope.
- 1222.21 Definitions.
- 1222.22 Appraiser panel.
- 1222.23 Appraisal management company registration.
- 1222.24 Requirements for Federally regulated appraisal management companies.
- 1222.25 Registration limitations.

1222.26 Information to be presented to the Appraisal Subcommittee by participating States.

§ 1222.20 Authority, purpose, and scope.

(a) *Authority.* This subpart is issued by the Federal Housing Finance Agency under 12 U.S.C. 4501 *et seq.*, 12 U.S.C. 4526, and Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA), as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) (Pub. L. 111–203, 124 Stat. 1376 (2010)), 12 U.S.C. 3331 *et seq.*

(b) *Purpose.* The purpose of this subpart is to implement sections 1109, 1117, 1121, and 1124 of FIRREA Title XI, 12 U.S.C. 3338, 3346, 3350, and 3353.

(c) *Scope.* This subpart applies to States and to appraisal management companies (AMCs) providing appraisal management services in connection with consumer credit transactions secured by a consumer’s principal dwelling or securitizations of those transactions.

(d) *Rule of construction.* Nothing in this subpart should be construed to prevent a State from establishing requirements in addition to those in this subpart. In addition, nothing in this subpart should be construed to alter guidance in, and applicability of, the Interagency Appraisal and Evaluation Guidelines¹ or other relevant agency guidance that cautions banks, bank holding companies, Federal savings associations, state savings associations, and credit unions, as applicable, that each such entity is accountable for overseeing the activities of third party service providers and ensuring that any services provided by a third party comply with applicable laws, regulations, and supervisory guidance applicable directly to the financial institution.

§ 1222.21 Definitions.

For purposes of this subpart:

(a) *Affiliate* has the meaning provided in 12 U.S.C. 1841.

(b) *AMC National Registry* means the registry of State-registered appraisal management companies (AMCs) and Federally regulated AMCs maintained by the Appraisal Subcommittee.

(c)(1) *Appraisal management company (AMC)* means a person that:

(i) Provides appraisal management services to creditors or to secondary mortgage market participants, including affiliates;

(ii) Provides such services in connection with valuing a consumer’s

principal dwelling as security for a consumer credit transaction or incorporating such transactions into securitizations; and

(iii) Within a given year, oversees an appraiser panel of more than 15 State-certified or State-licensed appraisers in a State or 25 or more State-certified or State-licensed appraisers in two or more States, as described in § 1222.22;

(2) An AMC does not include a department or division of an entity that provides appraisal management services only to that entity.

(d) *Appraisal management services* means one or more of the following:

(1) Recruiting, selecting, and retaining appraisers;

(2) Contracting with State-certified or State-licensed appraisers to perform appraisal assignments;

(3) Managing the process of having an appraisal performed, including providing administrative services such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and secondary market participants, collecting fees from creditors and secondary market participants for services provided, and paying appraisers for services performed; and

(4) Reviewing and verifying the work of appraisers.

(e) *Appraiser panel* means a network or panel of licensed or certified appraisers who are independent contractors to the AMC.

(f) *Appraisal Subcommittee* means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(g) *Consumer credit* has the meaning provided in 12 CFR 1026.2(a)(12).

(h) *Covered transaction* means any consumer credit transaction secured by the consumer’s principal dwelling.

(i) *Creditor* has the meaning provided in 12 CFR 1026.2(a)(17).

(j) *Federally regulated AMC* means an AMC that is owned and controlled by an insured depository institution, as defined in 12 U.S.C. 1813, or an insured credit union, as defined in 12 U.S.C. 1752, and that is regulated by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the National Credit Union Administration, or the Federal Deposit Insurance Corporation.

(k) *Federally related transaction regulations* means regulations established by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, or the National Credit Union Administration, pursuant to

sections 1112, 1113, and 1114 of FIRREA Title XI, 12 U.S.C. 3341–3343.

(l) *Person* has the meaning in 12 CFR 1026.2(a)(22).

(m) *Principal dwelling* means a residential structure that contains one to four units, whether or not that structure is attached to real property, that is also a consumer’s primary residence. The term includes an individual condominium unit, cooperative unit, mobile home, and trailer, if it is used as a residence. A vacation or other second home is not a principal dwelling. A consumer can have only one principal dwelling at a time. However, if a consumer buys or builds a new dwelling that will become the consumer’s principal dwelling within a year or upon the completion of construction, the new dwelling is considered the principal dwelling.

(n) *Secondary mortgage market participant* means a guarantor or insurer of mortgage-backed securities, or an underwriter or issuer of mortgage-backed securities. Secondary mortgage market participant only includes an individual investor in a mortgage-backed security if that investor also serves in the capacity of a guarantor, insurer, underwriter, or issuer for the mortgage-backed security.

(o) *States* mean the 50 States and the District of Columbia and the territories of Guam, Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

(p) *Uniform Standards of Professional Appraisal Practice (USPAP)* means the appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation.

§ 1222.22 Appraiser panel.

For purposes of determining whether, within a given year, an AMC oversees an appraiser panel of more than 15 State-certified or State-licensed appraisers in a State or 25 or more State-certified or State-licensed appraisers in two or more States under § 1222.21(c)(1)(iii)—

(a) An appraiser is deemed part of the AMC’s appraiser panel as of the earliest date on which the AMC:

(1) Affirms eligibility or acceptance of the appraiser for the AMC’s consideration for future appraisal assignments; or

(2) Engages the appraiser to perform one or more appraisals on behalf of a creditor or secondary mortgage market principal.

(b) An appraiser who is deemed part of the AMC’s appraiser panel pursuant to paragraph (a) of this section is deemed to remain on the panel until the date on which the AMC:

¹ 75 FR 77450 (December 10, 2010).

(1) Sends written notice to the appraiser removing the appraiser from the appraiser panel, with an explanation of its action; or

(2) Receives written notice from the appraiser asking to be removed from the appraiser panel or notice of the death or incapacity of the appraiser.

(c) If an appraiser is removed from an AMC's appraiser panel pursuant to paragraph (b) of this section, but the AMC subsequently re-admits or engages the appraiser at any time during the twelve months after the AMC's removal, the removal will be deemed not to have occurred, and the appraiser will be deemed to have been part of the AMC's appraiser panel without interruption.

(d) The annual period for purposes of counting appraisers on an AMC's appraiser panel may be the calendar year or a 12-month period established by law or rule of each State with which the AMC is required to register.

§ 1222.23 Appraisal management company registration.

Each State electing to register AMCs pursuant to paragraph (b)(1) of this section must:

(a) Establish and maintain within the State appraiser certifying and licensing agency a licensing program that is subject to the limitations set forth in § 1222.25 and with the legal authority and mechanisms to:

(1) Review and approve or deny an AMC's application for initial registration;

(2) Review and renew or review and deny an AMC's registration periodically;

(3) Examine the books and records of an AMC operating in the State and require the AMC to submit reports, information, and documents;

(4) Verify that the appraisers on the AMC's appraiser list, network, panel, or roster hold valid State certifications or licenses, as applicable;

(5) Conduct investigations of AMCs to assess potential violations of applicable appraisal-related laws, regulations, or orders;

(6) Discipline, suspend, terminate, or deny renewal of the registration of an AMC that violates applicable appraisal-related laws, regulations, or orders; and

(7) Report an AMC's violation of applicable appraisal-related laws, regulations, or orders, as well as disciplinary and enforcement actions and other relevant information about an AMC's operations, to the Appraisal Subcommittee.

(b) Impose requirements on AMCs that are not owned and controlled by an insured depository institution or by an insured credit union and not regulated by a Federal financial institutions regulatory agency to:

(1) Register with and be subject to supervision by the State appraiser certifying and licensing agency;

(2) Use only State-certified or State-licensed appraisers for Federally related transactions in conformity with any Federally related transaction regulations;

(3) Establish and comply with processes and controls reasonably designed to ensure that the AMC, in engaging an appraiser, selects an appraiser who is independent of the transaction and who has the requisite education, expertise, and experience necessary to competently complete the appraisal assignment for the particular market and property type;

(4) Direct the appraiser to perform the assignment in accordance with USPAP; and

(5) Establish and comply with processes and controls reasonably designed to ensure that the AMC conducts its appraisal management services in accordance with the requirements of section 129E(a)-(i) of the Truth in Lending Act, 15 U.S.C. 1639e(a)-(i), and regulations thereunder.

§ 1222.24 Requirements for Federally regulated appraisal management companies.

(a) *Requirements in providing services.* To provide appraisal management services for a creditor or secondary mortgage market participant relating to a covered transaction, a Federally regulated AMC must comply with the requirements in § 1222.23(b)(2) through (5).

(b) *Reporting information for the AMC National Registry.* A Federally regulated AMC must:

(1) Report to the State or States in which it operates the information required to be submitted by the State pursuant to the Appraisal Subcommittee's policies regarding:

(i) The determination of the AMC National Registry fee, including but not necessarily limited to a statement that the AMC is a Federally regulated AMC; and

(ii) The collection of information related to the limitations set forth in § 1222.25, as applicable.

(2) Contact the Appraisal Subcommittee for alternative arrangements to submit the information described in paragraph (b)(1) of this section if a State in which a Federally regulated AMC operates has not established a process for accepting the information from Federally regulated AMCs.

§ 1222.25 Registration limitations.

(a) *Appraiser certification or licensing of owners.* An AMC shall not be registered by a State or included on the AMC National Registry if such AMC, in whole or in part, directly or indirectly, is owned by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any State.

(b) *Good moral character of owners.* An AMC shall not be registered by a State if any person that owns more than 10 percent of the AMC—

(1) Is determined by the State appraiser certifying and licensing agency not to have good moral character; or

(2) Fails to submit to a background investigation carried out by the State appraiser certifying and licensing agency.

§ 1222.26 Information to be presented to the Appraisal Subcommittee by participating States.

Each State electing to register AMCs for purposes of permitting AMCs to provide appraisal management services relating to covered transactions in the State must submit to the Appraisal Subcommittee the information required to be submitted by Appraisal Subcommittee regulations or guidance concerning AMCs that operate in the State.

Dated: March 20, 2014.

Thomas J. Curry,

Comptroller of the Currency.

Dated: March 19, 2014.

Robert deV. Frierson,

Secretary of the Board.

Dated at Washington, DC, this 19th day of March, 2014.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Dated: March 11, 2014.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

Dated: March 1, 2014.

Melvin L. Watt,

Director, Federal Housing Finance Agency.

In consultation with:

By the National Credit Union

Administration Board on March 20, 2014.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2014-06860 Filed 4-8-14; 8:45 am]

BILLING CODE 4810-33-P; 6210-01-P; 6714-01-P; 7535-01-P; 4810-AM-P; 8070-01-P

April 15, 2015

MEMORANDUM TO: The Board of Directors

FROM:

Doreen R. Eberley 
Director, Division of Risk Management Supervision

SUBJECT:

Final Rule:
Minimum Requirements for Appraisal Management Companies

Summary of Staff Recommendation

Staff recommends that the Board of Directors (Board) of the Federal Deposit Insurance Corporation (FDIC) approve the attached Final Rule entitled *Minimum Requirements for Appraisal Management Companies* (FR) and authorize publication of the FR in the *Federal Register*. The FR would be issued jointly by the FDIC, the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRB), the National Credit Union Administration (NCUA), the Bureau of Consumer Financial Protection, and the Federal Housing Finance Agency (collectively, the Agencies).

The FR implements minimum requirements for State registration and supervision of appraisal management companies (AMCs), as set forth in section 1473 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (DFA). The FR also implements the requirement in section 1473 for States to report information to the Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC) for the ASC to administer the new national registry of AMCs. The FR will also make technical changes to the FDIC's Rules and Regulations to eliminate redundancy by integrating FDIC supervised State savings associations, streamlining FDIC rules, and rescinding the former Office of Thrift Supervision (OTS) appraisal rule located at Part 390, Subpart X.

Background

Section 1473 of the DFA added a new section 1124 to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) that established minimum requirements to be applied in the registration and supervision of AMCs. The statute and proposed rule set forth the minimum requirements that a participating State must follow in having an agency register and supervise AMCs, which would permit an AMC to provide appraisal management services in connection with Federally related transactions within the State.

Section 1473 of the DFA also created a new national registry of AMCs (AMC National Registry) to be administered by the ASC and requires participating States to report AMC registration information to the ASC to support the AMC National Registry. The AMC National Registry will include AMCs that are either: (1) registered with and subject to supervision by a State appraiser certifying and licensing agency; or (2) subsidiaries owned and controlled by insured depository institutions and regulated by a Federal financial institution regulatory agency. Currently, no FDIC-supervised institutions own AMCs that meet this definition.

Under section 1124 of Title XI, the Agencies are directed to establish, by rule, minimum requirements to be imposed by a participating State agency on AMCs doing business in that State. The minimum requirements will apply to any entity that meets the definition of an AMC.

Effective Date: Participating States will have 36 months from the time the Agencies issue the final AMC rules to set up AMC registration and supervision systems consistent with the FR's minimum standards. The ASC, with FFIEC approval, may extend the deadline for participating States to establish an AMC registration and supervision system for 12 months, if it makes a finding that a participating State has made substantial progress toward implementation of such a system. The rule does not explicitly require a State to establish an AMC registration and supervision program. However, after the effective date, no entity meeting the definition of an AMC may provide appraisal management services in connection with a Federally related transaction in a State that has elected not to participate or in a participating State that has not implemented a compliant AMC registration and supervision system. Federally regulated AMCs must comply with the minimum requirements no later than 12 months from the effective date of the FR.

In addition to these changes, Title III of the DFA transferred the powers, duties, and functions formerly performed by the OTS, the Federal entity previously responsible for the supervision of savings associations and their holding companies, to: the FDIC, as to State savings associations; the OCC, as to Federal savings associations; and the FRB, as to savings and loan holding companies. The OTS was abolished on October 19, 2011. On June 14, 2011, the FDIC's Board approved the reissuance and re-designation of certain transferred regulations of the former OTS applicable to State savings associations through an interim final rule. FDIC staff recommends that the transferred OTS appraisal rule located at Part 390, Subpart X, be removed and rescinded.

Summary of the NPR

Per the statutory definition, an AMC is a an external third-party that oversees a network or panel of more than 15 certified or licensed appraisers in a State or 25 or more nationally within a given year that provides certain appraisal management services in connection to valuing a consumer's principal dwelling securing a consumer credit transaction. The notice of proposed rulemaking (NPR) required all AMCs to register with the State, except for a Federally regulated AMC, which is an AMC owned and controlled by an insured depository institution AND regulated by a Federal banking regulator.

The NPR also required each state electing to register AMCs to:

- Establish and maintain an AMC licensing program with the legal authority and mechanisms to:
 - (1) Review and approve or deny an AMC's application for initial registration;
 - (2) Review and renew or review and deny an AMC's registration periodically;
 - (3) Examine the books and records of an AMC operating in the State and require the AMC to submit reports, information, and documents;
 - (4) Verify that only licensed or certified appraisers are used for Federally related transactions;

- (5) Conduct investigations of AMCs to assess potential violations of applicable appraisal-related laws, regulations, or orders;
 - (6) Discipline, suspend, terminate, or deny renewal of the registration of an AMC that violates applicable appraisal-related laws, regulations, or orders; and
 - (7) Report an AMC's violation of applicable appraisal-related laws, regulations, or orders, as well as disciplinary and enforcement actions and other relevant information about an AMC's operations, to the Appraisal Subcommittee.
- Impose requirements on AMCs to:
 - (1) Register with and be subject to supervision by the State appraiser certifying and licensing agency;
 - (2) Engage only State-certified or State-licensed appraisers for Federally related transactions in conformity with any Federally related transaction regulations;
 - (3) Establish and comply with processes and controls reasonably designed to ensure that the AMC, in engaging an appraiser, selects an appraiser who is independent of the transaction and who has the requisite education, expertise, and experience necessary to competently complete the appraisal assignment for the particular market and property type;
 - (4) Direct the appraiser to perform the assignment in accordance with Uniform Standards of Professional Appraisal Practice (USPAP); and
 - (5) Establish and comply with processes and controls reasonably designed to ensure that the AMC conducts its appraisal management services in accordance with the requirements of section 129E(a)-(i) of the Truth in Lending Act, 15 U.S.C. § 1639e(a)-(i), and regulations thereunder.

Federally regulated AMCs must comply with items (2) through (5) above. The NPR noted that the AMC minimum standards do not affect the responsibility of banks, Federal savings associations, State savings associations, bank holding companies, and credit unions to comply with applicable regulations and guidance concerning appraisals.

Key Definitions

The NPR proposed to define a number of terms for purposes of implementing the requirements of section 1473. Some of the more important terms to be defined included "appraisal management company," "appraisal management services," "appraiser panel," and "secondary mortgage market participant." The NPR would have applied only to AMCs providing appraisal management services related to a covered transaction.

One request for comment in the NPR related to the definition of an "appraisal panel." The majority of States that have adopted AMC registration laws (or that have proposed such laws) considered an "appraisal panel" to include only independent contractors, which reflects the model AMC code

developed by a trade association for appraisers. However, a model code developed by a trade association for AMCs and adopted by a minority of States defined “appraiser panel” more broadly to also include entities that perform appraisals directly using their employees or partners as opposed to AMCs that hire independent contractors and provide appraisal management services. It was the Agencies’ opinion that Section 129E of TILA, as added by the DFA, differentiates between AMCs and appraisal firms, as it defines a fee appraiser, in part, as an organization that, in the ordinary course of business, employs State-licensed or State-certified appraisers to perform appraisals, receives a fee for performing appraisals, and is not a company subject to the requirements of section 1124 of FIRREA (is not an AMC).

It also was the Agencies’ opinion, as set forth in the NPR, that an appraisal firm made up of appraisers who are employees or partners of the firm should not be treated as an AMC because of the differences in the business models of AMCs and appraisal firms. This difference is reflected in the definition of “appraisal management services” in section 1473, which focuses on administrative tasks related to appraisals that AMCs provide to third parties. In addition, section 1124 uses the term “Appraisal Management Company,” which is generally understood to refer to an entity that performs appraisal management services by retaining appraisers as independent contractors.

The Agencies requested comment on the distinction drawn between employees and independent contractors as a basis for excluding appraisal firms from the definition of an AMC. The Agencies also proposed that a “hybrid” entity, which both hires appraisers as employees to perform appraisals and engages independent contractors to perform appraisals, be treated as an AMC if it oversees more than 15 State-certified or State-licensed appraisers in a State or 25 or more State-certified or State-licensed appraisers in two or more States within a given year (the numerical test).

Minimum AMC Requirements and Implementation Issues

The NPR provided parameters for determining whether, within a given year, an AMC meets the numerical test. The NPR also defined minimum requirements for State registration and supervision of AMCs and Federally regulated AMCs (an AMC that is a subsidiary owned and controlled by a financial institution and regulated by a federal financial institution regulatory agency). In addition, the NPR proposed to implement the section 1473 requirement to establish reporting requirements to the ASC for States that establish AMC registration and supervision systems.

Integration of OTS Appraisal Rules with FDIC’s Part 323

The FDIC proposed the rescission and removal of 12 C.F.R. Part 390, Subpart X of the former OTS rules entitled *Appraisals*. The proposed rescission of Part 390, Subpart X completes the FDIC’s review of this subpart of the OTS rules for rescission, amendment, or adoption. This subpart was included in the regulations that were transferred to the FDIC from the OTS on July 21, 2011, in connection with the abolition of the OTS pursuant to Title III of the DFA. The requirements for State savings associations in the former OTS rule are substantively the same as the requirements for State nonmember banks. Upon removal of Part 390, Subpart X, the appraisal regulations applicable to all insured depository institutions for which the FDIC has been designated the appropriate supervisory Federal banking agency (including State savings associations) will be found in Part 323 of the FDIC Rules and Regulations.

Summary of the Final Rule

The agencies collectively received 255 comment letters, with 88 unique comments. The FR is substantially the same as the NPR except for the following revisions.

Independent Contractor Definition

In response to the comments received, the FR revises the standard for determining whether an appraiser is an independent contractor based on whether the appraiser is treated as an independent contractor by the AMC for federal income taxation purposes.

AMC/Appraisal Firm Distinction

As proposed in the NPR, the FR distinguishes between AMCs and appraisal firms based on their respective use of fee appraisers and employees. In addition to the statutory definition of fee appraiser in Section 129E of TILA, other differences between AMCs and appraisal firms are cited in the FR's preamble to support the distinction. The FR notes that relevant DFA statutory language specifically addresses AMCs, but conversely does not mention appraisal firms. Moreover, while an AMC provides appraisal management services, that is, all services in connection with an appraisal with the exception of performing the actual appraisal itself, an appraisal firm will itself perform an appraisal through the use of an employee.

Further, while AMCs were not subject to regulatory oversight prior to enactment of the DFA, appraisal firms were already subject to supervision via the State credentialing process and application of the Uniform Standards of Professional Appraisal Practice. Each employee appraiser must pay a registration fee to the State or States where that appraiser practices. An AMC will only become subject to a registration fee requirement once State registration and supervision regulations become effective pursuant to the DFA. As proposed in the NPR, the FR provides for coverage of "hybrid" firms, meaning entities that both hire appraisers as employees to perform appraisals and engage independent contractors to perform appraisals. Finally, the FR notes that the majority of commenters who responded to this issue supported the exclusion of appraisal firms.

AMC Panel Threshold Size

The FR clarifies that the counting of appraisers for the purpose of determining the panel threshold size for an AMC will be based on the number of appraisers listed on the roster who are potentially available to perform appraisals and not on the number of appraisers actually engaged to perform appraisals. The FR notes that the counting of appraisers for the purpose of determining the panel threshold does not control or affect the counting of appraisers for purposes of payment of the ASC fee. As such, it is the ASC, and not the Agencies promulgating this rule, that will determine how to calculate and pay the ASC fee.

TILA Cross-References Removed From Definitions

The FR removes cross-references to TILA from the definitions section. This was done so States will not have to update, clarify, or amend State laws as TILA is amended over time, thus reducing their burden.

AMC Registration Limits Clarified

The FR clarifies that AMC registration limits for individuals who have had their licenses refused, denied, cancelled, surrendered, or revoked do not apply if a license has been revoked for non-substantive reasons or reinstated. For example, if an appraiser has a license revoked due to failure to pay a fee on time, but is then reinstated after paying the fee, the registration limits would not apply.

AMC Credit Union Service Organizations

The FR clarifies that an AMC credit union service organization is not considered to be a Federally regulated AMC and therefore would be regulated by the State or States in which it operates. This interpretation is in accord with the NCUA's position on the issue.

Trainee Appraisers Not Barred

The FR clarifies AMCs may engage appraisers who use trainee appraisers to assist on assignments.

Other State-Related Issues

The FR specifies that Federally regulated AMCs will report the information required for the AMC National Registry directly to the States, because every State already has an appraiser certifying and licensing agency and a process for providing such information to the ASC. The FR also states that a State is not barred from collecting a fee from Federally regulated AMCs to offset the cost of collecting the ASC fee and reporting information. The Agencies added this clarification to address potential concerns some commenters raised about an unfunded mandate being imposed on a State.

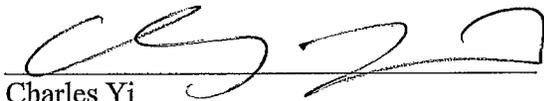
As provided for by the DFA, participating States will have up to three years from the FR's effective date to establish registration and supervisory systems meeting the minimum requirements for AMC registration and supervision.

OTS Rules Integration

As proposed in the NPR, the FR rescinds and removes Part 390, Subpart X, thus completing the FDIC's review of this subpart of the OTS rules. Under the FR, appraisal regulations applicable to all insured depository institutions for which the FDIC has been designated the appropriate supervisory Federal banking agency (including State savings associations) will be found in Part 323 of FDIC Rules and Regulations. In rescinding and removing Part 390, Subpart X, the FDIC will eliminate the unnecessary regulations in accordance with section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act (12 U.S.C. § 3311).

Recommendation: Staff recommends that the Board approve the attached Resolution to adopt and authorize for publication in the *Federal Register* the attached FR.

Concur:



Charles Yi
General Counsel

RMS Contact: Suzy Gardner, Risk Management Supervision (X83640)

Legal Contacts: Mark Mellon, Counsel (X83884)

Ben Gibbs, Senior Regional Attorney (678-916-2458)

Attachments

Appraisal Subcommittee
Federal Financial Institutions Examination Council

Bulletin No. 2015-01

Issue Date: June 17, 2015

To: State Appraiser Regulatory Officials

Subject: State Registration and Supervision of
Appraisal Management Companies (AMCs)

Purpose

The Appraisal Subcommittee (ASC) is issuing this Bulletin to provide information regarding registration and supervision of AMCs (State AMC Programs). This Bulletin addresses the following:

- ASC Oversight of State AMC Programs
- State Registration and Supervision of AMCs
- The National Registry of AMCs (AMC Registry)
- Federally regulated AMCs¹
- Statutory Implementation Period

Background

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act)² added section 1124, *Appraisal Management Company Minimum Requirements*, to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989³ (Title XI). Section 1124 required the Office of the Comptroller of the Currency (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); National Credit Union Administration (NCUA); Bureau of Consumer Financial Protection (Bureau); and Federal Housing Finance Agency (FHFA) (collectively, the agencies) to establish, by rule, minimum requirements for State registration and supervision of AMCs.⁴ In accordance with the statute, the agencies recently issued a final rule (referred to as the AMC Rule) which was published on June 9, 2015, at 80 *Federal Register* 32658 (June 9, 2015) with an effective date of August 10, 2015.

¹ This refers to AMCs that are subsidiaries owned and controlled by an insured depository institution and regulated by a Federal financial institutions regulatory agency.

² Pub. L. 111-203, 124 Stat. 1376.

³ Pub. L. 101-73, 103 Stat. 183; 12 U.S.C. 3353.

⁴ 12 U.S.C. 3353(a). The statute also directed those agencies to issue regulations concerning the reporting of information to the ASC for purposes of maintaining the AMC Registry.

ASC Oversight of State AMC Programs

States are not required to establish an AMC registration and supervision program. For those States electing to participate in the registration and supervision of AMCs, the ASC staff will informally monitor the State's progress to implement the requirements of the AMC Rule.

Formal ASC oversight of State AMC Programs will begin at the next regularly scheduled Compliance Review of a State after the following occurs:

- (1) the AMC Registry is operational; and
- (2) a participating State establishes a registration and supervisory program with appropriate AMC oversight authority and begins registering AMCs on the AMC Registry.

Upon expiration of the statutory implementation period (*see below* Statutory Implementation Period), Compliance Reviews will include ASC oversight of AMC Programs for any State with an AMC Program.

Participating States may establish requirements in addition to those in the AMC Rule. Participating States may also have a more expansive definition of AMC. However, if a participating State has a more expansive definition of AMCs than in the AMC Rule (thereby encompassing State regulation of AMCs that are not within the definition of AMC in the AMC Rule), the State must ensure such non-Federally recognized AMCs are identified as such in the State database.

State Registration and Supervision of AMCs

If a State chooses to participate in the registration and supervision of AMCs (participating State), the State will be required to comply with the AMC Rule. This Bulletin summarizes the provisions of the AMC Rule that participating States will need to implement as part of their AMC programs. States should refer to the AMC Rule for compliance requirements.

Minimum Requirements

In summary, the AMC Rule includes requirements for participating States to:

- (a) Establish and maintain a program with the legal authority and mechanisms to:
 - (1) Review and approve or deny AMC applications and/or renewals for registration;
 - (2) Examine records of AMCs and require AMCs to submit information;
 - (3) Verify that appraisers on AMCs' panels hold valid State credentials;
 - (4) Conduct investigations of AMCs for potential violations of appraisal-related laws, regulations, or orders;
 - (5) Discipline AMCs that violate appraisal-related laws, regulations, or orders; and

(6) Report appraisal-related violations of AMCs, as well as discipline or enforcement actions to the ASC.

(b) Impose requirements on AMCs to:

- (1) Register with and be subject to supervision by the participating State (except for Federally regulated AMCs);
- (2) Engage only State certified or State licensed appraisers for Federally related transactions;
- (3) Establish and comply with processes and controls to ensure AMCs engage competent and independent appraisers;
- (4) Require USPAP compliance; and
- (5) Require compliance with the requirements of section 129E(a) through (i) of the Truth in Lending Act, 15 U.S.C. 1639e(a) through (i), and regulations thereunder.

Ownership limitations

Participating States will also be required to comply with the ownership limitations set forth in the AMC Rule. In summary, the AMC Rule includes ownership limitations that could result in a prohibition for an AMC from being registered by a State or included on the AMC Registry under certain circumstances, and also sets forth exceptions to the prohibition. Other statutory ownership limitations are also addressed in the AMC Rule.

AMC Registry

In the future to aid the States in implementing the AMC Rule, the ASC will provide additional guidance by issuing supplements to this Bulletin to address the following:

- (1) When the AMC Registry will be open for participating States;
- (2) Reporting requirements (information required to be submitted by States in order to register AMCs on the AMC Registry); and
- (3) AMC registry fees after Notice and Request for Comment in the *Federal Register*.

Federally Regulated AMCs

Federally regulated AMCs must comply with the minimum requirements for providing appraisal management services no later than 12 months from the effective date of the AMC Rule. Compliance for providing and remitting information and AMC registry fees is subject to notification regarding the availability of the AMC Registry and the procedures for doing so. Participating States are not required to identify Federally regulated AMCs operating in their States, but rather the Federal financial institution regulatory agencies are responsible for requiring such AMCs to identify themselves to participating States and report required information.

Statutory Implementation Period

The AMC Rule sets forth the statutory implementation period. In summary, beginning 36 months after the effective date of the AMC Rule, an AMC may not provide services for a Federally related transaction in a non-participating State unless the AMC is a Federally regulated AMC. The ASC, with the approval of the Federal Financial Institutions Examination Council (FFIEC), may extend this period for an additional 12 months if the ASC makes a finding that the State has made substantial progress toward implementing a registration and supervision program for AMCs that meets the standards of Title XI.⁵

For further information, contact James R. Park, Executive Director, at (202) 595-7575 or Jim@ASC.gov, or Alice M. Ritter, General Counsel, at (202) 595-7577 or Alice@ASC.gov.

Sincerely,

\s\ Arthur Lindo

Arthur Lindo
ASC Chairman

⁵ 12 U.S.C. 3353(f)(2).

TEXAS APPRAISER LICENSING & CERTIFICATION BOARD
APPRAISAL MANAGEMENT COMPANY (AMC) FIRST TIER AUDIT CHECKLIST

1104.203. PROHIBITED PRACTICES

Category 1: Improper Influence

| No. | Compliance | | | Statute/Board Rule | Requirement |
|--|--------------------------|--------------------------|--------------------------|-----------------------|--|
| | Yes | No | N/A | | |
| 7a. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 1104.203(a)(1) | (a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (1) cause or attempt to cause the appraised value of a property assigned under an appraisal to be based on any factor other than the independent judgment of the appraiser; |
| Comment: | | | | | |
| <u>Only Independent Judgment; 1104.203(a)(1)</u> | | | | | |
| <u>Risk Issue:</u> Confirm that an AMC is not influencing the appraised value of a property. | | | | | |
| <u>Justification to Audit:</u> Appraiser independence is integral to appraisal regulation, integrity of the appraisal profession and the soundness of the real estate market and economy. | | | | | |
| <u>Documentation Needed:</u> | | | | | |
| <ul style="list-style-type: none"> • Select a random and independent number of assignments from a given time period and analyze for compliance with this prohibited practice. • Records of communications between appraiser and AMC. • Policies and Procedures addressing appraiser independence. • If necessary, signed statements from parties with knowledge of the relevant facts. • Appraisal order documents. • Payment records, if applicable. • Questionnaire to appraiser panel member for prohibited practices. | | | | | |
| <u>Compliance Determination:</u> Staff would analyze records of the appraisal order, communications and policies/procedures to ensure appraiser independence. | | | | | |
| 7b. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 1104.203(a)(2) | (a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (2) cause or attempt to cause the mischaracterization of the appraised value of a property in conjunction with a consumer credit transaction; |
| Comment: | | | | | |
| <u>Not Mischaracterize; 1104.203(a)(2)</u> | | | | | |
| <u>Risk Issue:</u> | | | | | |

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| | | | | | <p>Confirm that an AMC is not causing the mischaracterization of the appraised value of a property.</p> <p><u>Justification to Audit:</u> Appraiser independence is integral to appraisal regulation, integrity of the appraisal profession and the soundness of the real estate market and economy.</p> <p><u>Documentation Needed:</u></p> <ul style="list-style-type: none"> • Select a random and independent number of assignments from a given time period and analyze for compliance with this prohibited practice. • Records of communications between appraiser and AMC. • Policies and Procedures addressing appraiser independence. • If necessary, signed statements from parties with knowledge of the relevant facts. • Appraisal order documents. • Appraisal report submitted and any and all drafts. <p><u>Compliance Determination:</u> Staff would analyze records of communications and policies/procedures to ensure appraiser independence.</p> |
| 7c. | Yes | No | N/A | 1104.203(a)(3) | <p>(a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not:</p> <p style="padding-left: 20px;">(3) seek to influence an appraiser or otherwise to encourage a targeted value in order to facilitate the making or pricing of a consumer credit transaction;</p> |
| Comment: | <p><u>No Targeted Value; 1104.203(a)(3)</u></p> <p><u>Risk Issue:</u> Confirm that an AMC is not encouraging a targeted value.</p> <p><u>Justification to Audit:</u> Appraiser independence is integral to appraisal regulation, integrity of the appraisal profession and the soundness of the real estate market and economy.</p> <p><u>Documentation Needed:</u></p> <ul style="list-style-type: none"> • Select a random and independent number of assignments from a given time period and analyze for compliance with this prohibited practice. • Records of communications between appraiser and AMC. • If necessary, signed statements from parties with knowledge of the relevant facts. • Appraisal order documents. • Appraisal report submitted and any and all drafts. <p><u>Compliance Determination:</u> Staff would analyze records of communications and policies/procedures to ensure appraiser independence.</p> | | | | |

| Category 2: Improper Alteration of Appraisal Report | | | | |
|--|--|---------------------------------------|--|--|
| 7d. | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> | <div style="text-align: center;">1104.203(a)(4)</div> <p>(a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not:</p> <p style="padding-left: 40px;">(4) alter, modify, or otherwise change a completed appraisal report submitted by an appraiser by:</p> <p style="padding-left: 80px;">(A) altering or removing the appraiser's signature or seal; or</p> <p style="padding-left: 80px;">(B) adding information to, removing information from, or changing information contained in the appraisal report, including any disclosure submitted by an appraiser in or with the report;</p> |
| Comment: | <p><u>No Change Completed Appraisal Report; 1104.203(a)(4)</u></p> <p><u>Risk Issue:</u> Confirm that an AMC is not altering, modifying or changing a completed appraisal report.</p> <p><u>Justification to Audit:</u> Unaltered appraisal reports are integral to appraisal independence, integrity of the appraisal profession and the soundness of the real estate market and economy.</p> <p><u>Documentation Needed:</u></p> <ul style="list-style-type: none"> Select a random and independent number of assignments from a given time period and analyze for compliance with this prohibited practice. Copy of appraisal submitted to AMC and copy of appraisal submitted to client by AMC. All records associated with assignment. If necessary, signed statements from parties with knowledge of the relevant facts. <p><u>Compliance Determination:</u></p> <ul style="list-style-type: none"> Staff would analyze the appraiser's copy of the appraisal report and analyze a copy of the reports submitted to the client. Staff would also analyze all the records submitted to the client. | | | |
| Category 3: Improper Requests | | | | |
| 7e. | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> | <div style="text-align: center;">1104.203(a)(5)</div> <p>(a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not:</p> <p style="padding-left: 40px;">(5) condition the request for an appraisal or the payment of an appraisal fee, salary, or bonus on the opinion, conclusion, or valuation to be reached, or on a preliminary estimate or opinion requested from an appraiser;</p> |
| Comment: | <p><u>No Conditional Assignments; 1104.203(a)(5)</u></p> <p><u>Risk Issue:</u> Confirm that an AMC is not imposing conditions for a preliminary estimate or opinion of value.</p> | | | |

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|---|------------------------------|-----------------------------|------------------------------|--|
| <p><u>Justification to Audit:</u> Appraiser independence is integral to appraisal regulation.</p> <p><u>Documentation Needed:</u></p> <ul style="list-style-type: none"> Select a random and independent number of assignments from a given time period and analyze for compliance with this prohibited practice. Records of communications between appraiser and AMC. If necessary, signed statements from parties with knowledge of the relevant facts. Appraisal order documents. Payment records, if applicable. Financial institution records, if applicable. <p><u>Compliance Determination:</u> Staff would analyze records of communications and policies/procedures to ensure appraiser independence.</p> | | | | |
| 7f. | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A | <p style="text-align: center;">1104.203(a)(6)</p> <p>(a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not:</p> <p style="margin-left: 40px;">(6) request that an appraiser provide an estimated, predetermined, or desired valuation in an appraisal report, or provide estimated values or comparable sales at any time before the appraiser's completion of an appraisal;</p> |
| <p>Comment: <u>No Requesting Predetermined Values; 1104.203(a)(6)</u></p> <p><u>Risk Issue:</u> Confirm that an AMC is not requesting valuations, estimated values, or comparable sales prior to the completion of an appraisal.</p> <p><u>Justification to Audit:</u> Appraiser independence is integral to appraisal regulation, integrity of the appraisal profession and the soundness of the real estate market and economy.</p> <p><u>Documentation Needed:</u></p> <ul style="list-style-type: none"> Select a random and independent number of assignments from a given time period and analyze for compliance with this prohibited practice. Records of communications between appraiser and AMC. If necessary, signed statements from parties with knowledge of the relevant facts. Appraisal order documents. <p><u>Compliance Determination:</u> Staff would analyze records of communications and policies/procedures to ensure appraiser independence.</p> | | | | |
| Category 4: Improper Incentives | | | | |
| 7g. | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A | <p style="text-align: center;">1104.203(a)(7)</p> <p>(a) An appraisal management company or an employee, director, officer, or agent of an appraisal</p> |

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| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | management company may not: (7) provide to an appraiser an anticipated, estimated, encouraged, or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except that a copy of the sales contract for a purchase transaction may be provided; |
| Comment: | <p><u>No Providing Desired Valuation; 1104.203(a)(7)</u></p> <p><u>Risk Issue:</u> Confirm that an AMC is not encouraging a desired value for a subject property.</p> <p><u>Justification to Audit:</u> Appraiser independence is integral to appraisal regulation, integrity of the appraisal profession and the soundness of the real estate market and economy.</p> <p><u>Documentation Needed:</u></p> <ul style="list-style-type: none"> • Select a random and independent number of assignments from a given time period and analyze for compliance with this prohibited practice. • Records of communications between appraiser and AMC. • If necessary, signed statements from parties with knowledge of the relevant facts. • Appraisal order documents. <p><u>Compliance Determination:</u> Staff would analyze records of communications and policies/procedures to ensure appraiser independence.</p> | | | | |
| 7h. | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> | 1104.203(a)(8) | (a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (8) make any part of the appraiser's fee or the appraisal management company's fee contingent on a favorable outcome, including: (A) a loan closing; or (B) a specific valuation being achieved by the appraiser in the appraisal report; |
| Comment: | <p><u>No Contingent Fees on Valuation; 1104.203(a)(8)</u></p> <p><u>Risk Issue:</u> Confirm that an AMC is not making and appraiser's fee contingent on a favorable outcome.</p> <p><u>Justification to Audit:</u> Appraiser independence is integral to appraisal regulation, integrity of the appraisal profession and the soundness of the real estate market and economy.</p> <p><u>Documentation Needed:</u></p> <ul style="list-style-type: none"> • Select a random and independent number of assignments from a given time period and analyze for compliance with this prohibited practice. | | | | |

| | | | | <ul style="list-style-type: none"> • Records of communications between appraiser and AMC. • Records of the fee paid to the appraiser. • If necessary, signed statements from parties with knowledge of the relevant facts. • Appraisal order documents. • Payment records, if applicable. • Financial institution records, if applicable. <p><u>Compliance Determination:</u> Staff would analyze records of communications to ensure appraiser’s fee was not contingent on a favorable outcome.</p> | | | | | |
|--------------------------|--|--------------------------|----|--|--------------------------|--------------------------|--------------------------|-----------------------|--|
| 7i. | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 33%;">Yes</th> <th style="width: 33%;">No</th> <th style="width: 33%;">N/A</th> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table> | Yes | No | N/A | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 1104.203(a)(9) | <p>(a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not:</p> <p style="padding-left: 20px;">(9) withhold or threaten to withhold timely payment for an appraisal report or appraisal services rendered when the appraisal report or services are provided in accordance with the contract between the parties;</p> |
| Yes | No | N/A | | | | | | | |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | | | | | | |
| Comment: | <p><u>No Improper Withholding of Fee; 1104.203(a)(9)</u></p> <p><u>Risk Issue:</u> Confirm that an AMC is timely paying appraisers.</p> <p><u>Justification to Audit:</u> Timely payment is integral to the AMC’s duty to facilitate appraisals.</p> <p><u>Documentation Needed:</u></p> <ul style="list-style-type: none"> • Select a random and independent number of assignments from a given time period and analyze for compliance with this prohibited practice. • Records of communications between appraiser and AMC. • Records involving the appraiser’s payment. • If necessary, signed statements from parties with knowledge of the relevant facts. • Appraisal order documents. • Payment records, if applicable. • Payment policy, if applicable. • Financial institution records, if applicable. | | | | | | | | |

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| | | | | <p><u>Compliance Determination:</u> Staff would analyze records of communications to ensure the timely payment of the appraiser's fee.</p> | |
| 7j. | Yes | No | N/A | 1104.203(a)(10) | <p>(a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (10) withhold or threaten to withhold future business from an appraiser;</p> |
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | |
| Comment: | | <p><u>No Improper Withholding of Future Business; 1104.203(a)(10)</u></p> <p><u>Risk Issue:</u> Confirm that an AMC is not withholding for threatening to withhold future business from an appraiser.</p> <p><u>Justification to Audit:</u> Appraiser independence is integral to appraisal regulation, integrity of the appraisal profession and the soundness of the real estate market and economy.</p> <p><u>Documentation Needed:</u></p> <ul style="list-style-type: none"> • Select a random and independent number of assignments from a given time period and analyze for compliance with this prohibited practice. • Records of communications between appraiser and AMC. • If necessary, signed statements from parties with knowledge of the relevant facts. • Appraisal assignments to an appraiser, if applicable <p><u>Compliance Determination:</u> Staff would analyze records of communications to ensure no business was withheld or threatened to be withheld.</p> | | | |
| 7k. | Yes | No | N/A | 1104.203(a)(11) | <p>(a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (11) demote or terminate or threaten to demote or terminate an appraiser;</p> |
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | |
| Comment: | | <p><u>No Improper Demotion or Termination; 1104.203(a)(11)</u></p> <p><u>Risk Issue:</u> Confirm that and AMC is not demoting or terminating or threatening to demote or terminate appraisers.</p> <p><u>Justification to Audit:</u> Appraiser independence is integral to appraisal regulation, integrity of the appraisal profession and the soundness of the real estate market and economy.</p> <p><u>Documentation Needed:</u></p> <ul style="list-style-type: none"> • Select a random and independent number of assignments from a given time period and analyze for compliance with this prohibited practice. • Records of communications between appraiser and AMC. | | | |

| | | | | | |
|-----------------|--|---------------------------------------|--|---|---|
| | | | | <ul style="list-style-type: none"> • If necessary, signed statements from parties with knowledge of the relevant facts. • Applicable employment records from employment file, if employee <p><u>Compliance Determination:</u> Staff would analyze records of communications to ensure AMC is not demoting or terminating or threatening to demote or terminate appraisers.</p> | |
| 7l. | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> | 1104.203(a)(12) | (a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (12) expressly or impliedly promise future business, promotions, or increased compensation for an appraiser; |
| Comment: | | | | <p><u>No Improper Future Business; 1104.203(a)(12)</u></p> <p><u>Risk Issue:</u> Confirm that an AMC is not promising future business, promotions or increased compensation for appraisers.</p> <p><u>Justification to Audit:</u> Appraiser independence is integral to appraisal regulation, integrity of the appraisal profession and the soundness of the real estate market and economy.</p> <p><u>Documentation Needed:</u></p> <ul style="list-style-type: none"> • Select a random and independent number of assignments from a given time period and analyze for compliance with this prohibited practice. • Records of communications between appraiser and AMC. • If necessary, signed statements from parties with knowledge of the relevant facts. <p><u>Compliance Determination:</u> Staff would analyze records of communications to ensure is not promising future business, promotions or increased compensation for appraisers.</p> | |
| 7m. | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> | 1104.203(a)(13) | (a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (13) provide to an appraiser, or any person related to the appraiser, stock or other financial or nonfinancial benefits; |
| Comment: | | | | <p><u>No Improper Financial Incentive; 1104.203(a)(13)</u></p> <p><u>Risk Issue:</u> Confirm that an AMC is providing any benefits, aside from the appraiser fee.</p> <p><u>Justification to Audit:</u> Appraiser independence is integral to appraisal regulation, integrity of the appraisal profession and the soundness of the real estate market and economy.</p> | |

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| <p><u>Documentation Needed:</u></p> <ul style="list-style-type: none"> • Select a random and independent number of assignments from a given time period and analyze for compliance with this prohibited practice. • Records of communications between appraiser and AMC. • If necessary, signed statements from parties with knowledge of the relevant facts. • Appraisal order documents • Payment records, if applicable • Financial institution records, if applicable <p><u>Compliance Determination:</u> Staff would analyze records of communications to ensure that the AMC is not providing any benefits to the appraiser.</p> | | | | |
| 7n. | <p>Yes</p> <input type="checkbox"/> | <p>No</p> <input type="checkbox"/> | <p>N/A</p> <input type="checkbox"/> | <p style="text-align: center;">1104.203(a)(14)</p> <p>(a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (14) allow the removal of an appraiser from an appraisal panel, without prior written notice to the appraiser;</p> |
| <p>Comment: <u>No Panelist Removal Without Prior Notice; 1104.203(a)(14)</u></p> <p><u>Risk Issue:</u> Confirm that the AMC is not removing the appraiser from an appraisal panel, without prior written notice.</p> <p><u>Justification to Audit:</u> Appraiser independence is integral to appraisal regulation, integrity of the appraisal profession and the soundness of the real estate market and economy.</p> <p><u>Documentation Needed:</u></p> <ul style="list-style-type: none"> • Select a random and independent number of assignments from a given time period and analyze for compliance with this prohibited practice. • Records of communications between appraiser and AMC. • Records regarding the appraiser’s removal from the appraisal panel. • If necessary, signed statements from parties with knowledge of the relevant facts. • Board records for panel member additions and deletions • Analyze documents reviewed under appraiser panel audit requirements for this prohibited practice as well <p><u>Compliance Determination:</u> Staff would analyze records of communications to ensure that the AMC was not removing appraisers, without prior written notice.</p> | | | | |
| 7o. | <p>Yes</p> <input type="checkbox"/> | <p>No</p> <input type="checkbox"/> | <p>N/A</p> <input type="checkbox"/> | <p style="text-align: center;">1104.203(a)(15)</p> <p>(a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (15) obtain, use, or pay for a second or subsequent appraisal or order an automated valuation model in connection with a mortgage financing transaction unless:</p> |

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| | | | | | (A) there is a reasonable basis to believe that the initial appraisal was flawed or tainted and that basis is clearly and appropriately noted in the loan file; (B) the subsequent appraisal or automated valuation model is done under a bona fide pre-funding or post-funding appraisal review or quality control process; or (C) the subsequent appraisal or automated valuation model is otherwise required or permitted by federal or state law; |
| Comment: | <u>No Improper Second Appraisal; 1104.203(a)(15)</u> | | | | |
| | <p><u>Risk Issue:</u> Confirm that the AMC is not obtaining subsequent appraisals or automated valuation model; unless, the initial appraisal was flawed, the subsequent appraisal or automated valuation model is a quality control process, or required by federal or state law.</p> <p><u>Justification to Audit:</u></p> <ul style="list-style-type: none"> Appraiser independence is integral to appraisal regulation, integrity of the appraisal profession and the soundness of the real estate market and economy. Value shopping diminishes the appraisal process. <p><u>Documentation Needed:</u></p> <ul style="list-style-type: none"> Select a random and independent number of assignments from a given time period and analyze for compliance with this prohibited practice. Records from the AMC regarding the specified mortgage finance transaction. Statement from AMC regarding the order of a subsequent appraisal or automated valuation. Record of appraisal orders from the AMC for a given time period. Appraisal order documents. Appraisal reports submitted and any and all drafts. Financial institution records, if applicable. <p><u>Compliance Determination:</u> Staff would analyze records to ensure that the AMC was not ordering subsequent appraisals or automated valuation models, unless it was necessary.</p> | | | | |
| 7p. | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> | 1104.203(a)(16) | (a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (16) prohibit legal and allowable communication between the appraiser and: (A) the lender; (B) a real estate license holder; or (C) any other person from whom the appraiser, in the appraiser's own professional judgment, believes information would be relevant; |
| Comment: | <u>No Improper Prohibition on Communication; 1104.203(a)(16)</u> | | | | |

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| | | | | | <p><u>Risk Issue:</u> Confirm that the AMC is not prohibiting legal and allowable communication.</p> <p><u>Justification to Audit:</u> The acquisition of information is integral to the appraisal process.</p> <p><u>Documentation Needed:</u></p> <ul style="list-style-type: none"> • Select a random and independent number of assignments from a given time period and analyze for compliance with this prohibited practice. • Records from the AMC and appraiser regarding the specified appraisal. • If necessary, statements from parties with knowledge of the relevant facts. <p><u>Compliance Determination:</u> Staff would analyze records to ensure that the AMC is not prohibiting legal and allowable communication.</p> |
| 7q. | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> | 1104.203(a)(17) | <p>(a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not:</p> <p>(17) refuse to accept an appraisal report prepared by more than one appraiser if an appraiser provides substantial assistance to another appraiser in the preparation of the report, unless the appraisal assignment names an individual appraiser or the statement of work requires an unassisted report;</p> |
| Comment: | <p><u>No Refusing Assisted Report Unless Assignment Condition; 1104.203(a)(17)</u></p> <p><u>Risk Issue:</u> Confirm that the AMC is not refusing to accept an appraisal if an appraiser provides substantial assistance.</p> <p><u>Justification to Audit:</u> The collaboration of appraisers may be necessary to complete the assignment.</p> <p><u>Documentation Needed:</u></p> <ul style="list-style-type: none"> • Select a random and independent number of assignments from a given time period and analyze for compliance with this prohibited practice. • Records from the AMC and appraiser regarding the specified appraisal. • If necessary, statements from parties with knowledge of the relevant facts. • Appraisal order documents <p><u>Compliance Determination:</u> Staff would analyze records to ensure that the AMC is not refusing to accept an appraisal if appraiser provides substantial assistance.</p> | | | | |
| 7r. | Yes | No | N/A | 1104.203(a)(18)(A) | <p>(a) An appraisal management company or an employee, director, officer, or agent of an appraisal</p> |

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| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | management company may not: (18) require an appraiser to: (A) prepare an appraisal report if the appraiser, in the appraiser's own professional judgment, believes the appraiser does not have the necessary expertise for the specific geographic area and the appraiser has notified the company of this belief; |
| Comment: | <p><u>No Forced Incompetency in Appraising; 1104.203(a)(18)(A)</u></p> <p><u>Risk Issue:</u> Confirm that the AMC is not requiring appraisers to prepare a report if the appraisers believe they do not have geographic expertise for the specific geographic area.</p> <p><u>Justification to Audit:</u> Competency is a necessary component of appraisal practice and required by USPAP. This requirement is critical in upholding the integrity of the appraisal profession.</p> <p><u>Documentation Needed:</u></p> <ul style="list-style-type: none"> • Select a random and independent number of assignments from a given time period and analyze for compliance with this prohibited practice. • Records from the AMC and appraiser regarding the specified appraisal. • If necessary, statements from parties with knowledge of the relevant facts. • Appraisal order documents. • Appraiser data source membership documents. • License holder information from the Board and if appropriate, other States. • National Registry check. <p><u>Compliance Determination:</u> Staff would analyze records to ensure that AMC is not requiring appraisers to prepare a report if the appraisers believe they do not have geographic expertise for the specific geographic area.</p> | | | | |
| 7s. | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> | 1104.203(a)(18)(B) | (a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (18) require an appraiser to: (B) prepare an appraisal report under a schedule that the appraiser, in the appraiser's own professional judgment, believes does not afford the appraiser the ability to meet all the relevant legal and professional obligations if the appraiser has notified the company of this belief; |
| Comment: | <p><u>No Improper Rushing; 1104.203(a)(18)(B)</u></p> <p><u>Risk Issue:</u> Confirm that the AMC is not requiring appraisers to prepare a report if the appraisers believe they cannot meet all the relevant legal and professional</p> | | | | |

| | | | | | <p>obligations.</p> <p><u>Justification to Audit:</u> Appraiser independence is integral to appraisal regulation, integrity of the appraisal profession and the soundness of the real estate market and economy.</p> <p><u>Documentation Needed:</u></p> <ul style="list-style-type: none"> • Select a random and independent number of assignments from a given time period and analyze for compliance with this prohibited practice. • Records from the AMC and appraiser regarding the specified appraisal. • If necessary, statements from parties with knowledge of the relevant facts. • Appraisal order documents. <p><u>Compliance Determination:</u> Staff would analyze records to ensure that AMC is not requiring appraisers to prepare a report if the appraisers believe they cannot meet all the relevant legal and professional obligations.</p> | | | | | |
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| 7t. | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 33%;">Yes</th> <th style="width: 33%;">No</th> <th style="width: 33%;">N/A</th> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table> | Yes | No | N/A | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 1104.203(a)(18)(C) | | <p>(a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not:</p> <p style="padding-left: 20px;">(18) require an appraiser to:</p> <p style="padding-left: 40px;">(C) provide the appraisal management company with the appraiser's digital signature or seal;</p> |
| Yes | No | N/A | | | | | | | | |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | | | | | | | |
| Comment: | <p><u>No Demanding Digital Signature; 1104.203(a)(18)(A)</u></p> <p><u>Risk Issue:</u> Confirm that the AMC is not requiring appraisers to provide their digital signature or seal.</p> <p><u>Justification to Audit:</u> Identity fraud diminishes the public trust in the appraisal process.</p> <p><u>Documentation Needed:</u></p> <ul style="list-style-type: none"> • Select a random and independent number of assignments from a given time period and analyze for compliance with this prohibited practice. • Records from the AMC and appraiser regarding the specified incident. • If necessary, statements from parties with knowledge of the relevant facts. • Appraisal report. • Appraisal order documents. • Employment agreement or independent contract agreement and correspondence, if applicable. <p><u>Compliance Determination:</u> Staff would analyze records to ensure that AMC is not requiring appraisers to provide their digital signatures or seal.</p> | | | | | | | | | |

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| 7u. | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> | 1104.203(a)(18)(D) (a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (18) require an appraiser to: (D) modify any aspect of an appraisal report without the appraiser's agreement that the modification is appropriate; |
| Comment: | <u>No Modification with Appraiser Agreement; 1104.203(a)(18)(D)</u> <u>Risk Issue:</u> Confirm that the AMC is not requiring appraisers to modify an appraisal report without the appraiser's agreement. <u>Justification to Audit:</u> Appraiser independence is integral to appraisal regulation. <u>Documentation Needed:</u> <ul style="list-style-type: none"> • Select a random and independent number of assignments from a given time period and analyze for compliance with this prohibited practice. • Records from the AMC regarding the specified appraisal. • If necessary, statements from parties with knowledge of the relevant facts. • Appraisal order documents. • Appraisal report submitted and any and all drafts. <u>Compliance Determination:</u> Staff would analyze records to ensure that AMC is not requiring appraisers to modify an appraisal report without the appraiser's agreement. | | | |
| 7v. | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> | 1104.203(a)(18)(E) (a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (18) require an appraiser to: (E) engage in any act or practice that does not comply with: (i) the Uniform Standards of Professional Appraisal Practice; or (ii) any assignment conditions and certifications required by the client; |
| Comment: | <u>No Improper Demands for Acts or Practices; 1104.203(a)(18)(E)</u> <u>Risk Issue:</u> Confirm that the AMC is not requiring appraisers to engage in any act or practice that does not comply with USPAP or assignment conditions. <u>Justification to Audit:</u> Appraiser independence is integral to appraisal regulation, integrity of the appraisal profession and the soundness of the real estate market and economy. | | | |

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| | <u>Documentation Needed:</u> | | | |
| | <ul style="list-style-type: none"> Select a random and independent number of assignments from a given time period and analyze for compliance with this prohibited practice. Records from the AMC regarding the specified appraisal. If necessary, statements from parties with knowledge of the relevant facts. Appraisal order documents. | | | |
| | <u>Compliance Determination:</u> | | | |
| | Staff would analyze records to ensure that AMC is not requiring appraisers to engage in any act or practice that does not comply with USPAP or assignment conditions. | | | |
| 7w. | Yes | No | N/A | 1104.203(a)(18)(F) (a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (18) require an appraiser to: (F) engage in any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, or impartiality; |
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| Comment: | <p><u>No Other Improper Demands for Acts or Practices; 1104.203(a)(18)(F)</u></p> <p><u>Risk Issue:</u> Confirm that the AMC is not requiring appraisers to engage in any activity that impairs or attempts to impair and appraiser's independence, objectivity, or impartiality.</p> <p><u>Justification to Audit:</u> Appraiser independence is integral to appraisal regulation, integrity of the appraisal profession and the soundness of the real estate market and economy.</p> <p><u>Documentation Needed:</u></p> <ul style="list-style-type: none"> Select a random and independent number of assignments from a given time period and analyze for compliance with this prohibited practice. Records from the AMC regarding the specified appraisal. If necessary, statements from parties with knowledge of the relevant facts. Appraisal order documents. Appraisal report and any and all drafts. <p><u>Compliance Determination:</u> Staff would analyze records to ensure that AMC is not requiring appraisers to engage in any activity that impairs or attempts to impair and appraiser's independence, objectivity, or impartiality.</p> | | | |
| 7x. | Yes | No | N/A | 1104.203(a)(18)(G) (a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (18) require an appraiser to: |
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |

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| | | | | | (G) enter into an agreement to not serve on the panel of another appraisal management company; |
| Comment: | <p><u>No Improper Demands for Exclusive Contracting; 1104.203(a)(18)(G)</u></p> <p><u>Risk Issue:</u> Confirm that the AMC is not requiring appraisers to not serve on panels of other AMCs.</p> <p><u>Justification to Audit:</u> Anticompetitive behavior devalues the appraisal industry.</p> <p><u>Documentation Needed:</u></p> <ul style="list-style-type: none"> • Select a random and independent number of assignments from a given time period and analyze for compliance with this prohibited practice. • Records from the AMC regarding the specified incident. • If necessary, statements from parties with knowledge of the relevant facts. • Employment agreement or independent contract agreement and correspondence, if applicable. <p><u>Compliance Determination:</u> Staff would analyze records to ensure that AMC is not requiring appraisers to not serve on panels of other AMCs.</p> | | | | |
| 7y. | Yes | No | N/A | | <p>(a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not:</p> <p style="padding-left: 40px;">(18) require an appraiser to:</p> <p style="padding-left: 80px;">(H) indemnify or hold harmless the appraisal management company against liability except liability for errors and omissions by the appraiser; or</p> |
| Comment: | <p><u>No Improper Demand for Indemnification; 1104.203(a)(18)(H)</u></p> <p><u>Risk Issue:</u> Confirm that the AMC is not requiring appraisers to indemnify or hold harmless the AMC against liability.</p> <p><u>Justification to Audit:</u> Appraiser’s liability is limited to errors and omissions and this improperly shifts the burden of mandatory reporting and compliance to the appraiser from the AMC.</p> <p><u>Documentation Needed:</u></p> <ul style="list-style-type: none"> • Select a random and independent number of assignments from a given time period and analyze for compliance with this prohibited practice. • Records from the AMC regarding the specified incident. • If necessary, statements from parties with knowledge of the relevant facts. • Appraisal order documents • Employment agreement or independent contract agreement and correspondence, if applicable. | | | | |

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| | | | | <p><u>Compliance Determination:</u> Staff would analyze records to ensure that AMC is not requiring appraisers to indemnify or hold harmless the AMC against liability.</p> | |
| 7z. | Yes | No | N/A | 1104.203(a)(18)(I) | <p>(a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (18) require an appraiser to: (I) pay a fee imposed on the appraisal management company under Section 1104.052.</p> |
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | |
| Comment: | | <p><u>No Improper Demands for Appraiser Fee; 1104.203(a)(18)(I)</u></p> <p><u>Risk Issue:</u> Confirm that the AMC is not requiring appraisers to pay a fee imposed on the AMC company.</p> <p><u>Justification to Audit:</u> Fees are paid by the AMC.</p> <p><u>Documentation Needed:</u></p> <ul style="list-style-type: none"> • Select a random and independent number of assignments from a given time period and analyze for compliance with this prohibited practice. • Records from the AMC regarding the specified incident. • If necessary, statements from parties with knowledge of the relevant facts. • Payment records made to the agency. • Financial institution documents, if applicable. <p><u>Compliance Determination:</u> Staff would analyze records to ensure that AMC is not requiring appraisers to pay a fee imposed on the AMC.</p> | | | |

ADDENDUM

CHAPTER 1104

Sec. 1104.155. PROFESSIONAL STANDARDS. An appraisal management company registered under this chapter shall on a periodic basis perform an appraisal review of the work of appraisers performing appraisal services for the company to ensure that the services comply with:

- (1) the edition of the Uniform Standards of Professional Appraisal Practice in effect at the time of the appraisal; or
- (2) other standards prescribed by board rule.

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(e) MANDATORY REPORTING.—Any mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, or any other person involved in a real estate transaction involving an appraisal in connection with a consumer credit transaction secured by the principal dwelling of a consumer who has a reasonable basis to believe an appraiser is failing to comply with the Uniform Standards of Professional Appraisal Practice, is violating applicable laws, or is otherwise engaging in unethical or unprofessional conduct, shall refer the matter to the applicable State appraiser certifying and licensing agency.

FNMA FORM 2006, RESIDENTIAL APPRAISAL REVIEW SHORT FORM

SCOPE OF REVIEW: The scope of this review is limited to the information being provided by the original appraiser; form an opinion as to the apparent adequacy and relevance of the data and the propriety of any adjustments to the data; form an opinion as to the appropriateness of the appraisal methods and techniques used and develop the reasons for any disagreement; form an opinion as to whether the analyses, opinions, and conclusions in the report under review are appropriate and reasonable, and develop the reasons for any disagreement.

Fannie Mae Form 2000, One-Unit Residential Appraisal Field Review Report

The scope of work for this appraisal field review is defined by the complexity of the appraisal report under review and the reporting requirements of this report form, including the following statement of assumptions and limiting conditions, and certifications. The review appraiser must, at a minimum: (1) read the entire appraisal report under review, (2) perform a visual inspection of the exterior areas of the subject property from at least the street, (3) inspect the neighborhood, (4) inspect each of the comparable sales from at least the street, (5) perform data research and analysis to determine the appropriateness and accuracy of the data in the appraisal report, (6) research, verify, and analyze data from reliable public and/or private sources, (7) determine the accuracy of the opinion of value, and (8) assume the property condition reported in the appraisal report is accurate unless there is evidence to the contrary. If the review appraiser determines that the opinion of value in the report under review is not accurate, he or she is required to provide an opinion of market value. The review appraiser is not required to replicate the steps completed by the original appraiser that the review appraiser believes to be reliable and in compliance with the applicable real property appraisal development standards of the Uniform Standards of Professional Appraisal Practice. Those items in the appraisal report under review are extended to this report by the use of an extraordinary assumption, which is identified in Section II, Question 2. If the review appraiser determines that the opinion of value is not accurate, he or she must present additional data that has been researched, verified, and analyzed to produce an accurate opinion of value in accordance with the applicable sections of Standard 1 of the Uniform Standards of Professional Appraisal Practice.

Freddie Mac Form 1033, One-Unit Residential Appraisal Desk Review Report

The scope of work for this appraisal desk review is defined by the complexity of the appraisal report under review and the reporting requirements of this report form, including the following statement of assumptions and limiting conditions, and certifications. The review appraiser must, at a minimum: (1) read the entire appraisal report under review, (2) perform data research and analysis to determine the appropriateness and accuracy of the data in the appraisal report, (3) research, verify, and analyze data from reliable public and/or private sources, (4) determine the accuracy of the opinion of value, and (5) assume the property condition reported in the appraisal report is accurate unless there is evidence to the contrary.

Interagency Appraisal and Evaluation Guidelines, December 2010

1-to-4 Family Residential Real Estate. The reviews for residential real estate transactions should reflect a risk-focused approach that is commensurate with the size, type, and complexity of the underlying credit transaction, as well as loan and portfolio risk characteristics. These risk factors could include debt-to-income ratios, loan-to-value ratios, level of documentation, transaction dollar amount, or other relevant factors. With prior approval from its primary Federal regulator, an institution may employ various techniques, such as automated tools or sampling methods, for performing pre-funding reviews of appraisals or evaluations supporting lower risk residential mortgages. When using such techniques, an institution should maintain sufficient data and employ appropriate screening parameters to provide adequate quality assurance and should ensure that the work of all appraisers and persons performing evaluations is periodically reviewed. In addition, an institution should establish criteria for when to expand the depth of the review.

An institution may use sampling and audit procedures to verify the seller's representations and warranties that the appraisals for the underlying loans in a pool of residential loans satisfy the Agencies' appraisal regulations and are consistent with supervisory guidance and an institution's internal policies. If an institution is unable to confirm that the appraisal meets the Agencies' appraisal requirements, then the institution must obtain an appraisal prior to engaging in the transaction.

TEXAS ADMINISTRATIVE CODE

TITLE 22

PART 8 Texas Appraiser Licensing and Certification Board

CHAPTER 159 Rules Relating to the Provisions of the Texas Appraisal Management Company Registration and Regulation Act

RULE §159.155 Periodic Review of Appraisals

(a) A license holder must 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 USPAP of:

(1) one of the first five appraisals performed for the license holder 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 will 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 the AMC Act, 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.~~

Comment [Ma1]: "appropriate data sources" is too broad and is covered under Scope.

(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.~~

Comment [Ma2]: This language is already in 1104.155 almost verbatim but in 1104 it has "or other standards..." so this may change the intent.

(g) In order to satisfy the requirements of §1104.155 of the AMC Act, this rule and USPAP, the review's Scope should be sufficient to ensure that methods, assumptions, data sources, and conclusions are reasonable and appropriate. a license holder 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;~~

~~—(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 USPAP edition 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 edition 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.