

PUBLIC

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Maureen K. Ohlhausen, Acting Chairman
Terrell McSweeney



In the Matter of

Louisiana Real Estate Appraisers Board,
Respondent

DOCKET NO. 9374

COMPLAINT COUNSEL'S MOTION FOR PARTIAL SUMMARY DECISION
DISMISSING RESPONDENT'S FOURTH AFFIRMATIVE DEFENSE

Geoffrey M. Green
Assistant Director

Lisa B. Kopchik
Christine M. Kennedy
Michael J. Turner
Kathleen Clair
Attorneys

Federal Trade Commission
Bureau of Competition
600 Pennsylvania Ave., N.W.
Washington, DC 20580
Facsimile: (202) 326-3496
Telephone: (202) 326-3139
Email: LKopchik@ftc.gov

Counsel Supporting the Complaint

Dated: February 6, 2018

**COMPLAINT COUNSEL’S MOTION FOR PARTIAL SUMMARY DECISION
DISMISSING RESPONDENT’S FOURTH AFFIRMATIVE DEFENSE
AND [PROPOSED] ORDER**

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

Please take notice that, pursuant to Federal Trade Commission Rule of Practice 3.24, Complaint Counsel hereby respectfully move for partial summary decision in this action.

By this Motion, Complaint Counsel seek partial summary decision dismissing Respondent’s Fourth Affirmative Defense, which involves the regulatory compliance defense. This justification fails as a matter of law.

Respondent is a state agency controlled by a panel of real estate appraisers licensed by the Respondent itself. As alleged in the Complaint, Respondent has elected to regulate the fees that appraisal management companies must pay to real estate appraisers for appraisal services. By fixing the prices for appraisal services, Respondent interferes with the free market, unreasonably restrains price competition among appraisers, and thus violates Section 5 of the FTC Act.

Respondent has asserted that “LREAB has acted in good faith to comply with federal regulatory mandates” (Affirmative Defense No. 4).

Complaint Counsel seeks entry of an Order granting partial summary decision on Respondent’s Fourth Affirmative Defense.

This Motion is supported by the accompanying Memorandum and the authorities cited therein. For the reasons set forth in the accompanying Memorandum, this motion should be granted. A Proposed Order is attached.

Dated: February 6, 2018

Respectfully submitted,

/s/ Geoffrey M. Green
Geoffrey M. Green
Lisa B. Kopchik
Christine M. Kennedy
Michael J. Turner
Kathleen Clair
Attorneys

Federal Trade Commission
Bureau of Competition
600 Pennsylvania Ave., N.W.
Washington, DC 20580
Facsimile: (202) 326-3496
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[PROPOSED] ORDER

Having carefully considered Complaint Counsel's Motion for Partial Summary Decision Dismissing Respondent's Fourth Affirmative Defense, Respondent Louisiana Real Estate Appraisers Board's Opposition thereto, and Complaint Counsel's Reply, and all supporting and opposing declarations and other evidence, and the applicable law, it is hereby ORDERED AND ADJUDGED, that Respondent's Fourth Affirmative Defense fails as a matter of law, and Complaint Counsel's Motion for Partial Summary Decision as to this issue is hereby GRANTED.

Chief Administrative Law Judge Chappell is hereby directed to receive and consider all of the parties' evidence on all other factual and legal allegations in the Administrative Complaint. *See* Section 3.24(a)(5) of the Commission's Rules of Practice, 16 C.F.R. § 3.24(a)(5).

ORDERED:

By the Commission.

Donald S. Clark
Secretary

SEAL

ISSUED:

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BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Maureen K. Ohlhausen, Acting Chairman
Terrell McSweeney

In the Matter of

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DOCKET NO. 9374

MEMORANDUM OF LAW IN SUPPORT OF
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DISMISSING RESPONDENT'S FOURTH AFFIRMATIVE DEFENSE

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Kathleen Clair
Attorneys

Federal Trade Commission
Bureau of Competition
600 Pennsylvania Ave., N.W.
Washington, DC 20580
Telephone: (202) 326-3139
Email: LKopchik@ftc.gov

Counsel Supporting the Complaint

Dated: February 6, 2018

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INTRODUCTION

This case challenges conduct of the Louisiana Real Estate Appraisers Board (“Respondent”) that unreasonably restrains price competition for real estate appraisal services provided to appraisal management companies (“AMCs”). Respondent asserts, as its Fourth Affirmative Defense, that it has “acted in good faith to comply” with the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank”), and hence that its conduct is exempt from antitrust liability. This motion for summary decision addresses the validity of Respondent’s good faith regulatory compliance defense, focusing on the categorical inapplicability of this defense in the regulatory context presented here. Respondent is trying to drive a square peg into a round hole. Respondent’s Fourth Affirmative Defense is without merit and should be dismissed.¹

Respondent is a state agency controlled by a panel of licensed real estate appraisers, and is empowered by state law to regulate aspects of the real estate appraisal industry in Louisiana. As alleged in the Complaint, since 2013, Respondent has elected to regulate the fees that AMCs must pay to real estate appraisers for appraisal services. By fixing the fees paid for appraisal services, Respondent interferes with the free market, unreasonably restrains price competition among appraisers, and thus violates Section 5 of the FTC Act.

Respondent claims that its actions, although not compelled by federal law, are shielded from antitrust scrutiny by virtue of the so-called “regulatory compliance defense.” This defense has been upheld only where multiple conditions are satisfied: (1) where there is a conflict between a federal regulatory statute and antitrust law, (2) the defendant is a regulated entity, (3) the challenged conduct is the defendant’s reasonable and good faith effort to comply with the

¹ Complaint Counsel’s earlier Motion for Partial Summary Decision, dated November 27, 2017, requested dismissal of Respondent’s Third and Ninth Affirmative Defenses.

regulatory statute, and (4) a federal agency has the authority to review and, if appropriate, correct the defendant's performance of its obligations. *See Southern Pacific Commc'ns Co. v. AT&T*, 740 F.2d 980 (D.C. Cir. 1984); *Phonetele v. AT&T*, 664 F.2d 716 (9th Cir. 1981). In this regulatory context, courts have sometimes viewed the imposition of antitrust liability on top of the regulatory penalties to which the defendant is exposed as unfair or unneeded. *See Phonetele*, 664 F.2d at 741 n. 63.

The regulatory compliance defense is inapplicable here. Dodd-Frank and antitrust law do not conflict. Respondent is not a federally regulated entity. Dodd-Frank imposes no requirements upon Respondent. And no federal agency can require Respondent to alter its misconduct. For these reasons, Complaint Counsel respectfully asks the Commission to rule that Respondent's Fourth Affirmative Defense is not a valid defense to the Complaint.

I. **REGULATORY FRAMEWORK AND UNDISPUTED FACTS**

AMCs are independent companies engaged by lenders to retain real estate appraisers, and to obtain from these appraisers a valuation of real property. Statement of Undisputed Facts ¶¶ 14–15. This means that AMCs are often the direct customers of appraisers.

A. **Relevant Federal Law**

Congress enacted Dodd-Frank in 2010, in response to the financial crisis of 2007-08. Among other things, Dodd-Frank amended the Truth in Lending Act of 1968 ("TILA") to provide that lenders and their agents (including AMCs) "shall compensate fee appraisers at a rate that is customary and reasonable for appraisal services performed in the market area of the property being appraised." 111 P.L. 203, Section 1472, *codified at* 15 U.S.C. § 1639e (2010). This customary and reasonable fee provision is contained in TILA Section 129E.

In October 2010, the Board of Governors of the Federal Reserve System (“FRB”) issued an interim final rule implementing Section 129E. Federal Reserve System; Interim Final Rule, 75 Fed. Reg. 66,554 (Oct. 28, 2010) (codified at 12 C.F.R. Pt. 226). The Federal Reserve interpreted the customary and reasonable appraisal fee requirement to mean “that the marketplace should be the primary determiner of the value of appraisal services, and hence the customary and reasonable rate of compensation” for appraisers. *Id.* at 66,569. Further, the Federal Reserve instructed that this requirement “is not intended to prohibit a creditor and an appraiser from negotiating a rate for an assignment in good faith.” *Id.* The interim final rule sets forth two “presumptions of compliance” for lenders and AMCs to demonstrate that they are meeting the appraisal fee requirements. *Id.* at 66,568.²

Dodd-Frank also amended Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (“Title XI”). 111 P.L. 203, Section 1124, *codified at* 12 U.S.C. § 3353 (2010). Section 3353 requires the federal financial regulatory agencies to establish, by rule, minimum requirements for State registration and supervision of AMCs. *See* Appraisal Subcommittee, Bulletin No. 2015-01 at 1 (June 17, 2015), *available at* https://www.aaro.net/docs/Bulletin_No_2015-01_to_States_-_AMC_Rules.pdf. In accordance with the statute, in April 2015, the federal financial regulatory agencies issued the Minimum Requirements for Appraisal Management Companies Final Rule (“AMC Final Rule”). 12 C.F.R.

² Lenders and AMCs are presumed to be in compliance with customary and reasonable fee requirements if they pay appraisers an amount reasonably related to recent rates of compensation for comparable appraisal services performed in a given geographical market and make adjustments for the specific circumstances of each assignment (including the type of property, scope of work, and appraiser qualifications). *Id.* Alternatively, lenders and AMCs are presumed to comply if they set fees relying on objective third-party information, such as studies and surveys prepared by independent third parties. *Id.* The two identified presumptions of compliance are not the only permissible ways to comply with the customary and reasonable fee requirement under Dodd-Frank. If a lender or AMC arrives at an appraisal fee in another way, whether the fee is customary and reasonable shall depend upon all relevant facts and circumstances, without a presumption of either compliance or violation. *Id.*

Pt. 208, 225 (2015).³ The AMC Final Rule provides, *inter alia*, that any state that elects to register and supervise AMCs under Title XI must require each AMC operating in the state to “[e]stablish and comply with processes and controls reasonably designed to ensure that the AMC” compensates appraisers at a rate that is customary and reasonable. 12 C.F.R. § 225.193(b)(5) (2015).

The Appraisal Subcommittee (“ASC”), a small federal regulatory entity, has since 1989 been responsible for monitoring state programs for the regulation of appraisers. Statement of Undisputed Facts ¶¶ 49–50. Title XI as amended by Dodd-Frank expanded the ASC’s functions to include responsibility for monitoring programs established by states that elect to register and supervise the operations and activities of AMCs. *See generally* Appraisal Subcommittee of the Federal Financial Institutions Examination Council; Proposed Revised Policy Statements, 82 Fed. Reg. 43,966 (Sept. 20, 2017).⁴ This monitoring of state AMC programs has not yet formally commenced. Statement of Undisputed Facts ¶ 51.

In January 2017 and again in September 2017, the ASC issued for public comment proposed Policy Statements regarding the anticipated monitoring of state AMC programs. *Id.* ¶ 52. The proposed Policy Statements contemplate that the ASC’s obligation to monitor state AMC regulatory programs will be met primarily through periodic (annual or bi-annual) on-site

³ This citation refers to the Federal Reserve Board’s regulation. Each of the other bank regulatory agencies promulgated identically worded regulations. *See* 12 C.F.R. Pt. 34 (2015) (Department of Treasury); 12 C.F.R. Pt. 323 and 390 (2015) (Federal Deposit Insurance Corporation (“FDIC”)); 12 C.F.R. Pt. 1026 (2015) (Bureau of Consumer Financial Protection (“CFPB”)); and 12 C.F.R. Pt. 1222 (2015) (Federal Housing Finance Agency (“FHFA”)).

⁴ The Appraisal Subcommittee is a part of the Federal Financial Institutions Examination Council (“FFIEC”). . Statement of Undisputed Facts ¶ 49. The Appraisers Subcommittee includes officials from federal financial regulatory agencies (FRB, Office of the Comptroller of the Currency, FDIC, National Credit Union Association, CFPB, FHFA, and Department of Housing and Urban Development). As part of its monitoring role, the Appraisal Subcommittee maintains a national registry of state-licensed and state-certified appraisers who are eligible to perform appraisals in connection with federally regulated transactions. Beginning later in 2018, ASC will also maintain a national registry of AMCs that either are registered with, and subject to supervision by, a State appraiser certifying and licensing agency or are operating subsidiaries of a Federally regulated financial institution. *Id.* ¶¶ 50-51.

visits by ASC staff, referred to as a Compliance Review. *Id.* ¶ 53. ASC staff will “review a [representative] sampling of documentation” regarding the state’s AMC regulatory program. *Id.* ¶ 54. At the conclusion of this review, the ASC will issue a Compliance Review Report assessing the state’s “overall compliance, or lack thereof” with Title XI and the AMC Rule. *Id.*

Significant to the instant motion, Dodd-Frank “does not compel a State to establish an AMC registration and supervision program,” and no penalty is imposed on a State that does not establish a compliant regulatory structure for AMCs.⁵ However, after August 2018, an AMC may not provide services for a federally related transaction in a non-participating State unless the AMC is itself federally regulated. Proposed Revised Policy Statements, 82 Fed. Reg. at 43,980. “Appraisal management services may still be provided for federally related transactions in non-participating States by individual appraisers, by AMCs that are below the minimum statutory panel size threshold, and as noted, by Federally regulated AMCs.” *Id.*

In sum, Dodd-Frank contemplates a role for the ASC (a federal agency) and a role for *states* in regulating the appraisal industry. But Congress did *not* intend or contemplate that the regulation of appraisal fees would be controlled by private competitors acting in concert, or any similar displacement of the antitrust laws. Instead, Dodd-Frank includes a provision known as an “antitrust savings clause.” This provision instructs that: “Nothing in this Act . . . shall be

⁵ See 12 U.S.C. § 3346 (2011) (“[A] State *may* establish a State appraiser certifying and licensing agency. The duties of such agency *may* additionally include the registration and supervision of appraisal management companies”) (emphasis added); Federal Reserve System; Minimum Requirements for Appraisal Management Companies, Final Rule, 80 Fed. Reg. 32,658, 32,659 (June 9, 2015) (codified at 12 C.F.R. Pt. 208 and 225) (“[Dodd-Frank] does not compel a State to establish an AMC registration and supervision program, nor is a penalty imposed on a State that does not establish a regulating structure for AMCs within 36 months of issuance of this final rule.”); Appraisal Subcommittee, Bulletin No. 2015-01 at 2 (June 17, 2015), available at https://www.aaro.net/docs/Bulletin_No_2015-01_to_States_-_AMC_Rules.pdf (“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.”).

construed to modify, impair, or supersede the operation of any of any of the antitrust laws.” 12 U.S.C. § 5303 (2010).

B. Respondent’s Structure and Jurisdiction

Respondent is an agency of the state of Louisiana, created by the Louisiana Real Estate Appraisers Law (“Appraisers Law”), and charged with licensing and regulating both AMCs and real estate appraisers. Respondent is governed by a multi-member board, with each member appointed by the Governor and confirmed by the Senate. Statement of Undisputed Facts ¶ 1. The board makes decisions by majority vote. *Id.* ¶ 12.

The Appraisers Law specifies the composition of Respondent’s board. *Id.* ¶ 3. As of 2013, the Appraisers Law provided for a nine-member board. *Id.* Seven of the nine are identified as “appraiser members”: these must be Louisiana residents holding an appraiser’s license and “engaged in the general practice of real estate appraising in the state of Louisiana for not less than five years immediately preceding their appointment.” *Id.* ¶¶ 3–4.

The Appraisers Law was modified, effective August 2014, adding a tenth board member (and eighth appraiser member) to represent AMCs and making other modest changes. *Id.* ¶¶ 6–10. At all relevant times (2013 through 2016), a majority of Respondent’s board members were (i) state licensed appraisers, (ii) authorized to perform residential appraisals, and (iii) engaged in the practice of real estate appraising, either independently or as an employee of an appraisal company. *Id.* ¶ 13.

C. State Regulation of Real Estate Appraiser Fees

In 2012, the Louisiana legislature amended the then-existing AMC Law to require AMCs to “compensate appraisers at a rate that is customary and reasonable for appraisals being performed in the market area of the property being appraised.” *Id.* ¶ 19. Respondent is

empowered to promulgate regulations necessary for enforcement of this provision. *Id.* ¶ 17. Respondent is also empowered to investigate, censure, and discipline AMCs that violate its regulations. *Id.* ¶ 18.

In 2013, acting by majority vote of its board, Respondent approved Rule 31101, regulating the fees that AMCs shall pay to appraisers, and exposing to sanctions AMCs that fail to comply. *Id.* ¶ 20. Rule 31101 directs that an AMC must compensate appraisers at a rate that is “customary and reasonable for appraisal services in the market area of the property being appraised.” *Id.* ¶ 21. Further, an AMC must determine its customary and reasonable fee by one of three specified methods: (i) based on a survey of fees recently paid by lenders in the relevant geographic area; (ii) based on a fee schedule established by Respondent; or (iii) based on fees recently paid in the relevant geographic area, adjusting this base rate using six specified factors. *Id.*

Contemporaneously with approving Rule 31101, Respondent commissioned the Southeastern Louisiana University Business Research Center to conduct an online survey of “typical” appraisal fees paid by lenders to appraisers during 2012 for residential appraisals. *Id.* ¶ 22. In May 2013, Respondent posted on its website a report summarizing the survey results (“SLU Survey”). *Id.* ¶ 24. The survey report identifies median fees for five types of appraisals in each of nine geographic regions. *Id.* ¶ 26. Respondent updated the fee survey and the fee report three times (for appraisals performed in 2013, 2014, and 2016). *Id.* ¶ 25.

Respondent has enforced Rule 31101 in various ways. Respondent has investigated AMCs for allegedly failing to comply with the Rule 31101 customary and reasonable fee requirement. *Id.* ¶ 27. In at least one instance, Respondent settled an enforcement action against an AMC for allegedly failing to comply with the customary and reasonable fee requirement by

approving a Stipulation and Order stating that the AMC would “follow the current Louisiana fee schedule [median fees in the most recent SLU Survey] for a period of twelve (12) months.” *Id.* ¶¶ 28–33. In another instance, Respondent held an administrative hearing and found that an AMC violated Rule 31101. *Id.* ¶ 34–37. Respondent entered an order fining the AMC \$10,000 plus costs, and requiring the AMC to submit a compliance plan describing how it would comply with the rule in the future. *Id.* ¶¶ 38–40. Respondent rejected the AMC’s original proposed plan, and later accepted the AMC’s revised plan in which it committed to use median fees from the SLU Survey when it set fees. *Id.* ¶¶ 41–47. Other allegations of violations of Rule 31101 were resolved informally by Board staff when the AMC agreed to pay appraiser fees consistent with the SLU Survey. *Id.* ¶ 48.

No independent and disinterested state actor has actively supervised Respondent’s adoption of Rule 31101, or its actions to enforce this rule against AMCs. *See* Complaint Counsel’s Motion for Partial Summary Decision, *In re La. Real Estate Appraisers Bd.*, Docket No. 9374 (Nov. 27, 2017). (addressing Respondent’s state action defense).

Of greater relevance to the present motion: *No federal agency regulates Respondent.* No federal agency has reviewed or approved Respondent’s adoption of Rule 31101, or the actions that Respondent has taken to enforce this rule against AMCs.⁶

II. RESPONDENT’S ASSERTED REGULATORY COMPLIANCE DEFENSE

The Complaint in this action alleges that Respondent has unreasonably restrained price competition by adopting and enforcing Rule 31101. Respondent acknowledges that the customary and reasonable fee requirement results in the “displacement of competition in the

⁶ The Appraisal Subcommittee staff conducted Compliance Reviews of the Louisiana appraiser regulatory program on February 4-6, 2014, and again on February 2-4, 2016. Statement of Undisputed Facts ¶ 55. These reviews did not address the Louisiana AMC regulatory program. In each case, the Appraisal Subcommittee issued a Compliance Review Report on Louisiana’s regulation of appraisers. Neither Report references Respondent’s adoption of Rule 31101. *Id.* ¶¶ 55–56. Neither report references Respondent’s enforcement of Rule 31101. *Id.*

market for residential real estate appraisal services . . . rather than leaving such decisions solely to the marketplace.”⁷

Respondent raises the regulatory compliance defense in its Answer to the Complaint, stating: “4. [Respondent] has acted in good faith to comply with federal regulatory mandates.”⁸

Because all facts relevant to the regulatory compliance defense are undisputed, it is ripe for summary decision.

III. STANDARD FOR SUMMARY DECISION

Commission Rule of Practice 3.24 provides that a party may move for summary decision for “all or any part of the issues being adjudicated,” including the applicability of an affirmative defense. 16 C.F.R. § 3.24(a)(1). *See, e.g., In re N.C. Bd. Dental Exam’rs*, Docket No. 9343, 151 F.T.C. 607, 633 (Comm’n Op. and Order on Mot. Summ. J., Jan. 16, 2011) (granting summary decision that the state action defense did not apply). The standard for summary decision is “virtually identical” to that applied to a motion for summary judgment under Federal Rule of Civil Procedure 56. *Id.* at 610–11. Summary decision is appropriate where “the record taken as a whole could not lead a rational trier of fact to find for the nonmoving party,” and there is thus no “genuine issue for trial.” *Id.* (citing *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986)). “Once the moving party has adequately supported its motion, the nonmoving party must do more than simply show that there is some metaphysical doubt as to the material facts. It must instead establish specific facts showing that there is a genuine issue for trial.” *Id.* at 611 (citation, quotation marks omitted). If there is no genuine dispute as to any material fact “regarding liability or relief,” a final decision and order properly issues. 16 C.F.R. § 3.24(a)(2).

⁷ Memorandum of Points and Authorities in Support of Motion of Respondent Louisiana Real Estate Appraisers Board to Dismiss the Complaint, *In re La. Real Estate Appraisers Bd.*, Docket No. 9374, at 15 (Nov. 27, 2017).

⁸ Respondent’s Answer to the Complaint, *In re La. Real Estate Appraisers Bd.*, Docket No. 9374, at 12 (June 19, 2017).

A motion for summary decision can be particularly helpful in expediting resolution of a case when the sufficiency of a defense is at issue. For example, in *N.C. Dental*, the Commission determined that there was no genuine issue of material fact regarding “the propriety of the [respondent’s] invocation of the state action doctrine as an affirmative defense,” 151 F.T.C. at 609, and issued an Order dismissing respondent’s defense, *id.* at 633. *See also In the Matter of 1-800 Contacts, Inc.*, Docket No. 9372, (Comm’n Op. and Order on Mot. Summ. J., Feb. 1, 2017) (where complaint alleged that certain agreements in settlement of lawsuits violated Section 5, granting partial summary decision holding that *Noerr* defense does not apply, and rejecting defense that Complaint Counsel must prove that respondent’s lawsuits were objectively and subjectively unreasonable).

On a motion for summary decision on an affirmative defense, the Commission “need not determine whether [the respondent’s] activities violate the relevant antitrust laws.” *N.C. Dental*, 151 F.T.C. at 612. The Commission addresses only “whether [the respondent’s] conduct is exempt from antitrust scrutiny.” *Id.* at 611–12.

ARGUMENT

IV. GOOD FAITH REGULATORY COMPLIANCE DOES NOT SHIELD RESPONDENT’S CONDUCT FROM ANTITRUST LIABILITY

The good faith regulatory compliance defense (sometimes referred to as the “regulatory justification defense”) is a seldom-invoked offshoot of implied antitrust immunity, the body of case law addressing the impact of industry-specific regulation on antitrust enforcement. *See Phonetele*, 664 F.2d at 740–43 (discussing antecedents of regulatory compliance defense). In principle, a defendant asserting implied antitrust immunity is claiming that a federal regulatory agency compelled or authorized the conduct challenged in the complaint. *See generally Gordon v. N.Y. Stock Exch., Inc.*, 422 U.S. 659 (1975); *see also Phonetele*, 664 F.2d at 735; PHILLIP E.

AREEDA & HERBERT HOVENKAMP, ANTITRUST LAW ¶ 240b(1) (2017 Supplement). The regulatory compliance defense entails the more modest claim that the challenged conduct is the defendant's *reasonable effort* to comply with a regulatory scheme that conflicts with the antitrust laws and that such conduct is subject to adequate agency oversight. In other respects, as discussed below, the required elements of the two defenses overlap. The burden of establishing the regulatory compliance defense lies with the defendant. *See Phonetele*, 664 F.2d at 741 n. 63.

As detailed below, there is no necessary conflict between Dodd-Frank and the antitrust laws. The antitrust laws prohibit private actors (but not states) from engaging in certain anticompetitive conduct. The Dodd-Frank provisions relied on by Respondent encourage (but do not compel) states to supervise AMCs. Both statutes can be fully effectuated in Louisiana simply by placing the relevant supervisory authority for AMCs in the hands of a state (and not a private) actor. That Congress intended for Dodd-Frank to complement and not supplant the antitrust laws is confirmed by the inclusion in Dodd-Frank of an express antitrust saving clause. Pub. L. 111-203, Section 6, *codified at* 12 U.S.C. § 5303 (2010) (“Nothing in this Act, or any amendment made by this Act, shall be construed to modify, impair, or supersede the operation of any of the antitrust laws, unless otherwise specified.”); *see also* 156 CONG. REC. E1347-01, 2010 WL 2788137 (daily ed. July 15, 2010) (statement of Rep. Conyers) (“The final bill contains a number of provisions to ensure that the antitrust laws remain fully in effect. First and foremost is the antitrust savings clause in section 6 of the bill.”). *See also Verizon Commc’ns v. Trinko*, 540 U.S. 398, 406 (2004) (“[A]n antitrust-specific saving clause . . . bars a finding of implied immunity”).

The regulatory compliance defense developed in cases involving the telecommunications industry. *See Southern Pacific*, 740 F.2d at 980; *Phonetele*, 664 F.2d at 716. Prior to the 1982 break-up of the AT&T monopoly, AT&T was extensively regulated by the Federal

Communications Commission (“FCC”) acting pursuant to the Communications Act of 1934. 47 U.S.C. 151 *et seq.*⁹ The Communications Act imposed on AT&T certain qualified obligations to deal with would-be rivals and others, but these regulatory mandates often lacked specificity. AT&T’s compliance efforts were subject to *ex post* review by the FCC. If the FCC determined that the monopolist’s compliance efforts were deficient, the FCC could impose sanctions and bring AT&T into compliance. One recurring question was this: Is AT&T subject to antitrust liability for competitive harm occurring during an interval of (perhaps inadvertent) non-compliance with the regulatory regime? The regulatory compliance defense is a narrow limitation on the regulated monopolist’s antitrust liability for certain types of unauthorized but transient harm to competition. *See Southern Pacific*, 740 F.2d at 1009-10; *Phonetele*, 664 F.2d at 737-38.

The most recent judicial affirmation of the regulatory compliance defense appears more than thirty years ago in *Southern Pacific Commc’ns Co. v. AT&T*, 740 F.2d 980 (D.C. Cir. 1984). Under the Communications Act, AT&T was required to permit specialized common carriers to interconnect with AT&T’s local distribution facilities on reasonable terms and conditions, but only where such interconnection was “in the public interest.” *Id.* at 1009. AT&T filed a tariff with the FCC specifying terms and conditions of access applicable to the plaintiff, Southern Pacific. *Id.* at 1000, 1008. These restrictive tariff terms became effective, without FCC approval, while the agency conducted its review of the tariff. *Id.* at 1000-01. Ultimately, AT&T implemented “whatever the FCC mandated.” *Id.* at 988 n. 7 (*quoting Southern Pacific Commc’ns Co. v. AT&T*, 556 F. Supp. 825, 1096 (1982)). Nonetheless, Southern Pacific sued AT&T, alleging that the monopolist’s restrictive interconnection practices, during the “regulatory delay,” impeded Southern Pacific’s market entry, and unlawfully maintained

⁹ The regulatory scheme is described in *Phonetele*, 664 F.2d at 721-25, 733-34.

AT&T's monopoly. *Id.* at 1000. The D.C. Circuit concluded that AT&T could avoid antitrust liability by showing that its faulty tariff terms were both:

- (i) *objectively reasonable*: that AT&T had a reasonable basis in regulatory policy to conclude that denial of interconnection was required by the Communications Act; and
- (ii) *subjectively reasonable*: that AT&T made its decision to deny interconnection in good faith on the basis of its obligations under the Communications Act rather than on the basis of competitive considerations. *Id.* at 1009-10.¹⁰

In the present case, Complaint Counsel contends that Respondent's conduct is neither subjectively nor objectively reasonable as those terms are used in *Southern Pacific*. But in this motion, Complaint Counsel contends that Respondent's defense fails for more fundamental reasons. Summary decision is appropriate here because, as a matter of law and for three independent reasons, the regulatory compliance defense is not applicable to Respondent's conduct challenged in this lawsuit.

First, courts will affirm the regulatory compliance defense only where the standards of the antitrust law and those of the relevant regulatory statute actually or potentially conflict. *See Credit Suisse Securities (LLC) v. Billing*, 551 U.S. 264, 275 (2007) (implied immunity requires a "risk that the securities and antitrust laws, if both applicable, would produce conflicting guidance, requirements, duties, privileges, or standards of conduct"); *United States v. Nat'l Ass'n of Sec. Dealers, Inc.*, 422 U.S. 694 (1975) (recognizing implied immunity where antitrust law (forbidding resale price maintenance) and securities law (permitting resale price maintenance)

¹⁰ The relevance of the regulatory compliance defense has waned in recent years for several reasons. First, courts interpreting Sherman Act Section 2 have narrowed the scope of a monopolist's duty to cooperate with rivals. *See generally Trinko*, 540 U.S. at 398. A monopolist's non-compliance with a regulatory obligation is not automatically an exclusionary act, so there is a diminished need to invoke an affirmative defense. *Id.* at 406. Second, the Supreme Court has adopted a more expansive interpretation of the implied immunity defense. *See Credit Suisse Securities (LLC) v. Billing*, 551 U.S. 264 (2007). It is not clear whether today the regulatory compliance defense retains much or even any independent vitality. Nevertheless, for purposes of the present motion, Complaint Counsel assumes that the regulatory compliance defense is valid.

were in conflict); *Gordon*, 422 U.S. at 689 (recognizing implied immunity for sales commission rates approved by SEC where without antitrust immunity “the exchanges and their members” would be subject to “conflicting standards”); *Strobl v. New York Mercantile Exchange*, 768 F.2d 22, 27 (2d Cir. 1985) (“repeal of antitrust jurisdiction cannot be implied simply when the antitrust laws and the regulatory scheme overlap”). In the telecom cases, with regard to interconnection practices, there was a potential conflict between the Sherman Act (imposing on monopolist a qualified duty to deal) and the Communications Act (imposing on AT&T a duty to permit interconnection only in the public interest). *Southern Pacific*, 740 F.2d at 1009–10; *Phonetele*, 664 F.2d at 737–38; *Southern Pacific*, 556 F. Supp. at 975-76.

Here, the State of Louisiana can readily and fully implement Dodd-Frank without brushing up against federal antitrust law. Dodd-Frank encourages *states* (not private market participants) to regulate AMCs. Antitrust law proscribes only anticompetitive *private* conduct; state action is exempt.¹¹ It follows that any semblance of actual or potential conflict is avoided if the State of Louisiana itself regulates AMCs, as opposed to conferring unsupervised discretion over appraisal fees upon private market participants in the manner alleged in the Complaint. *See N. C. State Bd. of Dental Examiners v. F.T.C.*, 135 S. Ct. 1101, 1109–10 (2015). By way of example, there would be no statutory conflict if an independent state actor actively supervised and approved Respondent’s anticompetitive conduct. *Id.* at 1110–12. There would be no statutory conflict if Louisiana delegated regulatory authority over appraiser fees to a state agency that is *not* controlled by active market participants. *Id.* at 1112–14. And there would be no

¹¹ In *Parker v. Brown*, 317 U.S. 341 (1943), the Supreme Court held that the Sherman Act, 15 U.S.C. § 1, which bars “restraint[s] of trade,” should not be read to bar states from imposing market restraints “as an act of government.” *Id.* at 350, 352. The Court explained that “nothing in the language of the Sherman Act or in its history” suggested that Congress intended to restrict the sovereign states from regulating their economies. *Id.* at 350. Thus, states may, within certain limits, adopt and implement policies that would otherwise violate the Sherman Act.

statutory conflict if the state legislature itself enacted a price schedule governing appraiser fees. *See Parker v. Brown*, 317 U.S. 341, 350-52 (1943).¹²

As there is no statutory conflict here, there is no basis for sustaining Respondent's regulatory compliance defense. *See Pom Wonderful LLC v. Coca-Cola Co.*, 134 S. Ct. 2228, 2238 (2014) ("When two statutes complement each other, it would show disregard for the congressional design to hold that Congress nonetheless intended one federal statute to preclude the operation of the other."); *Morton v. Mancari*, 417 U.S. 535, 551 (1974) ("The courts are not at liberty to pick and choose among congressional enactments, and when two statutes are capable of co-existence, it is the duty of the courts, absent a clearly expressed congressional intention to the contrary, to regard each as effective."); *United States v. Borden Co.*, 308 U.S. 188, 198 (1939) ("When there are two acts upon the same subject, the rule is to give effect to both if possible."); *see also United States v. Philadelphia Nat'l Bank*, 374 U.S. 321, 352 (1963) (finding no conflict with the Bank Merger Act and applying the Clayton Act); *Strobl*, 768 F.2d at 27 (finding no conflict with the Commodity Exchange Act and applying the Sherman Act); *Meijer, Inc. v. Ranbaxy, Inc.*, No. 15-11828-NMG, 2016 U.S. Dist. LEXIS 120780, at *32-39 (D. Mass. June 16, 2016) (finding no conflict with the Food, Drug and Cosmetic Act and applying the Sherman Act).

Second, the regulatory compliance defense may be invoked only by a regulated entity – that is, by an entity obliged to comply with a regulatory scheme or face sanctions. *See Credit Suisse*, 551 U.S. at 276 (upholding implied immunity for securities underwriting firms where SEC possessed "considerable power" to "regulate virtually every aspect of the practices in which

¹² Respondent characterizes its conduct as state action, rather than unsupervised private action. This issue is addressed in Complaint Counsel's earlier-filed Motion For Partial Summary Decision on the state action defense. The bottom line is this: If Respondent's state action defense fails because the challenged restraints are attributable to private market participants, then the regulatory compliance defense likewise fails. If Respondent's state action defense succeeds, then the Commission need not reach the regulatory compliance defense.

underwriters engage”); AREEDA & HOVENKAMP, ANTITRUST LAW ¶ 246b (antitrust takes regulation into account where the regulated firm must “follow the regulatory agency’s mandates or else be subject to costly penalties”). In the telecom cases, AT&T was a regulated common carrier, compelled by the Communications Act to file tariffs with the FCC and to act on interconnection requests. As part of the regulatory scheme, if AT&T erred, the company could be ordered to comply and was liable for fines and damages. *See Southern Pacific*, 740 F.2d at 988 n.7, 1009–11; *Phonetele*, 664 F.2d at 721-22 & n.12, 737-38; *Southern Pacific*, 556 F. Supp. at 866, 887.

In contrast, an entity that acts as a matter of its own discretion (rather than legal compulsion) to promote a non-antitrust policy is not exempt from antitrust liability. In *National Gerimedical Hosp. & Gerontology Ctr. v. Blue Cross*, 452 U.S. 378 (1981), a new hospital alleged that Blue Cross violated the Sherman Act by rejecting its application to be a participating provider under a health insurance plan. Blue Cross defended by claiming that its actions furthered the goals of the National Health Planning and Resources Development Act, a federal statute designed to discourage the construction of unneeded medical facilities. *Id.* at 388. The Supreme Court rejected this defense. *Id.* at 391. The Court explained that, whereas conduct that arguably is compelled or approved by a governmental body may be exempt from antitrust review, acts of voluntary cooperation are not exempt. *Id.* Although Blue Cross “may well have acted here with only the highest of motives,” “there is no reason to believe that Congress specifically contemplated such ‘enforcement’ by private insurance providers.” *Id.* at 391–93; *see also Otter Tail Power Co. v. United States*, 410 U.S. 366, 374 (1973) (“When . . . relationships are governed in the first instance by business judgment and not regulatory coercion, courts must be hesitant to conclude that Congress intended to override the fundamental national policies

embodied in the antitrust law.”); *United States v. Radio Corp. of America*, 358 U.S. 334 (1959) (an exchange of radio stations implemented in exercise of business discretion, and approved by FCC as in the public interest, was subject to antitrust challenge); *United States v. Socony-Vacuum Oil Co.*, 310 U.S. 150, 225–26 (1940) (that federal officials knew of and acquiesced in private conduct does not create immunity); *Columbia Steel Casting Co., Inc. v. Portland Gen. Elec. Co.*, 111 F.3d 1427, 1445 (9th Cir. 1996) (rejecting regulatory compliance defense where division of territories by utilities was permitted by regulator but not required); *State of Ill. ex rel. Hartigan v. Panhandle Eastern Pipe Line Co.*, 730 F. Supp. 826, 933–34 (C.D. Ill. 1990) (regulatory compliance defense inapplicable to exercise of business discretion as contrasted with adherence to regulatory obligations).

Respondent is not a regulated entity. Although Dodd-Frank encourages *states* to implement an AMC regulatory program, neither Louisiana nor Respondent is required to do so.¹³ In fact, if Dodd-Frank actually compelled Respondent (or any state agency) to regulate the real estate appraisal industry, such statute would violate principles of federalism and hence be unconstitutional. *See Nat’l Fed’n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 577 (2012) (“[F]ederal legislation” may not “commandeer[] a State’s legislature or administrative apparatus for federal purposes.”); *New York v. United States*, 505 U.S. 144, 166 (1992) (“We have always understood that even where Congress has the authority under the Constitution to pass laws requiring or prohibiting certain acts, it lacks the power directly to compel the States to require or prohibit those acts. The allocation of power contained in the Commerce Clause, for example, authorizes Congress to regulate interstate commerce directly; it does not authorize Congress to regulate state governments’ regulation of interstate commerce.”).

¹³ *See supra* note 5 and accompanying text. A state may elect to participate in the federal program in order to enable AMCs to provide appraisal management services for in-state federally related transactions. *See* Proposed Revised Policy Statements, 82 Fed. Reg. at 43,980.

Third, the regulatory compliance defense is available only where a federal agency has and exercises the authority “to supervise the activities in question.” *Credit Suisse*, 551 U.S. at 275; *see also Gordon*, 422 U.S. at 668–77 (recognizing immunity where SEC review of challenged rate practices was active and deliberative). In the telecom cases, the challenged conduct was embodied in a tariff that AT&T was required to file with the FCC. The FCC had the authority to review each tariff filed by AT&T. Where a tariff was judged faulty or deficient, the FCC had the responsibility and authority to issue a cease and desist order requiring AT&T to comply with the Communications Act. Ultimately, AT&T was required to conform to regulatory requirements as interpreted by the FCC. *Southern Pacific*, 740 F.2d at 1009; *Phonetele*, 664 F.2d at 722; *Southern Pacific*, 556 F. Supp. at 985–86, 991.

The relationship between Respondent and the ASC is wholly different. Respondent’s enforcement actions against AMCs, challenged in the Complaint, have not been submitted by Respondent to the ASC for its review and approval. Instead, on an annual or bi-annual basis (beginning in 2018 or later), ASC staff will “review[] a sampling of documentation” regarding Louisiana’s AMC regulatory program, and on this basis assess the state’s “overall compliance” with Title XI and the AMC Rule. Proposed Revised Policy Statements, 82 Fed. Reg. at 43,982.

Where Respondent decides that an AMC is paying appraiser fees that are not customary and reasonable, the ASC will not supervise that determination. *See generally* Proposed Revised Policy Statements, 82 Fed. Reg. at 43,966 *et seq.* (describing the ASC’s compliance review process). And where an order issued by Respondent requires an AMC to pay appraiser fees according to a survey or fee schedule, the ASC will not approve or disapprove the required fees. *See generally id.* Certainly, the ASC has no authority to compel Respondent to employ a different, lower fee schedule in its enforcement actions under Rule 31101. Proposed Revised

Policy Statements, 82 Fed. Reg. at 43,977–78 (states elect whether or not to participate in the federal program, and participating states “may establish [AMC] requirements in addition to those in the AMC Rule.”). The ASC’s monitoring of Respondent’s AMC program therefore provides an insufficient basis to displace antitrust enforcement. *See Silver v. N.Y. Stock Exch.*, 373 U.S. 341, 360 (1963) (where SEC had authority to review NYSE’s rules but not specific applications of those rules, an exemption from antitrust scrutiny would have “defeat[ed] the congressional policy reflected in the antitrust laws without serving the policy of the Securities Exchange Act”); *City of Long Beach v. Standard Oil Co.*, 872 F.2d 1401, 1409 (9th Cir. 1989) (federal price control regulations do not exempt private price fixing that is “beyond the scope of the regulatory body”); Herbert Hovenkamp, *Antitrust and the Regulatory Enterprise*, 2004 COLUM. BUS. L. REV. 335, 374 (2004) (“[U]nder . . . pre-consent decree rules, AT&T was not entitled to a blanket antitrust immunity, but rather immunity was given on a case-by-case basis to conduct that was compelled or supervised by the FCC or relevant state agency.”).

CONCLUSION

For the reasons stated above, the Commission should find that Respondent’s good faith regulatory compliance defense fails, and enter an Order granting summary judgment in Complaint Counsel’s favor regarding Respondent’s Fourth Affirmative Defense.

Dated: February 6, 2018

Respectfully submitted,

/s/ Geoffrey M. Green
Geoffrey M. Green
Lisa B. Kopchik
Christine M. Kennedy
Michael J. Turner
Kathleen Clair
Attorneys

Federal Trade Commission
Bureau of Competition
600 Pennsylvania Ave., N.W.
Washington, DC 20580
Facsimile: (202) 326-3496
Telephone: (202) 326-3139
Email: LKopchik@ftc.gov

Counsel Supporting the Complaint

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Maureen K. Ohlhausen, Acting Chairman
 Terrell McSweeney

In the Matter of

Louisiana Real Estate Appraisers Board,
Respondent

DOCKET NO. 9374

COMPLAINT COUNSEL’S STATEMENT OF UNDISPUTED FACTS

Pursuant to Rule 3.24, Complaint Counsel submits, in support of its Motion for Partial Summary Decision Dismissing Respondent’s Fourth Affirmative Defense, the following statement of material facts as to which there is no genuine dispute:

A. Louisiana Real Estate Appraisers Board

1. Louisiana Real Estate Appraisers Board (“Respondent”) is a state agency created by Louisiana law. Respondent is governed by a multi-member board, with each member nominated by the Governor and confirmed by the state Senate. Kennedy Decl. Tab 1, La. R.S. 37:3394.¹

¹ “Kennedy Decl.” refers to the Declaration of Christine M. Kennedy, to which all exhibits and pleadings referred to herein are attached.

2. Respondent is responsible for licensing and regulating the conduct of real estate appraisers and appraisal management companies (“AMCs”) in Louisiana. Kennedy Decl. Tab 1, La. R.S. 37: 3393, La. R.S. 37: 3395 (A) (1); Tab 2, La. R.S. 37: 3415.3.

3. The Louisiana Real Estate Appraisers Law (“Appraisers Law”) specifies the composition of Respondent’s board. In 2013 and until August 1, 2014, the Appraisers Law provided for a nine-member board, seven of whom were identified as “appraiser members.” Kennedy Decl. Tab 3, La. R.S. 37: 3394 (B) (2013).

4. In 2013 and until August 1, 2014, the Appraisers Law provided that each appraiser member of Respondent’s board shall be a Louisiana resident, hold an appraiser’s license and be “engaged in the general practice of real estate appraising in the state of Louisiana for not less than five years immediately preceding their appointment.” Kennedy Decl. Tab 3, La. R.S. 37: 3394 (B) (2013).

5. In 2013 and until August 1, 2014, the Appraisers Law provided that at least four of the nine members of Respondent’s board shall be general appraisers, and at least two shall be residential appraisers. Two members of Respondent’s board shall be chosen from lists of names submitted by local bankers’ associations. Kennedy Decl. Tab 3, La. R.S. 37: 3394 (B) (2013).

6. The Appraisers Law was modified in 2014. Kennedy Decl. Tab 3, 2014 Acts No. 347.

7. As of August 1, 2014, Respondent’s board shall consist of ten members appointed by the Governor. Kennedy Decl. Tab 1, La. R.S. 37: 3394.

8. As of August 1, 2014, the Appraisers Law provides that eight of the ten members of Respondent’s board shall be licensed appraisers in Louisiana. Kennedy Decl. Tab 1, La. R.S. 37: 3394.

9. As of August 1, 2014, the Appraisers Law provides that, of the eight appraiser members of Respondent's board, at least four shall be general appraisers and at least two shall be residential appraisers. Kennedy Decl. Tab 1, La. R.S. 37: 3394.

10. As of August 1, 2014, the Appraisers Law provides that one of the eight appraiser members of Respondent's board shall have been engaged in the business of appraisal management for at least four years and shall be an employee or representative of an AMC. This AMC representative may be either a general appraiser or a residential appraiser. Kennedy Decl. Tab 1, La. R.S. 37: 3394.

11. As of August 1, 2014, the Appraisers Law provides that Respondent's board shall include two members from a list of five names submitted by a local bankers' association. Kennedy Decl. Tab 1, La. R.S. 37: 3394.

12. Respondent takes action based on a majority vote of its members. The Chairman does not vote except when necessary to break a tie. Kennedy Decl. Tab 5, { [REDACTED] }.

13. At all times relevant to the allegations in this case, a majority of Respondent's board members were (i) state licensed appraisers, (ii) authorized to perform residential appraisals, and (iii) engaged in the practice of real estate appraising, either independently or as an employee of an appraisal company. In particular:

- a. In 2013, six of eight members of Respondent's board were licensed appraisers, authorized to perform residential appraisals, and engaged in the practice of real estate appraising. Kennedy Decl. Tab 6, { [REDACTED] }; CX0315 (screenshot of a Facebook page for "Gayle H Boudousquie & Assoc"); CX0314 (screenshot of a webpage for "Mike Graham Real Estate

Appraisal and Brokerage”); CX0313 (screenshot of a LinkedIn page for “NEWTON LANDRY”); CX0312 (screenshot of a LinkedIn page for “Tommie McMorris”); CX0311 (screenshot of a webpage for “The Pauley Corporation”); Tab 5, { [REDACTED] }.

b. In 2014, six of eight members of Respondent’s board were licensed appraisers, authorized to perform residential appraisals, and engaged in the practice of real estate appraising. Kennedy Decl. Tab 6, { [REDACTED] }; CX0315 (screenshot of a Facebook page for “Gayle H Boudousquie & Assoc”); CX0314 (screenshot of a webpage for “Mike Graham Real Estate Appraisal and Brokerage”); CX0313 (screenshot of a LinkedIn page for “NEWTON LANDRY”); CX0312 (screenshot of a LinkedIn page for “Tommie McMorris”); CX0311 (screenshot of a webpage for “The Pauley Corporation”); Tab 5, { [REDACTED] }.

c. From January 2015 to June 2015, seven of nine members of Respondent’s board were licensed appraisers, authorized to perform residential appraisals, and engaged in the practice of real estate appraising. Kennedy Decl. Tab 6, { [REDACTED] }; CX0315 (screenshot of a Facebook page for “Gayle H Boudousquie & Assoc”); CX0314 (screenshot of a webpage for “Mike Graham Real Estate Appraisal and Brokerage”); CX0313 (screenshot of a LinkedIn page for “NEWTON LANDRY”); CX0312 (screenshot of a LinkedIn page for “Tommie McMorris”); CX0311 (screenshot of a webpage for “The Pauley Corporation”); CX0333 (screenshot of a LinkedIn page for “Appraisals Plus,

LLC”); Tab 5, { [REDACTED] }; Tab 7, { [REDACTED] }.

d. From August 2015 to December 2015,² eight of ten members of Respondent’s board were licensed appraisers, authorized to perform residential appraisals, and engaged in the practice of real estate appraising. Kennedy Decl. Tab 6 , { [REDACTED] }; CX0315 (screenshot of a Facebook page for “Gayle H Boudousquie & Assoc”); CX0314 (screenshot of a webpage for “Mike Graham Real Estate Appraisal and Brokerage”); CX0313 (screenshot of a LinkedIn page for “NEWTON LANDRY”); CX0312 (screenshot of a LinkedIn page for “Tommie McMorris”); CX0331 (screenshot of a webpage for “Cheryl B. Bella, MAI, AI-GRS”); CX0332 (screenshot of a LinkedIn page for “Janis M. Bonura, SRA”); CX0333 (screenshot of a LinkedIn page for “Appraisals Plus, LLC”); Tab 5, { [REDACTED] }; Tab 7, { [REDACTED] }.

e. In 2016, eight of ten members of Respondent’s board were licensed appraisers, authorized to perform residential appraisals, and engaged in the practice of real estate appraising. Kennedy Decl. Tab 6 , { [REDACTED] }; CX0315 (screenshot of a Facebook page for “Gayle H Boudousquie & Assoc”); CX0314 (screenshot of a webpage for “Mike Graham Real Estate Appraisal and Brokerage”); CX0313 (screenshot of a LinkedIn page for “NEWTON LANDRY”); CX0312 (screenshot of a LinkedIn page for “Tommie McMorris”); CX0331 (screenshot of a webpage for “Cheryl B. Bella, MAI, AI-

² There was not a meeting of Respondent’s board in July 2015, so we do not have information on the make-up of the Respondent’s board for that month.

GRS”); CX0332 (screenshot of a LinkedIn page for “Janis M. Bonura, SRA”); CX0333 (screenshot of a LinkedIn page for “Appraisals Plus, LLC”); Tab 5, [REDACTED]; Tab 7, [REDACTED].

B. Appraisal Management Companies

14. AMC’s are independent companies and act as agents of lenders. Kennedy Decl. Tab 8, Complaint ¶1; Answer ¶1.

15. As lenders’ agents, AMC’s pay independent licensed appraisers to render an opinion of the value of the real estate offered as collateral for a mortgage. Kennedy Decl. Tab 2, La. R.S. 37: 3415.2 (2).

C. AMC Act and Rule 31101

16. In 2009, Louisiana enacted the Louisiana Appraisal Management Company Licensing and Regulation Act (“AMC Act”), effective January 1, 2010. Kennedy Decl. Tab 2, La. R.S. 37: 3415.1 *et seq.*

17. The AMC Act grants Respondent the authority to adopt rules and regulations necessary for the enforcement of the AMC Act in accordance with the Louisiana Administrative Procedure Act. Kennedy Decl. Tab 2, La. R.S. 37: 3415.21.

18. The AMC Act grants Respondent authority to censure an AMC; conditionally or unconditionally suspend, or revoke a license issued by Respondent; levy fines; or impose civil penalties not to exceed fifty thousand dollars, if the AMC has violated or attempted to violate any of Respondent’s rules. Kennedy Decl. Tab 2, La. R.S. 37: 3415.19 (A) (2).

19. In 2012, the AMC Act was amended to require AMC’s to “compensate appraisers at a rate that is customary and reasonable for appraisals being performed in the market area of the property being appraised.” Kennedy Decl. Tab 9, La. R.S. 37: 3415.15 (A) (2012).

20. At a meeting on January 14, 2013, all members of Respondent's board, except the Chairman and one member who was not present, voted to "ratify approval" of proposed Rule 31101. Kennedy Decl. Tab 10, CX0306 (Minutes of Meeting of Louisiana Real Estate Appraisers Board ("Board Minutes"), January 14, 2013).

21. Rule 31101 took effect upon publication in the Louisiana Register on November 20, 2013, and states that AMCs must pay appraisers "customary and reasonable" fees. The appraisal fees must be determined by either (1) reference to third-party information such as government fee schedules, academic studies, or independent private sector surveys ; (2) a fee schedule established by Respondent; or (3) consideration of six factors. Kennedy Decl. Tab 11, 39 LR 3072 (November 20, 2013).

D. The Southeastern Louisiana University Business Center Survey

22. In January 2013, Respondent contracted with the Southeastern Louisiana University Business Research Center ("SLU") to conduct a survey of typical fees paid by lenders to appraisers in 2012. Kennedy Decl. Tab 12, { [REDACTED] }.

23. SLU surveyed lenders, licensed general appraisers, and licensed residential appraisers. Kennedy Decl. Tab 13, CX3010 (SLU survey report) at 2, 11.

24. SLU produced a report of the survey findings. Respondent posted the report on its website on or about May 30, 2013. The formal title of the report is "Louisiana Residential Appraisal Fees: 2012." Kennedy Decl. Tab 13, CX3010 (SLU survey report).

25. SLU conducted three similar surveys of fees paid in 2013, 2014, and 2016, reports of which were published on Respondent's website in 2014, 2015, and 2017. Kennedy Decl. Tab 13, CX3010 (SLU survey report); <http://www.reab.state.la.us/AMC.html> (links to other surveys).

26. The SLU reports present the median fees submitted by lenders and appraisers in response to each survey for five kinds of appraisals in nine geographic regions. Kennedy Decl. Tab 13, CX3010 (SLU survey report) at 17-26; <http://www.reab.state.la.us/AMC.html> (links to other surveys).

E. Enforcement of Rule 31101

27. [REDACTED]
[REDACTED]
[REDACTED]. Kennedy Decl. Tab 14, [REDACTED]
[REDACTED].

28. [REDACTED]
[REDACTED]
[REDACTED].
Kennedy Decl. Tab 15, [REDACTED]
[REDACTED].

29. [REDACTED]
[REDACTED]. Kennedy
Decl. Tab 15, [REDACTED].

30. On May 28, 2015, Coester and Respondent settled the Coester Complaint by signing a document entitled “Stipulations and Order.” Kennedy Decl. Tab 16, [REDACTED]
[REDACTED].

31. [REDACTED]
[REDACTED]. Kennedy Decl. Tab 16, [REDACTED]
[REDACTED].

32. [REDACTED]

[REDACTED]

[REDACTED]. Kennedy Decl. Tab 17, [REDACTED]

[REDACTED].

33. On June 5, 2015, at a regularly scheduled meeting, Respondent's board accepted Coester's Stipulation and Order without opposition, ordered Coester to pay administrative costs of \$5000, and ordered Coester to "follow the current Louisiana fee schedule" for twelve months.

Kennedy Decl. Tab 18, CX0283 (Board Minutes, June 5, 2015); Tab 16, [REDACTED]

[REDACTED].

34. On January 29, 2014, a Louisiana licensed appraiser sent an email to the Executive Director complaining that an AMC, iMortgage, had offered the appraiser a fee that was "far below [customary and reasonable] rates" and attached an offer from the AMC to pay \$200 for a specific appraisal. Kennedy Decl. Tab 19, CX0080 (email dated January 24, 2019).

35. [REDACTED]

[REDACTED]

[REDACTED]. Kennedy Decl. Tab 20, [REDACTED]

[REDACTED].

36. On December 8, 2015, Respondent held a hearing on allegations that iMortgage had violated Rule 31101 in nine transactions. Kennedy Decl. Tab 21, CX0330 (excerpts from hearing transcript in *State of Louisiana ex real [sic] v. iMortgage Services, LLC*, December 8, 2015).

37. On December 8, 2015, at the end of the hearing, Respondent's board members voted unanimously, except for the Chairman and one member who was absent, to find that

iMortgage violated Rule 31101. Kennedy Decl. Tab 22, CX0334 (excerpts from hearing transcript in *State of Louisiana ex real [sic] v. iMortgage Services, LLC*, December 8, 2015).

38. Respondent's board, by a vote of six to one, required iMortgage to pay a \$10,000 penalty and costs of adjudication, and suspended iMortgage's license for six months. Kennedy Decl. Tab 22, CX0334 (excerpts from hearing transcript in *State of Louisiana ex real [sic] v. iMortgage Services, LLC*, December 8, 2015).

39. Respondent's board stayed the suspension of iMortgage's license on the condition that iMortgage submit a compliance plan by March 21, 2016, and that Respondent approve such compliance plan. Kennedy Decl. Tab 22, CX0334 (excerpts from hearing transcript in *State of Louisiana ex real [sic] v. iMortgage Services, LLC*, December 8, 2015).

40. Respondent entered an order that found that iMortgage had violated La. R.S. 37:3415.15 and Rule 31101. Respondent ordered iMortgage to pay a fine of \$10,000 and administrative costs of the adjudicatory proceeding, and suspended iMortgage's license for six months, with a stay on enforcement of the suspension pending iMortgage providing a compliance plan reviewed and approved by Respondent. Kennedy Decl. Tab 23, CX0309 (Findings of Fact, Conclusions of Law, and Order).

41. On February 26, 2016, iMortgage submitted a proposed compliance plan for Respondent's approval. Kennedy Decl. Tab 24, { [REDACTED] }.

42. The iMortgage proposed compliance plan dated February 26, 2016, stated that iMortgage would pay fees to appraisers using the Six Factor Method, and described the way that iMortgage would apply the six factors. Kennedy Decl. Tab 24, { [REDACTED] }.

43. By letter dated March 10, 2016, the Executive Director rejected iMortgage's proposed compliance plan dated February 26, 2016. Kennedy Decl. Tab 25, { [REDACTED] }.

44. On March 15, 2016, iMortgage submitted a second proposed compliance plan to Respondent for approval. Kennedy Decl. Tab 26, CX0308 (Second proposed compliance plan).

45. The second proposed compliance plan stated that iMortgage would pay fees to appraisers equal to the median fees in the SLU survey report. Kennedy Decl. Tab 26, CX0308 (Second proposed compliance plan).

46. On March 21, 2016 at a regularly scheduled meeting of Respondent's board, the Executive Director recommended that Respondent accept iMortgage's second proposed compliance plan. Kennedy Decl. Tab 27, CX0307 (Board Minutes, March 21, 2016).

47. Respondent's board accepted iMortgage's second proposed compliance plan by a vote of six to zero, with one member abstaining. Kennedy Decl. Tab 27, CX0307 (Board Minutes, March 21, 2016).

48. Respondent has resolved other allegations of violations of Rule 31101 through informal methods when the AMCs being investigated have agreed to pay appraiser fees consistent with the SLU survey. Kennedy Decl. Tab 28, { [REDACTED] };

{ [REDACTED] };

{ [REDACTED] }.

F. The Appraisal Subcommittee

49. The Appraisal Subcommittee ("ASC"), a small federal regulatory entity that is part of the Federal Financial Institutions Examination Council ("FFIEC"), is responsible for

monitoring state programs for the regulation of appraisers and AMCs. Kennedy Decl. Tab 29, 12 U.S.C. §3332 (2015).

50. As part of its monitoring role, the ASC maintains: (i) a national registry of state-licensed and state-certified appraisers who are eligible to perform appraisals in connection with federally regulated transactions; and (ii) a national registry of AMCs that either are registered with, and subject to supervision by, a State appraiser certifying and licensing agency or are operating subsidiaries of a Federally regulated financial institution. Kennedy Decl. Tab 29, U.S.C. § 3332(a)(3) & (6) (2010).

51. Beginning on or about August 10, 2018, the ASC's Compliance Reviews will include "oversight of AMC Programs for any State with an AMC Program." Kennedy Decl. Tab 30, Appraisal Subcommittee, Bulletin No. 2015-01 at 2 (June 17, 2015), *available at* https://www.aaro.net/docs/Bulletin_No_2015-01_to_States_-_AMC_Rules.pdf; Appraisal Subcommittee of the Federal Financial Institutions Examination Council; Proposed Revised Policy Statements, 82 Fed. Reg. 43,966, 43,978-80 (Sept. 20, 2017).

52. In January 2017 and again in September 2017, the ASC issued for public comment proposed Policy Statements regarding the anticipated monitoring of state AMC programs. Kennedy Decl. Tab 30, Appraisal Subcommittee of the Federal Financial Institutions Examination Council; Proposed Revised Policy Statements, 82 Fed. Reg. 2977 (Jan. 10, 2017); Appraisal Subcommittee of the Federal Financial Institutions Examination Council; Proposed Revised Policy Statements, 82 Fed. Reg. 43,966, 43,967 (Sept. 20, 2017).

53. The proposed Policy Statements contemplate that the ASC will meet its obligation to monitor state AMC regulatory programs primarily through annual or bi-annual on-site visits by ASC staff, referred to as a Compliance Review. Kennedy Decl. Tab 30, Appraisal

Subcommittee of the Federal Financial Institutions Examination Council; Proposed Revised Policy Statements, 82 Fed. Reg. 43,966, 43,967, 43,982 (Sept. 20, 2017).

54. ASC staff will “review a [representative] sampling of documentation” regarding the state’s AMC regulatory program. At the conclusion of this review, the ASC will issue a Compliance Review Report assessing the state’s “overall compliance, or lack thereof” with Title XI of Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (“FIRREA”) and the AMC Rule. Kennedy Decl. Tab 30, Appraisal Subcommittee of the Federal Financial Institutions Examination Council; Proposed Revised Policy Statements, 82 Fed. Reg. 43,966, 43,982 (Sept. 20, 2017).

55. The Appraisal Subcommittee staff conducted compliance reviews of the Louisiana appraiser regulatory program on February 4-6, 2014, and again on February 2-4, 2016 to determine whether it complied with Title XI of FIRREA. Kennedy Decl. Tab 4, Appraisal Subcommittee, *ASC Compliance Review of Louisiana’s Appraiser Regulatory Program* (June 4, 2014), *available at* <https://www.asc.gov/Documents/StateFieldReviewCorrespondence/2014.06.04%20LA%20Final%20Compliance%20Review.pdf>; Appraisal Subcommittee, *ASC Compliance Review of Louisiana’s Appraiser Regulatory Program* (May 31, 2016), *available at* <https://www.asc.gov/Documents/StateFieldReviewCorrespondence/2016.05.31%20LA%20Final%20Compliance%20Review.pdf>.

56. For each compliance review, the Appraisal Subcommittee issued a Compliance Review Report. The 2014 and 2016 reports show reviews of regulations regarding appraisers; neither report references Respondent’s adoption or enforcement of Rule 31101. Kennedy Decl. Tab 4, Appraisal Subcommittee, *ASC Compliance Review of Louisiana’s Appraiser Regulatory*

Program (June 4, 2014), available at

[https://www.asc.gov/Documents/StateFieldReviewCorrespondence/2014.06.04%20LA%20Final](https://www.asc.gov/Documents/StateFieldReviewCorrespondence/2014.06.04%20LA%20Final%20Compliance%20Review.pdf)

[%20Compliance%20Review.pdf](https://www.asc.gov/Documents/StateFieldReviewCorrespondence/2014.06.04%20LA%20Final%20Compliance%20Review.pdf); Appraisal Subcommittee; *ASC Compliance Review of*

Louisiana's Appraiser Regulatory Program (May 31, 2016), available at

[https://www.asc.gov/Documents/StateFieldReviewCorrespondence/2016.05.31%20LA%20Final](https://www.asc.gov/Documents/StateFieldReviewCorrespondence/2016.05.31%20LA%20Final%20Compliance%20Review.pdf)

[%20Compliance%20Review.pdf](https://www.asc.gov/Documents/StateFieldReviewCorrespondence/2016.05.31%20LA%20Final%20Compliance%20Review.pdf).

Respectfully submitted,

/s/ Geoffrey M. Green

Geoffrey M. Green

Lisa B. Kopchik

Christine M. Kennedy

Michael J. Turner

Kathleen Clair

Attorneys

Federal Trade Commission

Bureau of Competition

600 Pennsylvania Ave., N.W.

Washington, DC 20580

Telephone: (202) 326-3139

Email: LKopchik@ftc.gov

Counsel for the Complaint

Dated: February 6, 2018

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Maureen K. Ohlhausen, Acting Chairman
Terrell McSweeney

In the Matter of

Louisiana Real Estate Appraisers Board,
Respondent

DOCKET NO. 9374

DECLARATION OF CHRISTINE M. KENNEDY

1. I have personal knowledge of the facts set forth in this declaration, and if called as a witness I could and would testify competently under oath to such facts.
2. I am an attorney at the Federal Trade Commission and Complaint Counsel in this proceeding.
3. Attached to this declaration are the exhibits submitted in support of Complaint Counsel's Motion for Partial Summary Decision Dismissing Respondent's Fourth Affirmative Defense.
4. Tab 1 is a true and correct copy of Louisiana Real Estate Appraisers Law ("Appraisers Law").
5. Tab 2 is a true and correct copy of Louisiana Appraisal Management Company Licensing and Regulation Act ("AMC Act").

6. Tab 3 contains two subparts and is a true and correct copy of: (a) Section 3394 of the 2013 Appraisers Law; and (b) the 2014 Louisiana House Bill amending Section 3394 of the Appraisers Law.
7. Tab 4 contains two subparts and is a true and correct copy of: (a) the Appraisal Subcommittee's 2016 Compliance Review of Louisiana's Appraiser Regulatory Program; and (b) the Appraisal Subcommittee's 2014 Compliance Review of Louisiana's Appraiser Regulatory Program.
8. Tab 5 is a true and correct copy of { [REDACTED] }.
9. Tab 6 contains ten subparts and is a true and correct copy of: (a) { [REDACTED] }; (b) CX0315, screenshot of a Facebook page for "Gayle H Boudousquie & Assoc"; (c) CX0314, screenshot of a webpage for "Mike Graham Real Estate Appraisal and Brokerage"; (d) CX0313, screenshot of a LinkedIn page for "NEWTON LANDRY"; (e) CX0312, screenshot of a LinkedIn page for "Tommie McMorris"; (f) CX0311, screenshot of a webpage for "The Pauley Corporation"; (g) CX0310, screenshot of a webpage entitled "People in Business for March 31"; (h) CX0332, screenshot of a LinkedIn page for "Janis M. Bonura, SRA"; (i) CX0331, screenshot of a webpage for "Cheryl B. Bella, MAI, AI-GRS"; and (j) CX0333, screenshot of a LinkedIn page for "Appraisals Plus, LLC."
10. Tab 7 is a true and correct copy of { [REDACTED] }.
11. Tab 8 contains two subparts and is a true and correct copy of: (a) the Administrative Complaint (Public Version) issued by the Federal Trade Commission in the above-captioned matter, dated May 30, 2017 ("Complaint"); and (b) Answer of Respondent to the Complaint, dated June 19, 2017.

12. Tab 9 is a true and correct copy of the AMC Act, as amended in 2012.
13. Tab 10 is a true and correct copy of CX0306, Minutes of Meeting of Louisiana Real Estate Appraisers Board (“Board Minutes”), January 14, 2013.
14. Tab 11 is a true and correct copy of Rule 31101 (39 LR 3072), as published in the Louisiana Register on November 20, 2013.
15. Tab 12 is a true and correct copy of { [REDACTED] }.
16. Tab 13 is a true and correct copy of CX 3010, SLU’s report of survey findings, entitled “Louisiana Residential Appraisal Fees: 2012.”
17. Tab 14 is a true and correct copy of { [REDACTED]
[REDACTED] }.
18. Tab 15 is a true and correct copy of { [REDACTED]
[REDACTED] }.
19. Tab 16 is a true and correct copy of { [REDACTED]
[REDACTED] }.
20. Tab 17 is a true and correct copy of { [REDACTED]
[REDACTED] }.
21. Tab 18 is a true and correct copy of CX0283, Board minutes, June 4, 2015.
22. Tab 19 is a true and correct copy of CX0080, email correspondence between Respondent and a Louisiana licensed appraiser, dated January 29, 2014.
23. Tab 20 is a true and correct copy of { [REDACTED]
[REDACTED] }.
24. Tab 21 is a true and correct copy of CX0330, excerpt of transcript of administrative hearing, *State of Louisiana ex real [sic] v. iMortgage Services, LLC*, December 8, 2015.

25. Tab 22 is a true and correct copy of CX0334, excerpts from hearing transcript in *State of Louisiana ex real [sic] v. iMortgage Services, LLC*, dated December 8, 2015.
26. Tab 23 is a true and correct copy of CX0309, Findings of Fact, Conclusions of Law, and Order in *Louisiana Real Estate Appraisers Board versus iMortgage Services, LLC*.
27. Tab 24 is a true and correct copy of { [REDACTED] }.
28. Tab 25 is a true and correct copy of { [REDACTED]
[REDACTED] }.
29. Tab 26 is a true and correct copy of CX0308, iMortgage's second proposed compliance plan, dated March 15, 2016.
30. Tab 27 is a true and correct copy of CX0307, Board Minutes, March 21, 2016.
31. Tab 28 contains two subparts and is a true and correct copy of: [REDACTED]
[REDACTED]
[REDACTED] }.
32. Tab 29 is a true and correct copy of Section 3332 of Title XI of Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.
33. Tab 30 contains three subparts and is a true and correct copy of: (a) the Appraisal Subcommittee Bulletin No. 2015-01 (June 17, 2015); (b) the Appraisal Subcommittee's Proposed Revised Policy Statements, 82 Fed. Reg. 43,966, 43,982 (Sept. 20, 2017); and (c) the Appraisal Subcommittee's Proposed Revised Policy Statements, 82 Fed. Reg. 2977 (Jan. 10, 2017).

I declare under penalty of perjury that the foregoing is true and correct. Executed this 5th day of February, 2018, at Washington, DC.

/s/ Christine M. Kennedy
Christine M. Kennedy
Federal Trade Commission
Bureau of Competition
600 Pennsylvania Ave., N.W.
Washington, DC 20580
Telephone: (202) 326-3569
Email: ckennedy@ftc.gov

Counsel for the Complaint

Tab 1

CHAPTER 51. LOUISIANA REAL ESTATE APPRAISERS LAW

§3391. Short title

This Chapter shall be known and may be cited as the "Louisiana Real Estate Appraisers Law."

Acts 1987, No. 472, §1; Acts 1995, No. 690, §2; Acts 2001, No. 833, §2.

§3392. Definitions

As used in this Chapter, the following words have the meaning ascribed to them in this Section unless the context clearly indicates otherwise:

- (1) "Appraisal" or "real estate appraisal" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects, including energy efficiency, of, identified real estate, for or in expectation of compensation.
- (2) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate. Compensation for appraisal assignments may not include any contingency fee based on the results of the appraisal assignment.
- (3) "Appraisal report" means any communication, written or oral, of an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects, including energy efficiency, of, identified real estate.
- (4) "Board" means the Louisiana Real Estate Appraisers Board established pursuant to the provisions of this Chapter.
- (5) "Broker price opinion/comparative market analysis" means an analysis of recent sales of similar properties by a real estate salesperson or broker to derive an indication of the probable sales price of a particular property for the salesperson's or broker's principal.
- (6) "Commission" means the Louisiana Real Estate Commission.
- (7) "General certified real estate appraiser" means a person who holds a current, valid license issued to him by the board for appraisal of all types of real estate regardless of complexity or transaction value.
- (8) "In good standing" means the status of a licensee who has complied with all explicit license obligations thereby having unabated authority to conduct license activities.

- (9) "Licensee" means any person who has been issued a license by the board to participate in any appraisal activity described in this Chapter.
- (10) "Real estate" means an identified parcel or tract of land, including improvements, if any.
- (11) "Real estate appraiser trainee" means any person who has been issued a license by the board to appraise properties under the supervision of a licensed general real estate appraiser or residential real estate appraiser.
- (12) "Real property" means one or more defined interests in a parcel of real estate, whether an unencumbered fee or a lesser estate.
- (13) "Residential certified real estate appraiser" means any person who holds a current, valid license issued by the board to appraise one to four residential units, without regard to transaction value or complexity, and perform appraisals of other types of real estate having a transaction value of two hundred fifty thousand dollars or less. This includes the appraisal of vacant or unimproved land that is utilized for one to four family residential units.

Acts 1987, No. 472, §1; Acts 1990, No. 740, §§1, 2; Acts 1991, No. 412, §1; Acts 1995, No. 690, §2; Acts 2001, No. 833, §2; Acts 2001, No. 888, §1; Acts 2003, No. 341, §§1 and 3; Acts 2010, No. 504, §1; Acts 2014, No. 213, §1.

§3393. License required; penalty for unlicensed real estate appraiser activity

- A. No person, other than a state licensed real estate appraiser, shall assume or use that title or any title, designation, or abbreviation that may create the impression of being licensed as a real estate appraiser by this state.
- B. No licensed real estate appraiser shall assume or use any title, designation, or abbreviation that may create the impression of being licensed in a class other than that for which his license has been issued.
- C. It shall be unlawful for any individual, for a fee or other valuable consideration, or with the intention or expectation of receiving or collecting a fee or valuable consideration from another, to do any of the following unless the individual is licensed under this Chapter:
 - (1) Be employed to perform or perform an appraisal as defined in this Chapter where the subject property of the assignment lies within the borders of the state of Louisiana.
 - (2) Present himself, or allow himself to be presented, as being able to perform an appraisal for which a license is required under this Chapter.
- D. All real estate appraiser licenses issued under the provisions of this Chapter shall be issued in the individual name of the applicant and shall not be issued to a partnership, association, corporation, firm, or group. Nothing shall preclude a licensed real property appraiser from performing appraisals for or on behalf of a partnership, association, corporation, firm, or group.

- E. Nothing in this Chapter shall preclude a licensed real estate broker or salesperson from performing a broker price opinion/comparative market analysis in the ordinary course of the practice of real estate, provided that the broker or salesperson does not represent himself as being a state licensed real estate appraiser.
- F. It shall be unlawful for any individual, for a fee or other valuable consideration, or with the intention or expectation of receiving or collecting a fee or valuable consideration from another, to perform contingent appraisals, or any form of estimated value, based on the fee or valuable consideration pending the estimated value.
- G. It shall be unlawful for any individual, person, partnership, association, or corporation to perform any type of review or analysis of a real property appraisal, unless that person is licensed to perform real property appraisals.
- H. The provisions of this Chapter shall not apply to the following:
 - (1) A person, partnership, association, or corporation that performs appraisals of property owned by that person, partnership, association, or corporation.
 - (2) A court-appointed individual who conducts an appraisal pursuant to a judicially ordered evaluation of the specific real property under litigation.
 - (3) A director, officer, or salaried employee of commercial banks, savings banks, credit unions, and savings and loan associations, when engaged in appraisal or evaluation activities for and on behalf of such financial institutions, unless there is a fee charged for the appraisal or evaluation, provided that a federal statute, rule, or regulation does not require such appraisal or evaluation activities to be performed by a state licensed real estate appraiser.
 - (4) State, parish, or municipal public officers or their salaried employees while performing their duties as such, except when the intended use of the appraisal is for acquisition of real property.
 - (5) A person appointed by a sheriff to make an appraisal in accordance with R.S. 13:4364 or 4365.
 - (6) A person or firm contracted by a state, parish, or municipal tax authority to perform mass appraisal assignments.
 - (7) Employees of the Department of Transportation and Development; however, the provisions of this Chapter shall apply to such employees after June 30, 2010.
 - (8) A certified public accountant when engaged by a client to perform a business valuation under both of the following conditions:
 - a) The valuation of real property must rely on an appraisal report performed by a licensed appraiser.

- b) Such public accountant is licensed pursuant to the Louisiana Accountancy Act.
- I. In addition to any other civil remedy or civil penalty provided in this Chapter, the board may issue a subpoena to any person based on the probable cause that he has engaged in real estate appraiser activity without a license. Subpoenas issued by the board shall:
 - (1) Comply with the notice requirements of R.S. 49:955.
 - (2) Be personally served upon the person named therein or by any type of mailing that requires a return receipt.
 - (3) Include a statement that describes the manner in which the person named therein shall respond to the board.
- J. In accordance with the provisions of this Chapter and the Administrative Procedure Act, the board may impose a civil penalty not to exceed five thousand dollars and costs and attorney fees upon any person who is found to have engaged in real estate appraiser activity without a license.
- K. An unlicensed person who engages in or offers to engage in, or performs or offers to perform, any of the practices, acts, or operations set forth in R.S. 37:3392 and this Section shall be sufficient evidence to raise a presumption of fact or to establish the fact that he has illegally engaged in or performed real estate appraiser activity.
- L. A person engaged in real estate appraiser activity without a license shall not have the right to receive any compensation for services so rendered. In addition to any other penalties imposed under this Chapter, the board may require any person engaged in real estate appraiser activity without a license to return any fees collected for such activity.

Acts 1987, No. 472, §1; Acts 2003, No. 341, §1; Acts 2005, No. 188, §1; Acts 2006, No. 389, §1; Acts 2009, No. 502, §1, eff. Jan. 1, 2010.

§3394. Louisiana Real Estate Appraisers Board

- A. There is hereby created within the office of the governor the Louisiana Real Estate Appraisers Board, which shall be comprised as provided in Subsection B of this Section.
- B. (1) Ten members shall be appointed by the governor with one member appointed from each congressional district and with four members appointed at large. Of the ten members appointed by the governor:
 - a) Two shall be appointed from a list of five names submitted by the Louisiana Bankers Association each of whom shall have been involved in real estate lending for at least five years.
 - b) One member shall have been engaged in the business of appraisal management for at least four years and shall be an employee or representative of a Louisiana licensed appraisal management company. Additionally, this member shall be a citizen and

qualified elector of Louisiana and licensed as a Louisiana certified real estate appraiser immediately preceding the appointment to the board.

- c) The remainder shall have been domiciled in Louisiana and licensed as certified real estate appraisers for not less than five years immediately preceding the appointment.
- (2) At least four of the ten members shall be general appraisers and at least two of the ten members shall be residential appraisers. All appraiser members shall be state certified.
- C. Each appointment by the governor shall be submitted to the Senate for confirmation.
- D. All members shall be appointed for three-year terms. All terms shall commence thirty days after the appointment, and all members shall serve until their successors have been appointed and qualified. Vacancies occurring in the membership of the board for any reason shall be filled by appointment by the governor for the unexpired term. Upon expiration of their terms, members of the board shall continue to hold office until the appointment and qualification of their successors. No person shall be appointed for more than two consecutive terms. The appointing authority may remove a member for cause.
- E. The executive director of the commission shall serve as executive director of the board.
- F. The board shall meet at least once each calendar quarter to conduct its business. The location in Louisiana of future meetings shall be decided by a vote of the members present at the current meeting. The executive director shall give written notice to each member of the time and place of each meeting of the board at least ten days before the scheduled date of the meeting.
- G. The members of the board shall elect a chairperson, vice chairperson, and secretary.
- H. Six members of the board shall constitute a quorum for all business.
- I. Each member of the board shall be entitled to a per diem allowance of fifty dollars for each meeting of the board at which the member is present. Each member of the board shall be entitled to reimbursement of their actual expenses for travel, meals, and lodging.

Acts 1987, No. 472, §1; Acts 1991, No. 94, §1, eff. Jan. 13, 1992; Acts 1991, No. 412, §1; Acts 1993, No. 949, §1; Acts 1995, No. 690, §2; Acts 2001, No. 8, §12, eff. July 1, 2001; Acts 2001, No. 833, §2; Acts 2003, No. 341, §1; Acts 2014, No. 347, §1, eff. May 30, 2014.

§3395. Powers, duties

- A. The board shall have the following autonomous powers and duties:
 - (1) To regulate the issuance of real estate appraiser and trainee licenses.
 - (2) To establish administrative procedures for processing applications and issuing licenses to real estate appraisers and trainees.
 - (3) To adopt any rules and regulations in accordance with the Administrative Procedure Act necessary for the enforcement of this Chapter.

- (4) To require any satisfactory proof it may desire in reference to the honesty, truthfulness, reputation, knowledge, and experience of any applicant for a real estate appraiser license prior to the issuance of any license.
 - (5) To adopt standards for the development and communication of real estate appraisals and to adopt regulations explaining and interpreting the standards.
 - (6) To conduct disciplinary proceedings pursuant to the provisions of this Chapter, to suspend or revoke licenses, and to censure and fine licensees.
 - (7) To impose continuing education requirements on licensees.
 - (8) To adopt a seal by which it shall authenticate its proceedings
 - (9) To perform such other functions and duties as may be necessary to carry out the provisions of this Chapter.
- B. Notwithstanding any provisions contained in this Chapter to the contrary, the board may adopt such regulations as may be necessary to comply with the minimum requirements of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council, its agent, or its successor.
- C. The board shall have authority to require any real estate appraiser licensee to maintain records, as specified in this Chapter, and to inspect and subpoena such records.
- D. The board shall have the authority to subpoena any real estate appraiser licensee or witness for the purpose of holding any hearing or in furtherance of an investigation. Failure of a licensee to comply with a subpoena duces tecum shall be punishable by the board in accordance with the provisions of R.S. 37:3409.

Acts 1987, No. 472, §1; Acts 1991, No. 412, §1; Acts 1991, No. 695, §1; Acts 1993, No. 949, §§1, 2; Acts 1995, No. 690, §2; Acts 2003, No. 341, §1; Acts 2014, No. 347, §1 {{NOTE: SEE ACTS 1987, NO. 472, §2.}}

§3395.1. Peer Review Committee; powers and duties

- A. The Louisiana Real Estate Appraisers Board is granted the authority to create as needed a Peer Review Committee, and it shall be referred to hereafter as the "committee."
- B. The committee shall be comprised of certified real estate appraisers and shall provide assistance as necessary to the board regarding the performance of its functions and duties in pre-license and post-license review and regulation. Each member of the committee shall serve without compensation but shall be reimbursed for actual expenses and mileage incurred in carrying out his duties as a committee member in accordance with the state travel regulations promulgated by the division of administration.

- C. There shall be no liability on the part of and no action for damages against the board or a member of the committee on any action taken or recommendation made by a member of the committee acting within the scope of his function as a member of or consultant to the committee if such action was taken or recommendation was made without malice.
- D. The board shall promulgate rules and regulations subject to the Administrative Procedure Act in order to effectuate this Section.

Acts 2008, No. 197, §1.

§3396. Applications

- A. Applications for examination, experience review, and renewal certification shall be made in writing to the board on forms provided by the board.
- B. Appropriate fees, as set forth in R.S. 37:3407, shall accompany all applications for examination, experience review, and license renewal.
- C. Each applicant shall sign a pledge to comply with the standards set forth in this Chapter and shall state that he or she understands the types of misconduct for which disciplinary proceedings may be initiated against a state licensed real estate appraiser.
- D. (1) Licenses shall be granted only to persons who have satisfied the minimum education, examination, and experience requirements mandated by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation and published in the most current version of the Real Property Appraiser Qualification Criteria, including any subsequent amendments and regulations issued pursuant thereto.
 - (2) All applicants for a real estate appraiser license shall undergo a background screening as mandated by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation and prescribed by the board.
 - (3) When an applicant has been convicted of forgery, embezzlement, obtaining money under false pretense, larceny, extortion, conspiracy to defraud, or theft, or has been convicted of a felony or a crime of moral turpitude in any court of competent jurisdiction, such untrustworthiness of the applicant or the conviction itself may be sufficient grounds for refusal to issue a license.
 - (4) When an applicant has made a false statement of material fact on his application, such false statement may in itself be sufficient grounds for refusal to issue a license.
- E. Suspension or revocation or grounds for suspension or revocation of a real estate appraiser license, or its equivalent, or a real estate salesperson or broker license in any jurisdiction may be grounds for refusal to issue a real estate appraiser license.

- F. (1) A real estate appraiser whose license has been revoked as a result of disciplinary action in any jurisdiction shall not be eligible to apply for a Louisiana real estate appraiser license for at least five years following the date on which the license, or its equivalent, was revoked.
- (2) An applicant whose license has been revoked shall meet all requirements of an initial applicant and shall present evidence of completion of continuing education for each renewal period, or portion thereof, following the date on which the license was revoked.

Acts 1987, No. 472, §1; Acts 1991, No. 412, §1; Acts 1993, No. 949, §1; Acts 1995, No. 690, §2; Acts 2001, No. 888, §1; Acts 2003, No. 341, §1; Acts 2014, No. 213, §1.

§3397. License classifications; criteria

- A. (1) There shall be three classes of licenses for real estate appraisers. Such classes shall conform in all respects with the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. No. 101-73, and any subsequent amendments and regulations issued pursuant thereto.
- (2) The application for examination, experience review, and renewal certification shall specify the license classification for which the applicant is applying.
- B. (1)(a) Applicants for a real estate appraiser trainee license shall be subject to training and direct supervision by a certified appraiser who meets all of the following qualifications:
- a) Has been licensed as a certified real estate appraiser in Louisiana for at least three years prior to becoming a supervising appraiser.
 - b) Is in good standing as a certified residential or certified general real estate appraiser in Louisiana.
- (b) Both the trainee applicant and the supervising appraiser shall complete a course that complies, at minimum, with the specifications for course content established by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation. The course shall be oriented toward the requirements and responsibilities of supervising appraisers and expectations for trainee appraisers. The course shall be completed by the trainee appraiser prior to obtaining a trainee appraiser license and by the supervising appraiser prior to supervising a trainee appraiser. The supervising appraiser shall not have been subject to any disciplinary action in any jurisdiction within the last three years that affects the supervisor's legal eligibility to engage in appraiser practice. The appraiser trainee is permitted to have more than one supervising appraiser. The scope of work for the appraiser trainee is limited to the appraisal of those properties that the supervising appraiser is licensed to appraise.
- (2) There are no additional examination or experience requirements other than those listed in this Subsection for the real estate appraiser trainee license.

- (3) An appraisal experience log shall be maintained jointly by the supervising appraiser and the trainee appraiser. It is the responsibility of both the supervisory appraiser and the trainee appraiser to ensure the appraisal experience log is accurate, current, and complies with the requirements of the trainee appraiser's credentialing jurisdiction. At a minimum, the appraisal log shall include the following:
- a) Type of property.
 - b) Date of report.
 - c) Address of appraised property.
 - d) Description of work performed by the trainee appraiser and scope of the review and supervision of the supervisory appraiser.
 - e) Number of actual work hours by the trainee appraiser on the assignment.
 - f) The signature and state certification number of the supervisory appraiser. Separate appraisal logs shall be maintained for each supervisory appraiser if applicable.
- (4) As a prerequisite to license renewal, all appraiser trainees shall be required to obtain the equivalent of fourteen hours of continuing education per calendar year.
- (5) The appraiser trainee shall be entitled to obtain copies of appraisal reports prepared by the trainee. The supervising appraiser shall keep copies of the trainee appraisal reports for a period of at least five years or at least two years after final disposition of any judicial proceeding in which testimony is given, whichever period expires last.

Acts 1987, No. 472, §1; Acts 1993, No. 949, §1; Acts 1995, No. 690, §2; Acts 2003, No. 341, §1; Acts 2006, No. 389, §1; Acts 2012, No. 429, §1, eff. May 31, 2012; Acts 2014, No. 213, §§1, 2; Acts 2016, No. 259, §1.

§3397.1. Certified residential and certified general appraisers; continuing education

As a prerequisite to license renewal, all certified residential and certified general appraisers shall complete the equivalent of fourteen hours of continuing education instruction per calendar year.

Acts 2014, No. 213, §1.

3398. Examination

- A. A license as a real estate appraiser shall not be issued in any class other than real estate appraiser trainee unless the applicant has passed a qualifying examination approved by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation for such license.

- B. Any applicant not licensed within two years after passing an examination given pursuant to the provisions of this Chapter shall be required to retake and pass the examination.
- C. An applicant who has failed an examination may reapply for examination by submitting an application fee within ninety days of the last examination date.

Acts 1987, No. 472, §1; Acts 1993, No. 949, §1; Acts 1997, No. 1363, §1, eff. July 15, 1997; Acts 1999, No. 158, §1; Acts 2001, No. 888, §1; Acts 2003, No. 341, §§1 and 3; Acts 2014, No. 213, §§1 and 2.

§3400. Term of licenses

All licenses issued under this Chapter shall be issued for two years and shall expire on the second December thirty-first following the date on which it was issued.

Acts 1987, No. 472, §1; Acts 2003, No. 341, §1.

§3401. Nonresident license; temporary registration; reciprocity

- A. Every nonresident applicant for a license issued under this Chapter shall submit an irrevocable consent that service of process in any action against the applicant arising out of the applicant's activities as a licensed real estate appraiser may be made by delivery of the process to the secretary of state, if the plaintiff cannot, in the exercise of due diligence, effect personal service upon the applicant.
- B. An applicant who has complied with the provisions of Subsection A of this Section may apply for a license as a real estate appraiser in this state in accordance with Subsection (b) of Section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.
- C. A nonresident real estate appraiser certified or licensed in another jurisdiction may make appraisals on a temporary basis only if all of the following conditions are met:

- (1) Repealed by Acts 2003, No. 341, §3.
- (2) The Appraisal Subcommittee of the Federal Financial Institutions Examination Council, or its successor, has approved the state, commonwealth, or territory program under which the nonresident appraiser is licensed or certified.
- (3) The nonresident appraiser has registered with the board on the prescribed form and has provided the board with payment of the temporary registration fee specified in R.S. 37:3407(A)(7).

Acts 1987, No. 472, §1; Acts 1991, No. 412, §1; Acts 1993, No. 949, §1; Acts 1995, No. 690, §2; Acts 2003, No. 341, §§1 and 3; Acts 2012, No. 429, §1, eff. May 31, 2012; Acts 2014, No. 213, §§1, 2.

§3403. Renewal of license

- A. (1) Each license issued under this Chapter shall be issued for a period of two years and shall expire on the second December thirty-first following the date on which it is issued. A license which is not renewed by January first shall be considered to be expired, and any appraisal practice that is conducted in this state after expiration of the license shall be deemed a violation of this Chapter.

(2) Any licensee who submits a renewal application which is received by the board after the expiration date shall pay the delinquent fee provided for in R.S. 37:3407(A).
- B. Any licensee who fails to renew timely may thereafter renew during the six-month period immediately following the last date on which the licensee held a valid license. Former licensees who are not eligible for renewal because of delay beyond the six-month delinquent renewal period shall apply as initial applicants.

Acts 1987, No. 472, §1; Acts 1993, No. 949, §1; Acts 1995, No. 690, §2; Acts 2003, No. 341, §1.

§3405. Principal place of business for appraiser

- A. Each licensed real estate appraiser shall advise the board of the address of his or her principal place of business and all other addresses at which he is currently engaged in the business of preparing real property appraisal reports.
- B. Each licensed appraiser shall report any changes in the address or telephone number of his business or residence to the board in writing within ten days of the change.

Acts 1987, No. 472, §1; Acts 1993, No. 949, §1; Acts 1995, No. 690, §2; Acts 2003, No. 341, §1.

§3406. Issuance of licenses; display; use of term

- A. A license issued under authority of this Chapter shall bear the signatures or facsimile signatures of the chairperson and secretary of the board and a license number assigned by the board.
- B. Each licensed real estate appraiser shall include his classification and license number in all appraisal reports, contracts, or other instruments used by the licensee in conducting real property appraisal activities.
- C. Repealed by Acts 2003, No. 341, §3.
- D. Real estate appraisers that use their license for advertising purposes, including but not limited to logos, stationery, and business cards, shall place their license number adjacent to or immediately below their license classification.

Acts 1987, No. 472, §1; Acts 1991, No. 412, §1; Acts 1995, No. 690, §2; Acts 2001, No. 833, §2; Acts 2003, No. 341, §§1 and 3; Acts 2006, No. 389, §1.

§3407. Fees

- A. The board shall charge and collect fees not in excess of the following:
- | | |
|--|----------|
| (1) License application fee | \$200.00 |
| (2) License history fee | \$25.00 |
| (3) Examination processing fee | \$100.00 |
| (4) Experience review | \$100.00 |
| (5) License renewal fee | \$200.00 |
| (6) Delinquent renewal fee: | |
| January 1 - February 15 | \$25.00 |
| February 16 - June 30 | \$100.00 |
| (7) Temporary registration fee | \$150.00 |
| (8) Initial qualifying/continuing education provider fee | \$100.00 |
| (9) Annual renewal fee for education provider | \$100.00 |
| (10) Filing fee for additional course offerings
submitted by approved education providers | \$10.00 |
| (11) Processing Fee | \$25.00 |
- B. (1) In addition to the fees provided for in Subsection A of this Section, the board may charge each applicant or licensee twenty dollars for each two-year license. The funds shall be included in the research and education fund of the Louisiana Real Estate Commission and shall be dedicated for use by the board to sponsor, conduct, contract for, and underwrite any and all research projects or real estate appraisal programs having to do with the advancement of the real estate appraisal industry in Louisiana.
- (2) Additionally, the board may collect any required federal fees from each applicant or licensee and remit them to the appropriate agency or instrumentality of the federal government as may be required to render Louisiana licensed real estate appraisers eligible to perform appraisals in connection with federally related transactions.
- C. All fees shall be paid into the operating account of the board for the purpose of carrying out the provisions of this Chapter.
- D. Activities of the board shall be audited in accordance with R.S. 24:513.

Acts 1987, No. 472, §1; Acts 1991, No. 412, §1; Acts 1993, No. 949, §1; Acts 1995, No. 690, §2; Acts 2003, No. 341, §1; Acts 2014, No. 200, §1.

§3408. Continuing education requirements

- A. As a prerequisite to renewal of a real estate appraiser license, all licensees shall present evidence satisfactory to the board of having met the continuing education requirements set forth in this Chapter.
- B. The basic continuing education requirements for renewal of a license shall be the completion of not less than twenty-eight hours, or its equivalent, in courses that have received the approval of the board. As part of this requirement, the applicant shall complete a minimum of seven

classroom hours of instruction covering the Uniform Standards of Professional Appraisal Practice every renewal period.

- C. In lieu of meeting the requirements of Subsection B of this Section, an applicant for renewal may present evidence of the following:
- (1) Completion of courses determined by the board to be equivalent to continuing education courses approved by the board pursuant to Subsection B of this Section.
 - (2) a) Participation, other than as a student, in educational processes and programs in real property appraisal theory, practices, or techniques including but not limited to teaching, program development, and preparation of textbooks, monographs, articles, and other instructional materials, all to be approved by the board.

b) No more than half of the continuing education credit shall be granted for participation pursuant to this Paragraph.
- D. The board shall adopt regulations for implementation of the provisions of this Section to provide licensees with current knowledge of real property appraisal theories, practices, and techniques. Such regulations shall prescribe the following:
- (1) Policies and procedures for obtaining board approval of courses pursuant to Subsection B of this Section.
 - (2) Standards, policies, and procedures to be applied by the board in evaluating course equivalency as specified in Subsection C of this Section.
 - (3) Standards, monitoring methods, and systems for recording attendance to be employed by course sponsors as a prerequisite to board approval of courses for credit.
- E. In making recommendations pursuant to Paragraph (D)(1) of this Section, the board shall give consideration to courses of instruction, seminars, and other real property appraisal education courses or programs previously or hereafter developed by or under the auspices of professional appraisal organizations and utilized by those associations for purposes of designation, certification, or recertification of the members of the association.
- F. No amendment or repeal of a regulation adopted by the board pursuant to this Section shall operate to deprive a licensed real estate appraiser of credit toward renewal of certification for any course of instruction completed by the applicant prior to the amendment or repeal of the regulation, if the course would have qualified for continuing education credit under the regulation as it existed prior to the repeal or amendment.

Acts 1987, No. 472, §1; Acts 1993, No. 949, §1; Acts 1995, No. 690, §2; Acts 2001, No. 888, §1; Acts 2003, No. 341, §1; Acts 2014, No. 213, §1.

§3409. Disciplinary proceedings

- A. The board may censure a licensed real estate appraiser, conditionally or unconditionally suspend or revoke any license issued under this Chapter, levy fines or impose civil penalties not to exceed five thousand dollars, or impose continuing education requirements on licensees if, in the opinion of the board, a licensee is performing, is attempting to perform, has performed, or has attempted to perform any of the following acts:
- (1) Committing any act in violation of this Chapter.
 - (2) Violating any rule or regulation adopted by the board in the interest of the public and consistent with the provisions of this Chapter.
 - (3) Knowingly making any false representation to any party in developing or communicating an appraisal.
 - (4) Accepting an appraisal assignment when the employment itself is contingent upon the appraiser reporting a predetermined analysis or opinion or where the fee to be paid for the performance of this appraisal assignment is contingent upon the opinion, conclusion, or valuation reached or upon the consequences resulting from the appraisal assignment.
 - (5) Violating the confidential nature of governmental records to which he gained access through employment or engagement as an appraiser by a governmental agency.
 - (6) Procuring a license for himself or anyone else by fraud, misrepresentation, or deceit.
 - (7) Having been convicted of a felony or having entered a plea of nolo contendere to a felony charge.
 - (8) Failing to make available to the board for its inspection, without prior notice, originals or true copies of all written contracts engaging the person's services to appraise real property and all reports and supporting data assembled and formulated by the appraiser in preparing the reports.
 - (9) Paying a fee or valuable consideration to any person for acts or services performed in violation of this Chapter.
 - (10) Acting as a real estate appraiser in an unworthy or incompetent manner that may endanger the public interest.
- B. (1) Sole authority for the conduct of adjudicatory proceedings in accordance with the Administrative Procedure Act for violations of this Chapter is vested in the board.
- (2) Before censuring any licensee, or suspending or revoking any license, the board shall notify the licensee in writing of any charges made at least twenty days prior to the date set for the hearing and shall afford him an opportunity to be heard in person or by counsel.

- (3) The written notice shall be satisfied by personal service on the respondent, or by sending the notice by certified mail to the licensee's address on file with the board, or by hand delivery from board personnel.
 - (4) The board shall have the power to subpoena and issue subpoenas duces tecum and to bring before it any person in this state to take testimony by deposition, in the same manner as prescribed by law in judicial proceedings in the courts of this state, or to require production of any records relevant to any inquiry or hearing by the board.
- C. (1) The hearing on the charges shall be at a time and place prescribed by the board and in accordance with the Administrative Procedure Act.
- (2) The board may make findings of fact and shall deliver or mail such findings to the licensee charged with an offense under this Chapter. Any finding of fact by the board pursuant to this Subsection shall be conclusive.
 - (3) Any final decision or determination of the board in adjudicatory proceedings shall be reviewable as to questions of law by the Nineteenth Judicial District Court in the parish of East Baton Rouge. Any application for judicial review made by an aggrieved party shall be filed within thirty days after the final decision of the board.
 - (4) If a petition to review the final decision of the board is filed, the case shall be specifically fixed for trial within thirty days from the filing of an answer by the board. If the court finds that the board has properly pursued its authority in accordance with the law, is supported by evidence in the record, and has not acted arbitrarily, it shall affirm the decision, order, or ruling of the board.
 - (5) If an appeal is filed in the Nineteenth Judicial District Court, the court shall receive the entire record of the hearing.
 - (6) Absent an agreement of counsel for all parties, no stay of enforcement of a decision issued by the board shall be granted during the pendency of an appeal unless the Nineteenth Judicial District Court finds that the applicant has established that the issuance of the stay does not threaten harm to other interested parties.
 - (7) No stay shall be granted ex parte. The court shall schedule a hearing on the request for a stay order within ten days from filing. The decisions shall be rendered within five days after the conclusion of the hearing.
 - (8) No judicial order staying or enjoining the effectiveness or enforcement of a final decision or order of the board in an adjudication proceeding, whether issued pursuant to R.S. 37:3409 or otherwise, shall be effective, or be issued to be effective, longer than either of the following:
 - a) One hundred twenty days from the date on which the board's decision or order was rendered.

- b) The date on which the court enters judgment in a proceeding for judicial review of the board's decision or order pursuant to R.S. 49:964, whichever occurs first.
- D. The board may also suspend or revoke the license of a real estate appraiser based upon a final civil judgment against the appraiser on grounds of fraud, misrepresentation, or deceit in the making of an appraisal of real property. In a disciplinary proceeding based upon such judgment, the licensed real estate appraiser shall be afforded notice and the opportunity to present matters in mitigation and extenuation but shall not collaterally attack the civil judgment.
- E. It shall be the duty of each licensed real estate appraiser to notify the board within ten days by registered or certified mail or by hand delivery of the following actions:
 - (1) The rendering of a final judgment against the appraiser by a court of competent jurisdiction the subject matter of which involves a real estate appraisal transaction to which the appraiser was a party.
 - (2) The institution of criminal prosecution by arrest or indictment which involves a real estate appraisal transaction to which the appraiser was a party.
 - (3) Any conviction of the appraiser by a court of competent jurisdiction for forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, theft, any other felony, or any crime involving moral turpitude.
 - (4) Any sanction imposed on the appraiser by another jurisdiction.
- F. A licensed real estate appraiser shall not participate in the preparation of federally related real estate appraisals during any period in which his license has been suspended by the board pursuant to adjudicatory proceedings.

Acts 1987, No. 472, §1; Acts 1991, No. 412, §1; Acts 1993, No. 949, §1; Acts 1995, No. 690, §2; Acts 1999, No. 158, §1; Acts 2003, No. 341, §1; Acts 2014, No. 213, §1.

§3410. Standards for the development and communication of real estate appraisals

- A. A licensed real estate appraiser shall comply with generally accepted standards of professional practice in the development and communication of appraisals of real estate located in this state and with generally accepted ethical rules of conduct as contained in the "Uniform Standards of Professional Appraisal Practice", or its successor, as approved by the Appraisal Standards Board of the Appraisal Foundation or its successor.
- B. The licensed real estate appraiser shall include within the body of the appraisal report the amount of the appraiser's fee for appraisal services.

Acts 1987, No. 472, §1; Acts 1990, No. 740, §1; Acts 1991, No. 412, §1; Acts 2003, No. 341, §1; Acts 2012, No. 429, §1, eff. May 31, 2012; Acts 2014, No. 213, §1.

§3411. Documents to be retained

A licensed real estate appraiser shall retain for five years originals or true copies of contracts engaging the appraiser's services for real property appraisal work, appraisal reports, and supporting data assembled and formulated by the appraiser in preparing reports. The period for retention of the records applicable to each engagement of the services of the appraiser shall run from the date of the submission of the appraisal report to the client. These records shall be made available by the appraiser for inspection and copying by the board on reasonable notice to the appraiser. When litigation is contemplated at any time, reports and records shall be retained for two years from final disposition.

Acts 1987, No. 472, §1; Acts 1995, No. 690, §2; Acts 2003, No. 341, §1; Acts 2016, No. 259, §1.

§3412. False information

It shall be unlawful for any person or his agent to file with the board any notice, statement, or other document required under the provisions of this Chapter which is false or contains any material misstatement of fact.

Acts 1987, No. 472, §1; Acts 1995, No. 690, §2.

3413. Penalty

Any person who violates any provision of this Chapter shall be fined not more than five thousand dollars, imprisoned for not more than six months, or both.

Acts 1995, No. 690, §2; Acts 2003, No. 341, §1.

Tab 2

**CHAPTER 51-A. APPRAISAL MANAGEMENT COMPANY
LICENSING AND REGULATION ACT**

§3415.1. Short title

This Chapter shall be known and may be cited as the "Louisiana Appraisal Management Company Licensing and Regulation Act."

Acts 2009, No. 502, §1, eff. Jan. 1, 2010.

§3415.2. Definitions

As used in this Chapter, the following words have the meaning ascribed to them in this Section unless the context clearly indicates otherwise:

(1) "Appraisal" means the act or process of developing an opinion of value of real property following the appraisal process defined by the Uniform Standards for Professional Appraisal Practice.

(2) "Appraisal management company" means any corporation, partnership, sole proprietorship, subsidiary, unit, or other business entity that engages in any of the following activity:

(a) Administers a network of independent contract appraisers to perform real estate appraisal services for lenders or other clients.

(b) Receives requests for residential appraisal services from clients and enters into agreements, written or otherwise, with one or more independent appraisers to perform the real estate appraisal services contained in the request.

(3) "Appraisal management services" means the process of receiving a request for the performance of real estate appraisal services from a client, and for a fee paid by the client, entering into an agreement with one or more independent appraisers to perform the real estate appraisal services contained in the request.

(4) "Appraiser" is defined as one who is expected to perform valuation services competently and in a manner that is independent, impartial, and objective.

(5) RESERVED.

(6) "Appraiser panel" means a group of appraisers that has been selected by an appraisal management company to perform real estate appraisal services for the appraisal management company on behalf of lenders or other clients.

(7) "Board" means the Louisiana Real Estate Appraisers Board.

(8) "Client" means any person or entity that contracts with or otherwise enters into an agreement for the performance of residential real estate appraisal services.

(9) "Controlling person" means any of the following:

(a) An owner, officer, or director of a corporation, partnership, or other business entity seeking to offer appraisal management services in this state.

(b) An individual employed, appointed, or authorized by an appraisal management company who has the authority to enter into a contractual relationship with clients to contract for the performance of appraisal management services and has the authority to enter into agreements with independent appraisers for the performance of real estate appraisal services.

(c) An individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.

(10) "Real estate appraisal services" means residential valuation services performed by an individual acting as an appraiser, including but not limited to appraisal, appraisal review, or appraisal consulting, as these services are defined under the Uniform Standards for Professional Appraisal Practice.

(11) "Administrative review", "compliance review", "quality check", or "QC" means a process that checks an appraisal report for compliance with the Uniform Standards of Professional Appraisal Practice or other stipulated requirements.

(12) "Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment. The term shall not include an examination of an appraisal for grammatical, typographical, mathematical, or other similar administrative errors that do not involve the appraiser's professional judgment, including compliance with the elements of the client's statement of work.

(13) "Fee appraiser" means a person who is not an employee of the mortgage loan originator or appraisal management company engaging the appraiser and is one of the following:

(a) A state-licensed or certified appraiser who receives a fee for performing an appraisal and certifies that the appraisal has been prepared in accordance with the Uniform Standards of Professional Appraisal Practice.

(b) A company not subject to the requirements of Section 1124 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, 12 U.S.C. 3331 et seq., that utilizes the services of state-licensed or certified appraisers and receives a fee for performing appraisals in accordance with the Uniform Standards of Professional Appraisal Practice.

Acts 2009, No. 502, §1, eff. Jan. 1, 2010; Acts 2012, No. 429, §1, eff. May 31, 2012.

§3415.3. License required

A. It shall be unlawful for a person, corporation, partnership, sole proprietorship, subsidiary, unit, or any other business entity to directly or indirectly engage or attempt to engage in business as an appraisal management company, to directly or indirectly engage or attempt to perform appraisal management services, or to advertise or hold itself out as engaging in or conducting business as an appraisal management company without first obtaining a license issued by the board under the provisions of this Chapter, regardless of the entity's use of the term "appraisal management company", "national valuations solutions provider", "mortgage technology company", or any other name.

B. The license required by Subsection A of this Section shall, at a minimum, include the following information:

(1) The name of the entity seeking a license.

(2) The business address of the entity seeking a license.

(3) The phone contact information of the entity seeking a license.

(4) If the entity is not a corporation that is domiciled in this state, the name and contact information for the company's agent for service of process in this state.

(5) The name, address, and contact information of any individual, corporation, partnership, or other business entity that has any ownership interest in the appraisal management company.

(6) The name, address, and contact information for a controlling person, as defined in this Chapter.

(7) Certification that the entity has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds an appraisal license in good standing in this state pursuant to this Chapter.

(8) Certification that the entity has a system in place to review the work on a periodic basis of all independent appraisers that are performing real estate appraisal services for the appraisal management company to ensure that the real estate appraisal services are being conducted in accordance with Uniform Standards of Professional Appraisal Practice, pursuant to this Chapter.

(9) Certification that the entity maintains a detailed record for five years of each real estate appraisal service request that it receives and an itemized list of all fees contracted with each appraiser who performs real estate appraisal services for the appraisal management company, pursuant to this Chapter.

(10) Proof that the entity has obtained and maintains a surety bond that meets the requirements of Subsection D of this Section.

(11) An irrevocable Uniform Consent to Service of Process, pursuant to this Chapter.

C.(1) A person who performs an appraisal review for an appraisal management company shall be licensed or certified in Louisiana.

(2) An administrative review may be performed by any individual, including a certified appraiser.

D.(1) Every applicant for a license or the renewal of a license shall obtain and maintain a surety bond in the amount of twenty thousand dollars. The surety bond shall:

(a) Be in the form prescribed by the board pursuant to regulations duly promulgated by it.

(b) Accrue to the state for the benefit of a claimant against the registrant to secure the faithful performance of the licensee obligations under this Chapter.

(2) The aggregate liability of the surety shall not exceed the principal sum of the bond.

(3) A party having a claim against the licensee may bring suit directly on the surety bond, or the board may bring suit on behalf of the party having a claim against the licensee.

(4) Consumer claims shall be given priority in recovering from the bond.

(5) A deposit of cash or security may be accepted in lieu of the surety bond.

(6) If a claim reduces the face amount of the bond, the bond shall be annually restored upon renewal of the licensee's registration.

Acts 2009, No. 502, §1, eff. Jan. 1, 2010; Acts 2012, No. 429, §1, eff. May 31, 2012.

§3415.4. Exemptions

A. This Chapter shall not be applicable to any of the following:

(1) Any corporation, partnership, sole proprietorship, subsidiary, unit, or other business entity that exclusively employs persons on an employer/employee basis for the performance of real estate appraisal services in the normal course of its business and such entity is responsible for ensuring that the real estate appraisal services being performed by its employees are being performed in accordance with Uniform Standards of Professional Appraisal Practice.

(2) Any individual, corporation, partnership, sole proprietorship, subsidiary, unit, or other business entity engaged in real estate appraisal services who, in the normal course of business, enters into an agreement, whether written or otherwise, with another independent appraiser for the performance of real estate appraisal services that the hiring or contracting appraiser is unable to complete for any reason, including but not limited to competency, work load, schedule, or geographic location.

(3) Any individual, corporation, partnership, sole proprietorship, subsidiary, unit, or other business entity engaged in real estate appraisal services who, in the normal course of business, enters into an agreement, whether written or otherwise, with an independent contractor appraiser for the performance of real estate appraisal services and, upon the completion of the appraisal, the report of the appraiser performing the real estate appraisal services is cosigned by the appraiser who subcontracted with the independent appraiser for the performance of the real estate appraisal services.

B. The Louisiana Real Estate Appraisers Board may issue special exemptions, if deemed acceptable by the board, upon special application and review.

Acts 2009, No. 502, §1, eff. Jan. 1, 2010.

§3415.5. Forms

An applicant for a license as an appraisal management company in this state shall submit to the board an application on a form prescribed by the board.

Acts 2009, No. 502, §1, eff. Jan. 1, 2010.

§3415.6. Expiration of license

All licenses granted by the board pursuant to this Chapter shall expire December thirty-first of each calendar year.

Acts 2009, No. 502, §1, eff. Jan. 1, 2010; Acts 2011, No. 114, §1.

§3415.7. Consent to service of process

Each entity applying for a license as an appraisal management company in this state shall complete an irrevocable Uniform Consent to Service of Process as prescribed by the board.

Acts 2009, No. 502, §1, eff. Jan. 1, 2010.

§3415.8. Owner requirements

A. An appraisal management company applying for a license in this state may not be owned by any person who has had a license or certificate to act as an appraiser, real estate broker or agent, mortgage broker, or mortgage originator, which combined are considered herein to be "real estate or lending-related licenses" refused, denied, suspended, canceled, or revoked in the past in any state without specific approval by the board.

B. Any licensed appraisal management company with an owner or employee who is subsequently refused or denied a real estate or lending-related license in any state, shall notify the board in writing within ten days of such action.

C. Any licensed appraisal management company with an owner or employee whose real estate or lending-related license has been suspended, revoked, or cancelled subsequent to being registered shall notify the board in writing within ten days of such action.

D. Either refusal or revocation of any real estate or lending-related license in any state shall be grounds for denying renewal of the appraisal management company's license. However, failure to notify the board of refusal, suspension, revocation, or cancellation of the licenses within ten days of such action shall be cause for revocation of an appraisal management company's license.

E. Each person that has any ownership interest in an appraisal management company in this state shall comply with all of the following:

- (1) Be of good moral character, as determined by the board.
- (2) Submit to a background investigation, as determined by the board.
- (3) Certify to the board that the person has never had a license to act as an appraiser refused, denied, cancelled, suspended, or revoked in this state or in any other state.

Acts 2009, No. 502, §1, eff. Jan. 1, 2010.

§3415.9. Controlling person; requirements

A. Each appraisal management company applying to the board for a license in this state shall designate one controlling person that will be the main contact for all communication between the board and the appraisal management company.

B. In order to serve as a controlling person of an appraisal management company, a person shall comply with all of the following:

- (1) Certify to the board that he has never had a certificate or license issued by the board of this state, or the board of any other state, to act as an appraiser refused, denied, canceled, suspended, or revoked.
- (2) Be of good moral character, as determined by the board.
- (3) Submit to a background investigation, as determined by the board.

Acts 2009, No. 502, §1, eff. Jan. 1, 2010.

§3415.10. License application assessment; delinquent renewal

A. When accepting an application for an initial or renewal license, the board is authorized to collect an assessment not in excess of one thousand five hundred dollars.

B. If the license renewal is delinquent, the board is further authorized to collect a delinquent renewal assessment as follows:

- (1) If the renewal application is submitted during the period of January first to February fifteenth, an amount not in excess of one hundred fifty dollars.
- (2) If the renewal application is submitted during the period of February sixteenth to June thirtieth, an amount not in excess of three hundred dollars.

C. If an initial license is issued after January first of any year, the assessment shall be prorated to the remaining portion of the year ending December thirty-first.

D. The provisions of this Section shall expire on December 31, 2019.

Acts 2011, No. 114, §1; Acts 2013, No. 31, §1, eff. May 29, 2013; Acts 2016, No. 259, §1; Acts 2017, No. 11, §1.

NOTE: See Acts 2011, No. 114, §§2, 3, relative to licenses issued on or after certain dates.

§3415.11. Limitations

An appraisal management company licensed in this state pursuant to this Chapter shall not enter into contracts or agreements with an independent appraiser for the performance of real estate appraisal services unless that person is licensed and in good standing pursuant to the Louisiana Real Estate Appraisers Law, R.S. 37:3391 et seq.

Acts 2009, No. 502, §1, eff. Jan. 1, 2010.

§3415.12. Pre-engagement certification

Each appraisal management company seeking to be licensed in this state shall certify to the board, on an annual basis, on a form prescribed by the board, that the appraisal management company has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds a license in good standing in this state pursuant to the Louisiana Real Estate Appraisers Law, R.S. 37:3391 et seq.

Acts 2009, No. 502, §1, eff. Jan. 1, 2010.

§3415.13. Adherence to standards; competency

A. Each appraisal management company seeking to be licensed in this state shall certify to the board on an annual basis that it has a system in place to review on a periodic basis the work of all appraisers that are performing real estate appraisal services for the appraisal management company to ensure that the real estate appraisal services are being conducted in accordance with Uniform Standards of Professional Appraisal Practice.

B. Before or at the time of making an assignment to an appraiser, an appraisal management company shall verify that the appraiser receiving the assignment satisfies each provision of the competency rule of the Uniform Standards of Professional Appraisal Practice for the appraisal being assigned.

Acts 2009, No. 502, §1, eff. Jan. 1, 2009; Acts 2012, No. 429, §1, eff. May 31, 2012.

§3415.14. Record keeping

Each appraisal management company seeking to be licensed in this state shall certify to the board on an annual basis that it maintains a detailed record for five years of each real estate appraisal service request that it receives including the fee paid by the lenders to all appraisers for all real estate appraisal services and the names of all appraisers or entities that perform all real estate appraisal services for the appraisal management company.

Acts 2009, No. 502, §1, eff. Jan. 1, 2010.

§3415.15. Fees; customary and reasonable; disclosure

A. An appraisal management company shall compensate appraisers at a rate that is customary and reasonable for appraisals being performed in the market area of the property being appraised, consistent with the requirements of 15 U.S.C. 1639(e) and the final federal rules as provided for in the applicable provisions of 12 CFR Parts 34, 225, 226, 323, 1026, and 1222.

B. An appraisal management company shall separately state to the client all of the following:

(1) The fees paid to an appraiser for appraisal services.

(2) The fees charged by the appraisal management company for services associated with the management of the appraisal process, including procurement of the appraiser's services.

C.(1) An appraisal management company shall not prohibit any appraiser who is part of an appraiser panel from recording the fee that the appraiser was paid by the appraisal management company for the performance of the appraisal within the appraisal report that is submitted by the appraiser to the appraisal management company.

(2) An appraisal management company shall not include any fees for appraisal management services performed by the company in the amount the company reports as charges for the actual completion of an appraisal by the appraiser.

Acts 2012, No. 429, §1, eff. May 31, 2012; Acts 2016, No. 259, §1.

§3415.16. Appraiser independence; prohibitions

A. It shall be unlawful for any employee, director, officer, or agent of an appraisal management company licensed in this state pursuant to this Chapter to influence or attempt to influence the development, reporting, or review of an appraisal through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, bribery, or in any other manner, including but not limited to the following:

(1) Withholding or threatening to withhold timely payment for an appraisal.

(2) Withholding or threatening to withhold future business for an independent appraiser, or demoting or terminating or threatening to demote or terminate an independent appraiser.

(3) Expressly or impliedly promising future business, promotions, or increased compensation for an independent appraiser.

(4) Conditioning the request for a real estate appraisal service or the payment of an appraisal fee or salary or bonus on the opinion, conclusion, or valuation to be reached, or on a preliminary estimate or opinion requested from an independent appraiser.

(5) Requesting that an independent appraiser provide an estimated, predetermined, or desired valuation in an appraisal report, or provide estimated values or comparable sales at any time prior to the independent appraiser's completion of a real estate appraisal service.

(6) Providing to an independent 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 purchase transactions may be provided.

(7) Providing to an independent appraiser, or any entity or person related to the appraiser, stock or other financial or nonfinancial benefits, allowing the removal of an independent appraiser from an appraiser panel, without prior written notice to such appraiser.

(8) Obtaining, using, or paying for a second or subsequent appraisal or ordering an automated valuation model in conjunction with a mortgage financing transaction unless there is a reasonable basis to believe that the initial appraisal was flawed or tainted and such basis is clearly and appropriately noted in the loan file, or unless such appraisal or automated valuation model is done pursuant to a bona fide pre- or post-funding appraisal review or quality control process or underwriting guidelines, and so long as the lender adheres to a policy of selecting the most reliable appraisal, rather than the appraisal that states the highest

(9) Forcing an appraiser to accept an assignment where the delivery times are so short that they force the appraiser to render a misleading report.

B. Nothing in Subsection A of this Section shall be construed as prohibiting the appraisal management company from requesting that an independent appraiser do either of the following:

(1) Provide additional information about the basis for a valuation.

(2) Correct objective factual errors in an appraisal report.

Acts 2009, No. 502, §1, eff. Jan. 1, 2010.

§3415.17. Alteration of appraisal reports

An appraisal management company shall not alter, modify, or otherwise change a completed real estate appraisal service report submitted by an appraiser.

Acts 2009, No. 502, §1, eff. Jan. 1, 2010.

§3415.18. Adjudication of disputes between an appraisal management company and an appraiser

A. Except within the first thirty days after an independent appraiser is first added to the appraiser panel of an appraisal management company, an appraisal management company may not remove an appraiser from its appraiser panel, or otherwise refuse to assign requests for real estate appraisal services to an independent appraiser without doing all of the following:

(1) Notifying the appraiser in writing of the reasons why the appraiser is being removed from the appraiser panel of the appraisal management company. If the appraiser is being removed from the panel for illegal conduct, violation of the Uniform Standards of Professional Appraisal Practice, or a violation of state licensing standards, the nature of the alleged conduct or violation shall be identified.

(2) Providing an opportunity for the appraiser to respond to the notification of the appraisal management company.

B. An appraiser that is removed from the appraiser panel of an appraisal management company for alleged illegal conduct, violation of the Uniform Standards of Professional Appraisal Practice, or violation of state licensing standards, may file a complaint with the board for a review of the decision of the appraisal management company, except that in no case shall the board make any determination regarding the nature of the business relationship between the appraiser and the appraisal management company which is unrelated to the actions specified in Subsection A of this Section.

C. If an appraiser files a complaint against an appraisal management company pursuant to Subsection B of this Section, the board shall adjudicate the complaint.

D. If, after opportunity for hearing and review, the board determines that an appraiser did not commit a violation of law, a violation of the Uniform Standards of Professional Appraisal Practice, or a violation of state licensing standards, the board shall order that an appraiser be reinstated to the appraiser panel of the appraisal management company that was the subject of the complaint without prejudice.

E. Following the adjudication of a complaint to the board by an appraiser against an appraisal management company, an appraisal management company may not refuse to make assignments for real estate appraisal services to an appraiser, or reduce the number of assignments, or otherwise penalize the appraiser, if the board has found that the appraisal management company acted improperly in removing the appraiser from the appraiser panel.

Acts 2009, No. 502, §1, eff. Jan. 1, 2010.

§3415.19. Enforcement

A. The board may censure an appraisal management company, conditionally or unconditionally suspend, or revoke any license issued under this Chapter, levy fines or impose civil penalties not to exceed fifty thousand dollars, if in the opinion of the board, an appraisal management company is attempting to perform, is performing, has performed, or has attempted to perform any of the following acts:

(1) Committing any act in violation of this Chapter.

(2) Violating any rule or regulation adopted by the board in the interest of the public and consistent with the provisions of this Chapter.

(3) Procuring a license by fraud, misrepresentation, or deceit.

B.(1) In addition to any other civil remedy or civil penalty provided for in this Chapter, the board may issue a subpoena to any person or persons who the board has probable cause to believe has engaged in real estate appraisal activity without a currently valid license.

(2) Subpoenas issued by the board shall comply with the notice requirements of R.S. 49:955. These subpoenas shall be served upon the unlicensed individual personally or by any type of mailing requiring a return receipt and shall include a statement of the manner in which the unlicensed person shall be required to respond to the commission.

C. The board may impose a civil penalty of no more than five thousand dollars upon any unlicensed person who, after a hearing or informal resolution in accordance with all provisions of this Chapter and the Administrative Procedure Act, is found to have engaged in real estate appraisal activity without a currently valid license having been issued by the board pursuant to the provisions of this Chapter. In addition, the board may assess costs and attorney fees against the unlicensed person found to have been engaged in real estate appraisal activity without a current license.

D. No person engaged in real estate appraisal activity without a currently valid license shall have the right to receive any compensation for services so rendered. In addition to any other penalties imposed under this Chapter, the board may require that any person engaged in real estate appraisal activity without a license return any fees collected for engaging in real estate appraisal activity.

Acts 2009, No. 502, §1, eff. Jan. 1, 2010.

§3415.20. Disciplinary hearings

A. The conduct of adjudicatory proceedings in accordance with the Administrative Procedure Act for violations of this Chapter is vested in the board, subject to the following provisions:

(1) Before censuring, suspending, or revoking any registration, the board shall notify the licensee in writing of any charges made, at least twenty days prior to the date set for the hearing and shall afford the licensee an opportunity to be heard in person or by counsel.

(2) The written notice shall be satisfied by personal service on the controlling person of the licensee, or the licensee's agent for service of process in this state, or by sending the notice by certified mail, return receipt requested to the controlling person of the licensee to the licensee's address on file with the board, or by board personnel hand delivering a copy of the charges to the licensee.

(3) The board shall have the power to subpoena and issue subpoenas duces tecum and to bring before it any person in this state, or take testimony by deposition, in the same manner prescribed by law in judicial

proceedings in the courts of this state, or to require production of any records relevant to an inquiry or hearing by the board. Any final decision or determination of the board shall be reviewable by the Nineteenth Judicial District Court in the Parish of East Baton Rouge.

(4) The hearing on the charges shall be at a time and place prescribed by the board and in accordance with the provisions of Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950.

(5) The board may make findings of fact and shall deliver or mail such findings to the licensee charged with an offense under this Chapter. Any finding of fact by the board pursuant to the provisions of this Section shall be conclusive.

B.(1) The Nineteenth Judicial District Court of the state may review questions of law involved in any final decision of the board. Any application for review made by an aggrieved party shall be filed within thirty days after the final decision of the board.

(2) If the court finds that the Louisiana Real Estate Appraisers Board has regularly pursued its authority and has not acted arbitrarily, it shall affirm the decision, order, or ruling of the board. If a petition to review the final decision of the board is filed, the case shall be specifically fixed for trial within thirty days from the filing of an answer by the board.

C. Administrative proceedings under this Chapter before the board are not exclusive remedies. Criminal action under the terms of this Chapter may be simultaneously instituted and maintained against the accused for any violation of this Chapter. The board may also separately or simultaneously bring and carry on an action by injunction to restrain a licensed or unlicensed individual from further violation of any of the provisions of this Chapter, during the pendency of the criminal proceeding or proceedings before the board and against any unlawful practice thereafter.

Acts 2009, No. 502, §1, eff. Jan. 1, 2010.

§3415.21. Rulemaking authority

A. The board may adopt any rules and regulations in accordance with the Administrative Procedure Act necessary for the enforcement of this Chapter.

Acts 2009, No. 502, §1, eff. Jan. 1, 2010; Acts 2012, No. 429, §1, eff. May 31, 2012; Acts 2014, No. 764, §1, eff. June 19, 2014.

§3415.22. Federal registry requirements

A. The board shall collect from each appraisal management company that is registered or seeking to be registered in this state the information that the appraisal subcommittee, as described in R.S. 37:3395, requires to be submitted to it by the state pursuant to regulations promulgated by the appraisal subcommittee, including the collection of administrative fees consistent with the final federal rules as provided for in the applicable provisions of 12 CFR Parts 34, 208, 225, 323, 390, 1026, and 1222.

B.(1) A federally regulated appraisal management company operating in this state shall report to the board any information required to be submitted by the state to the appraisal subcommittee pursuant to

the policies of the appraisal subcommittee regarding the determination of the appraisal management company national registry fee.

(2) Reports submitted pursuant to this Subsection shall include the following:

(a) A statement, in a form prescribed by the board, detailing the intent of the federally regulated appraisal management company to operate in this state.

(b)(i) Any information related to whether the appraisal management company is owned in whole or in part, directly or indirectly, by any person who has had an appraiser license or certification refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any state.

(ii) Any information related to the revocation of a license of any person described in Item (i) of this Subparagraph and whether the revoked license has been reinstated by the state or states in which the appraiser was licensed.

Acts 2016, No. 259, §1.

Tab 3

2013 La. R.S. 37:3394

2013 Louisiana Code Archive

**LOUISIANA STATUTES ANNOTATED > LOUISIANA REVISED STATUTES > TITLE 37.
PROFESSIONS AND OCCUPATIONS > CHAPTER 51. LOUISIANA REAL ESTATE APPRAISERS
LAW****§ 37:3394. Louisiana Real Estate Appraisers Board**

- A. There is hereby created within the office of the governor the Louisiana Real Estate Appraisers Board, which shall be comprised as provided in Subsection B of this Section.
- B. (1) Nine members shall be appointed by the governor with one member appointed from each congressional district and the remainder appointed at large. Of the nine members appointed by the governor:
- (a) One shall be appointed from a list of three names submitted by the Louisiana Bankers Association each of whom shall have been involved in real estate lending for at least five years.
 - (b) One shall be appointed from a list of three names submitted by the Community Bankers of Louisiana, each of whom shall have been involved in real estate lending for at least five years.
 - (c) The remainder shall have been Louisiana residents engaged in the general practice of real estate appraising in the state of Louisiana for not less than five years immediately preceding their appointment.
- (2) At least four of the nine shall be general appraisers and at least two of the nine shall be residential appraisers. All appraiser members shall be state certified.
- C. Each appointment by the governor shall be submitted to the Senate for confirmation.
- D. All members shall be appointed for three-year terms. All terms shall commence thirty days after the appointment, and all members shall serve until their successors have been appointed and qualified. Vacancies occurring in the membership of the board for any reason shall be filled by appointment by the governor for the unexpired term. Upon expiration of their terms, members of the board shall continue to hold office until the appointment and qualification of their successors. No person shall be appointed for more than two consecutive terms. The appointing authority may remove a member for cause.
- E. The executive director of the commission shall serve as executive director of the board.
- F. The board shall meet at least once each calendar quarter to conduct its business. The location in Louisiana of future meetings shall be decided by a vote of the members present at the current meeting. The executive director shall give written notice to each member of the time and place of each meeting of the board at least ten days before the scheduled date of the meeting.
- G. The members of the board shall elect a chairperson, vice chairperson, and secretary.
- H. Five members of the board shall constitute a quorum for all business.
- I. Each member of the board shall be entitled to a per diem allowance of fifty dollars for each meeting of the board at which the member is present. Each member of the board shall be entitled to reimbursement of their actual expenses for travel, meals, and lodging.

History

2013 La. R.S. 37:3394

[Acts 1987, No. 472](#), § 1; [Acts 1991, No. 94](#), § 1, eff. Jan. 13, 1992; [Acts 1991, No. 412](#), § 1; [Acts 1993, No. 949](#), § 1; [Acts 1995, No. 690](#), § 2; [Acts 2001, No. 8](#), § 12, eff. July 1, 2001; [Acts 2001, No. 833](#), § 2; [Acts 2003, No. 341](#), § 1.

LOUISIANA STATUTES ANNOTATED

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End of Document

2014 La. HB 894

Enacted, May 30, 2014

Reporter

2014 La. ALS 347; 2014 La. ACT 347; 2014 La. HB 894

LOUISIANA ADVANCE LEGISLATIVE SERVICE > LOUISIANA 2014 REGULAR LEGISLATIVE SESSION >
ACT 347 > HOUSE BILL NO. 894

Notice

Added: Text highlighted in green

Deleted: Red text with a strikethrough

Synopsis

AN ACT To amend and reenact [R.S. 37:3394\(B\)](#) and (H), relative to the Louisiana Real Estate Appraisers Board; to provide for membership requirements and qualifications; and to provide for related matters.

Text

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. [37:3394](#)(B) and (H) are hereby amended and reenacted to read as follows:

§3394. Louisiana Real Estate Appraisers Board

* * *

B.

- (1) ~~Nine~~Ten members shall be appointed by the governor with one member appointed from each congressional district and ~~the remainder~~with four members appointed at large. Of the ~~nine~~ten members appointed by the governor:
 - (a) ~~One~~Two shall be appointed from a list of ~~three~~five names submitted by the Louisiana Bankers Association each of whom shall have been involved in real estate lending for at least five years.
 - (b) ~~One shall be appointed from a list of three names submitted by the Community Bankers of Louisiana, each of whom shall have been involved in real estate lending for at least five years.~~ One member shall have been engaged in the business of appraisal management for at least four years and shall be an employee or representative of a Louisiana licensed appraisal management company. Additionally, this member shall be a citizen and qualified elector of Louisiana and licensed as a Louisiana certified real estate appraiser immediately preceding the appointment to the board.
 - (c) ~~The remainder shall have been Louisiana residents engaged in the general practice of real estate appraising in the state of Louisiana for not less than five years immediately preceding their appointment.~~ The remainder shall have been domiciled in Louisiana and licensed as

certified real estate appraisers for not less than five years immediately preceding the appointment.

(2) At least four of the nine ten members shall be general appraisers and at least two of the nine ten members shall be residential appraisers. All appraiser members shall be state certified.

* * *

H. FiveSix members of the board shall constitute a quorum for all business.

* * *

Section 2. This Act shall become effective upon signature of the by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

History

Approved by the Governor May 30, 2014

Effective date: August 1, 2014

Sponsor

Hoffmann

LOUISIANA ADVANCE LEGISLATIVE SERVICE
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Tab 4

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Appraisal Subcommittee
Federal Financial Institutions Examination Council

May 31, 2016

Mr. Bruce Unangst, Executive Director
Louisiana Real Estate Appraisers Board
P O Box 14785
Baton Rouge, LA 70898-4785

RE: ASC Compliance Review of Louisiana's Appraiser Regulatory Program

Dear Mr. Unangst:

The Appraisal Subcommittee (ASC) staff conducted an ASC Compliance Review (Review) of the Louisiana appraiser regulatory program (Program) on February 2-4, 2016, to determine the Program's compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended.

The ASC considered the preliminary results of the Review and the State's response to those results. The Program has been awarded an ASC Finding of "Good." The final ASC Compliance Review Report (Report) is attached.

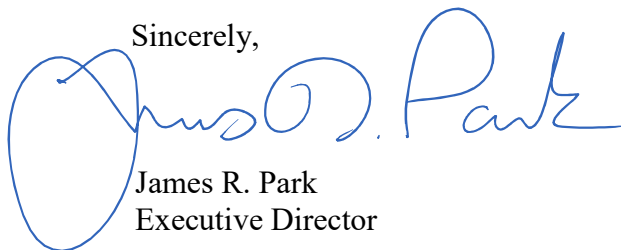
The ASC identified the following area of non-compliance:

- States must verify that the applicant has successfully completed courses consistent with AQB Criteria for the appraiser credential sought, whether for initial credentialing, renewal, upgrade or reinstatement.¹

ASC staff will confirm that appropriate corrective actions have been taken during the next Review. Louisiana will remain on a two-year Review Cycle.

This letter and the attached Report are public records and available on the ASC website. Please contact us if you have any questions about this Report.

Sincerely,



James R. Park
Executive Director

Attachment

cc: Ms. Summer Mire, Confidential Assistant;
Ms. Anne Brassett, Program Administrator

¹ 12 U.S.C. § 3347; Policy Statement 4.

ASC Finding Descriptions

ASC Finding	Rating Criteria	Review Cycle*
Excellent	<ul style="list-style-type: none"> • State meets all Title XI mandates and complies with requirements of ASC Policy Statements • State maintains a strong regulatory Program • Very low risk of Program failure 	2-year
Good	<ul style="list-style-type: none"> • State meets the majority of Title XI mandates and complies with the majority of ASC Policy Statement requirements • Deficiencies are minor in nature • State is adequately addressing deficiencies identified and correcting them in the normal course of business • State maintains an effective regulatory Program • Low risk of Program failure 	2-year
Needs Improvement	<ul style="list-style-type: none"> • State does not meet all Title XI mandates and does not comply with all requirements of ASC Policy Statements • Deficiencies are material but manageable and if not corrected in a timely manner pose a potential risk to the Program • State may have a history of repeated deficiencies but is showing progress toward correcting deficiencies • State regulatory Program needs improvement • Moderate risk of Program failure 	2-year with additional monitoring
Not Satisfactory	<ul style="list-style-type: none"> • State does not meet all Title XI mandates and does not comply with all requirements of ASC Policy Statements • Deficiencies present a significant risk and if not corrected in a timely manner pose a well-defined risk to the Program • State may have a history of repeated deficiencies and requires more supervision to ensure corrective actions are progressing • State regulatory Program has substantial deficiencies • Substantial risk of Program failure 	1-year
Poor ²	<ul style="list-style-type: none"> • State does not meet Title XI mandates and does not comply with requirements of ASC Policy Statements • Deficiencies are significant and severe, require immediate attention and if not corrected represent critical flaws in the Program • State may have a history of repeated deficiencies and may show a lack of willingness or ability to correct deficiencies • High risk of Program failure 	Continuous monitoring

*Program history or nature of deficiency may warrant a more accelerated Review Cycle.

² An ASC Finding of “Poor” may result in significant consequences to the State. See Policy Statement 5, *Reciprocity*; see also Policy Statement 8, *Interim Sanctions*.

ASC Compliance Review Report

ASC Finding: Good

Final Report Issue Date: May 31, 2016

PUBLIC

Louisiana Appraiser Regulatory Program (State)

Louisiana Real Estate Appraisers Board (Board) / Decision Making	PM: N. Fenochietti	ASC Compliance Review Date: February 02-04, 2016	Review Period: February 2014 to February 2016
Umbrella Agency: Real Estate Commission		Number of State Credentialed Appraisers on National Registry: 1,336	Review Cycle: Two Year

Applicable Federal Citations	Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required/Recommended State Actions	General Comments
	YES	NO	AC				
Statutes, Regulations, Policies and Procedures:			X				
States must, at a minimum, adopt and/or implement all relevant AQB Criteria. (12 U.S.C. § 3345; 12 U.S.C. § 3347; Policy Statement 1 C, D.)				Supervisory Appraisers are required to be state-certified and in "good standing" in the jurisdiction in which the Trainee Appraiser practices for a period of at least three (3) years. The Supervisory Appraiser requirements set forth in Louisiana Revised Statute 37:3397 does not require the Supervisory Appraiser to be in "good standing" in the jurisdiction in which the Trainee Appraiser practices.	On May 12, 2016, the State reported that subsequent to the Compliance Review, legislation amending the statute to bring it into compliance with AQB Criteria was approved and has been delivered to the Governor for signature.	To strengthen the Program, the State should continue the process of amending its statute consistent with AQB Criteria.	During the next Compliance Review, ASC staff will pay particular attention to this area for compliance with AQB Criteria.
Statutes, Regulations, Policies and Procedures continued:			X				
States must, at a minimum, adopt and/or implement all relevant AQB Criteria. (12 U.S.C. § 3345; 12 U.S.C. § 3347; Policy Statement 1 C, D.)				Experience must comply with USPAP and may be gained under more than one version of USPAP. Louisiana Rules 46:10308.C.1. requires appraiser trainees' work product be supervised in accordance with the guidelines and requirements of the 2014-2015 USPAP. L.R. 46:10309.C. requires that only 2014-2015 compliant appraisals will be accepted by the board for experience credit.	On May12, 2016, the State reported that they sent the final Rules for promulgation and they should become effective June 20, 2016.	To strengthen the Program, the State should continue the process of amending its Rules consistent with AQB Criteria.	During the next Compliance Review, ASC staff will pay particular attention to this area for compliance with AQB Criteria.
Temporary Practice:	X			No compliance issues noted.	N/A	None	None
National Registry:	X			No compliance issues noted.	N/A	None	None
Application Process:		X					
States must verify that the applicant has successfully completed courses consistent with AQB Criteria for the appraiser credential sought, whether for initial credentialing, renewal, upgrade or reinstatement. (12 U.S.C. § 3347; Policy Statement 4.)				An appraiser credential was reactivated without completion of the requisite number of continuing education (CE) hours.	On May 12, 2016, the State reported that the credential holder has registered and paid for the additional courses required for reactivation. The courses are scheduled for completion on July 1, 2016.	The State must ensure that the applicant Completes the additional CE hours required for reactivation.	During the next Compliance Review, ASC staff will pay particular attention to this area for compliance with Title XI and ASC Policy Statement 4.

ASC Compliance Review Report

ASC Finding: Good

Final Report Issue Date: May 31, 2016

PUBLIC

Louisiana Appraiser Regulatory Program (State)			
Louisiana Real Estate Appraisers Board (Board) / Decision Making	PM: N. Fenochietti	ASC Compliance Review Date: February 02-04, 2016	Review Period: February 2014 to February 2016
Umbrella Agency: Real Estate Commission		Number of State Credentialed Appraisers on National Registry: 1,336	Review Cycle: Two Year

Applicable Federal Citations	Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required/Recommended State Actions	General Comments
	YES	NO	AC				
Reciprocity:	X						
				No compliance issues noted.	N/A	None	None
Education:	X						
				No compliance issues noted.	N/A	None	None
Enforcement:	X						
				No compliance issues noted.	N/A	None	None

■ ■ ■ ■ ■

Appraisal Subcommittee

Federal Financial Institutions Examination Council

June 4, 2014

Mr. Bruce Unangst, Executive Director
Louisiana Real Estate Appraisers Board
P O Box 14785
Baton Rouge, LA 70898-4785

RE: ASC Compliance Review of Louisiana's Appraiser Regulatory Program

Dear Mr. Unangst:

The Appraisal Subcommittee (ASC) staff conducted an ASC Compliance Review (Review) of the Louisiana appraiser regulatory program (Program) on February 4-6, 2014, to determine the Program's compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended.

The ASC considered the preliminary results of the Review and the State's response to those results. The Program has been awarded an ASC Finding of "Good." The final ASC Compliance Review Report (Report) is attached.

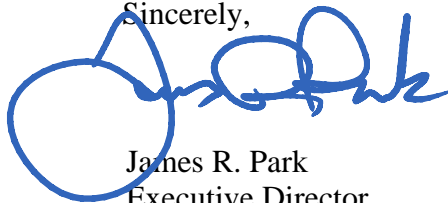
The ASC identified the following areas of non-compliance:

- States must, at a minimum, adopt and/or implement all relevant AQB Criteria;¹ and
- States must have a reciprocity policy in place for issuing a reciprocal credential to an appraiser from another State under the conditions specified in Title XI.²

ASC staff will confirm that appropriate corrective actions have been taken during the next Review. Louisiana will be moved to a two-year Review Cycle.

This letter and the attached Report are public records and available on the ASC website. Please contact us if you have any questions about this Report.

Sincerely,



James R. Park
Executive Director

Attachment

cc: Ms. Summer Mire, Confidential Assistant to Director
Ms. Anne Brassett, Program Administrator

¹ Title XI §§ 1116 (a), (c) and (e), 12 U.S.C. § 3345; Title XI § 1118 (a), 12 U.S.C. § 3347; ASC Policy Statement 1.

² Title XI § 1122 (b), 12 U.S.C. § 3351; ASC Policy Statement 5.

ASC Findings Description

ASC Finding	Rating Criteria	Review Cycle*
Excellent	<ul style="list-style-type: none"> • State meets all Title XI mandates and complies with requirements of ASC Policy Statements • State maintains a strong regulatory Program • Very low risk of Program failure 	2-year
Good	<ul style="list-style-type: none"> • State meets the majority of Title XI mandates and complies with the majority of ASC Policy Statement requirements • Deficiencies are minor in nature • State is adequately addressing deficiencies identified and correcting them in the normal course of business • State maintains an effective regulatory Program • Low risk of Program failure 	2-year
Needs Improvement	<ul style="list-style-type: none"> • State does not meet all Title XI mandates and does not comply with all requirements of ASC Policy Statements • Deficiencies are material but manageable and if not corrected in a timely manner pose a potential risk to the Program • State may have a history of repeated deficiencies but is showing progress toward correcting deficiencies • State regulatory Program needs improvement • Moderate risk of Program failure 	2-year with additional monitoring
Not Satisfactory	<ul style="list-style-type: none"> • State does not meet all Title XI mandates and does not comply with all requirements of ASC Policy Statements • Deficiencies present a significant risk and if not corrected in a timely manner pose a well-defined risk to the Program • State may have a history of repeated deficiencies and requires more supervision to ensure corrective actions are progressing • State regulatory Program has substantial deficiencies • Substantial risk of Program failure 	1-year
Poor ³	<ul style="list-style-type: none"> • State does not meet Title XI mandates and does not comply with requirements of ASC Policy Statements • Deficiencies are significant and severe, require immediate attention and if not corrected represent critical flaws in the Program • State may have a history of repeated deficiencies and may show a lack of willingness or ability to correct deficiencies • High risk of Program failure 	Continuous monitoring

*Program history or nature of deficiency may warrant a more accelerated Review Cycle.

³ An ASC Finding of “Poor” may result in significant consequences to the State. See Policy Statement 5, *Reciprocity*; see also Policy Statement 8, *Interim Sanctions*.

ASC Compliance Review Report

ASC Finding: Good

PUBLIC

Final Report Issue Date: June 4, 2014

Louisiana Appraiser Regulatory Program (Program)

Louisiana Real Estate Appraisers Board (Board)/Decision Making

PM: K. Klamet

ASC Compliance Review Date: February 4-6, 2014

Review Period: March 2012 to February 2014

Umbrella Agency: Louisiana Real Estate Commission (Commission)

Number of State Credentialed Appraisers on National Registry: 1,271

Review Cycle: Two Year

Requirement/Guidance	Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
	YES	NO	AC					
Statutes, Regulations, Policies and Procedures:		X						
States must, at a minimum, adopt and/or implement all relevant AQB Criteria. (Title XI §§ 1116 (a), (c) and (e), 12 U.S.C. § 3345; Title XI § 1118 (a), 12 U.S.C. § 3347; ASC Policy Statement 1.)				<p>A review of the Louisiana Statutes and Regulations revealed the following inconsistencies with AQB Criteria regarding: (1) experience log requirements; (2) continuing education (CE) credit for non-student participation; and (3) requirements for distance education.</p> <p>(1) Experience claimed by an applicant must include, in the experience log, the description of work performed by the trainee/applicant and scope of the review and supervision of the supervising appraiser. Louisiana statute 3397 B.(3) does not conform to AQB Criteria as the scope of the review and supervision of the supervising appraiser is not included.</p> <p>(2) Up to 1/2 of an individual's CE credit may be granted for participation, other than as a student, in appraisal educational processes and programs. Louisiana statute 3408 C.(2) does not conform to AQB Criteria as non-student participation for CE credit is not limited. Louisiana regulation 10409 D. does not conform to AQB Criteria as non-student participation for CE credit is limited to 1/2 only for teaching.</p> <p>(3) Providers of distance education courses must be approved by the International Distance Education Certification Center (IDECC). Louisiana regulation 10417 A. requires that distance education courses must be accredited by the American Council on Education (ACE) instead of the IDECC.</p>	<p>On May 9, 2014, the Commission reported that legislation was filed with the Louisiana Legislature to make the necessary statute changes. The Commission expects the legislation to be passed before May 30, 2014, and to become effective upon signature by the Governor.</p> <p>The Commission also reported that rules have been drafted and will be promulgated to amend the non-compliant sections.</p>	<p>Louisiana must continue the process to amend its statutes and rules to bring them into compliance with AQB Criteria, and provide ASC staff with a copy of the final statutes and rules once adopted.</p>	<p>None</p>	<p>During the next Compliance Review, ASC staff will pay particular attention to this area for compliance with AQB Criteria.</p>

ASC Compliance Review Report

ASC Finding: Good

PUBLIC

Final Report Issue Date: June 4, 2014

Louisiana Appraiser Regulatory Program (Program)		PM: K. Klamet		ASC Compliance Review Date: February 4-6, 2014		Review Period: March 2012 to February 2014	
Louisiana Real Estate Appraisers Board (Board)/Decision Making							
Umbrella Agency: Louisiana Real Estate Commission (Commission)				Number of State Credentialed Appraisers on National Registry: 1,271		Review Cycle: Two Year	

Requirement/Guidance	Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
	YES	NO	AC					
Statutes, Regulations, Policies and Procedures Continued:		X						
States must, at a minimum, adopt and/or implement all relevant AQB Criteria. (Title XI §§ 1116 (a), (c) and (e), 12 U.S.C. § 3345; Title XI § 1118 (a), 12 U.S.C. § 3347; ASC Policy Statement 1.)				<p>A review of the Louisiana Statutes and Regulations revealed the following inconsistencies with AQB Criteria regarding: (1) acceptable experience credit; and (2) supervisory appraiser requirements.</p> <p>(1) Applicants must claim the number of actual hours worked for experience credit. Louisiana regulations 10311 A. 1. and 10313 A. 1. requires that experience credit for an appraisal report be divided equally among all signatories; and Louisiana regulation 10317 allows a prorated number of points for each co-signed report, review, article and textbook to be awarded to each signer of the report.</p> <p>(2) Supervising appraisers shall be in good standing and not subject to any disciplinary action within the last 2 years that affects the supervisor's legal ability to engage in appraisal practice. Louisiana regulation 10308 B. only limits a trainee from performing any appraisals under the supervision of a licensed appraiser whose license has been suspended or revoked.</p>	On May 9, 2014, the Commission reported that rules have been drafted and will be promulgated to amend the non-compliant sections.	Louisiana must continue the process to amend its rules to bring them into compliance with AQB Criteria, and provide ASC staff with a copy of the final rules once adopted.	None	During the next Compliance Review, ASC staff will pay particular attention to this area for compliance with AQB Criteria.
Statutes, Regulations, Policies and Procedures Continued:		X						
States must have a reciprocity policy in place for issuing a reciprocal credential to an appraiser from another State under the conditions specified in Title XI. (Title XI § 1122 (b), 12 U.S.C. § 3351; ASC Policy Statement 5.)				Louisiana's statute does not comply with the requirements of Title XI and ASC Policy Statement 5.	<p>On May 9, 2014, the Commission reported that legislation was filed with the Louisiana Legislature to make the necessary statute changes. The Commission expects the legislation to be passed before May 30, 2014, and to become effective upon signature by the Governor.</p> <p>The Commission also reported that, although the statute has not been officially amended, in practice the State has complied with the Title XI requirements for issuing reciprocal credentials.</p>	Louisiana must continue the process to amend its statutes to bring them into compliance with Title XI, and provide ASC staff with a copy of the final statute once adopted.	None	During the next Compliance Review, ASC staff will pay particular attention to this area for compliance with Title XI and ASC Policy Statement 5.
Temporary Practice:	X							
				No compliance issues noted.	N/A	None	None	None

ASC Compliance Review Report

ASC Finding: Good

PUBLIC

Final Report Issue Date: June 4, 2014

Louisiana Appraiser Regulatory Program (Program)

Louisiana Real Estate Appraisers Board (Board)/Decision Making

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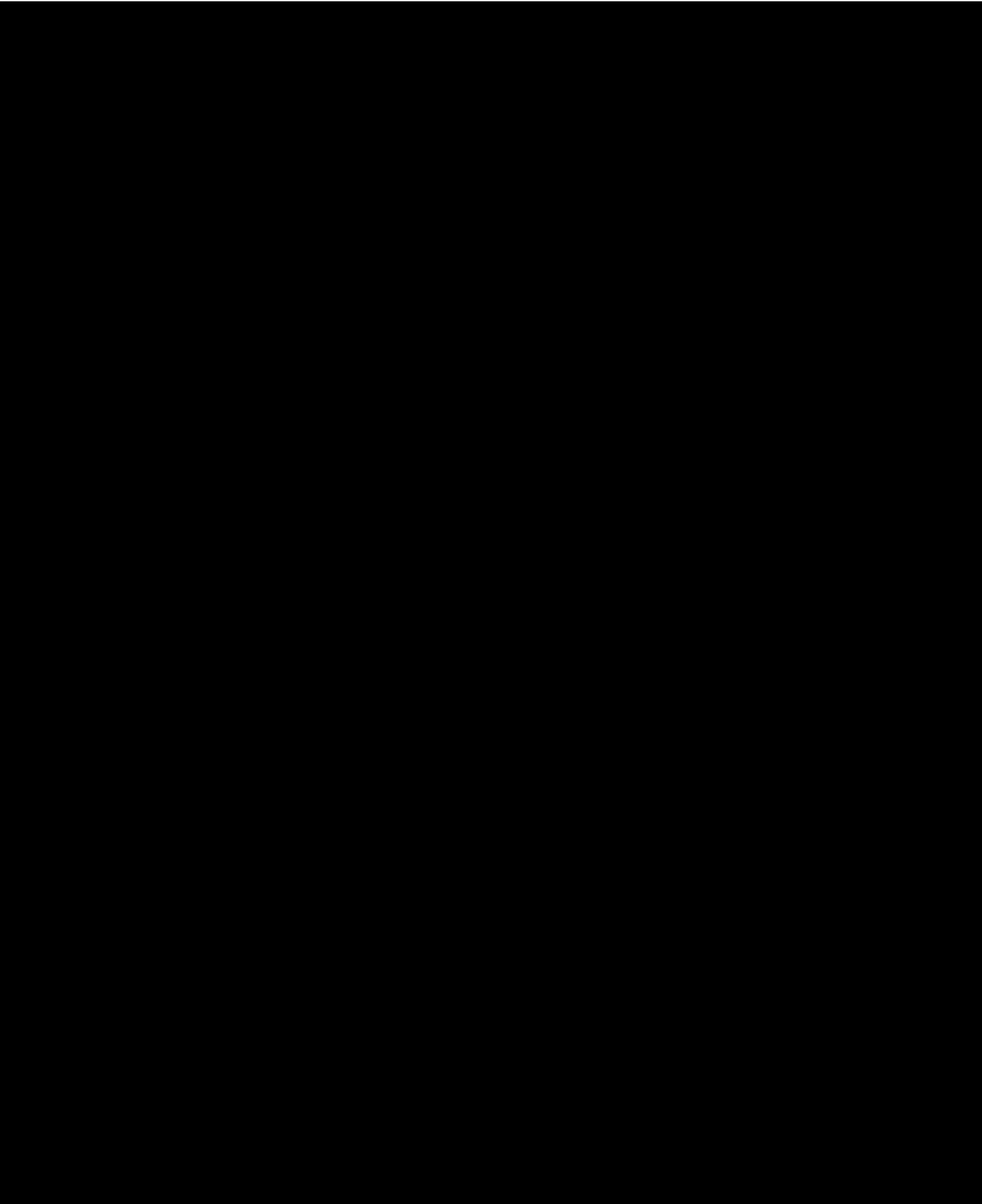
Review Cycle: Two Year

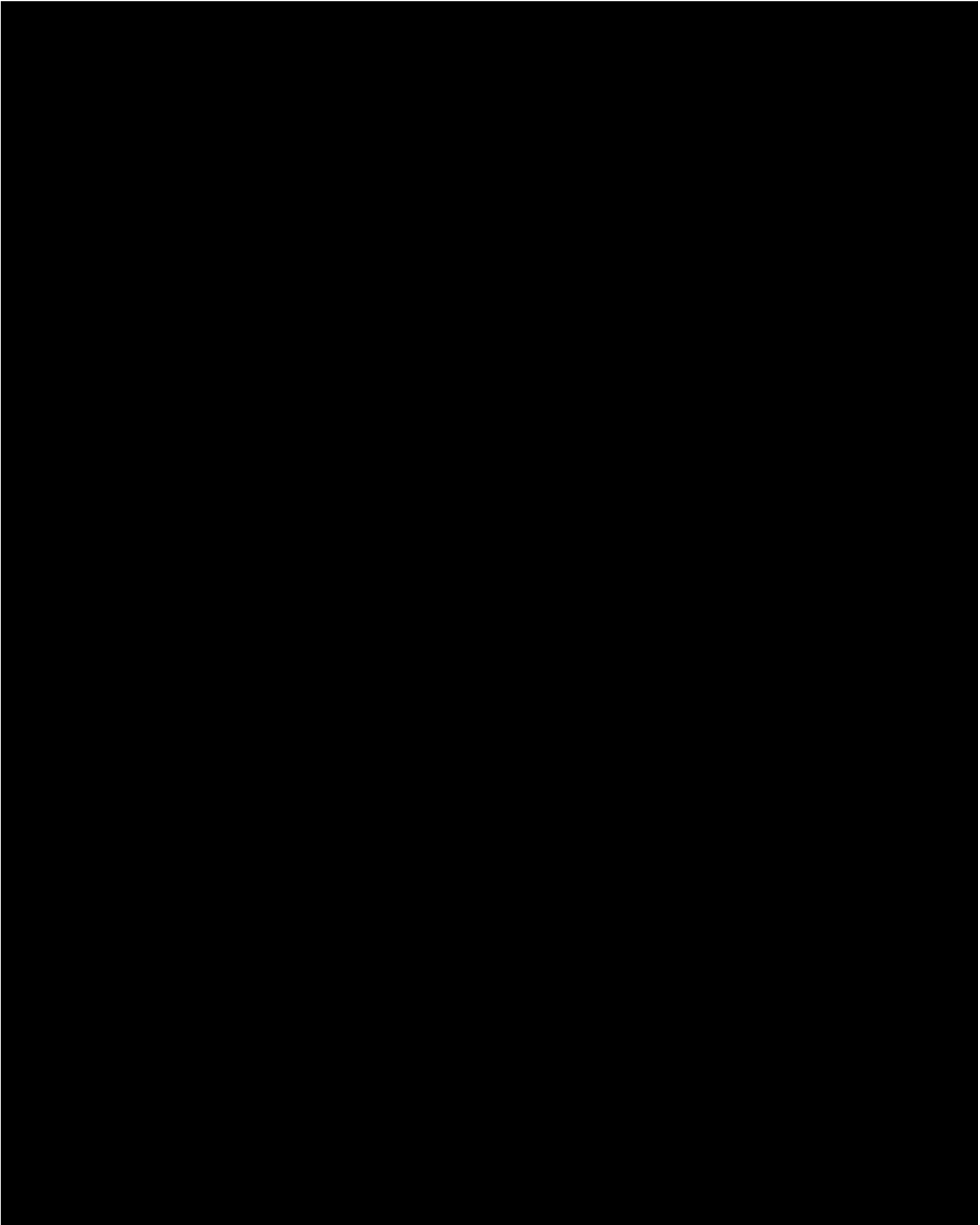
Requirement/Guidance	Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
	YES	NO	AC					
National Registry:	X			No compliance issues noted.	N/A	None	None	None
Application Process:	X			No compliance issues noted.	N/A	None	None	None
Reciprocity:			X	Louisiana's statute does not comply with the requirements of Title XI and ASC Policy Statement 5, although in practice the State appears to operate in compliance with those requirements.	On May 9, 2014, the Commission reported that legislation was filed with the Louisiana Legislature to make the necessary statute changes. The Commission expects the legislation to be passed before May 30, 2014, and to become effective upon signature by the Governor.	None	To strengthen the Program, Louisiana should continue the process to amend its statutes to reflect what is being done in practice.	During the next Compliance Review, ASC staff will pay particular attention to this area for compliance with Title XI and ASC Policy Statement 5.
Education:	X			No compliance issues noted.	N/A	None	None	None
Enforcement:	X			No compliance issues noted.	N/A	None	None	None

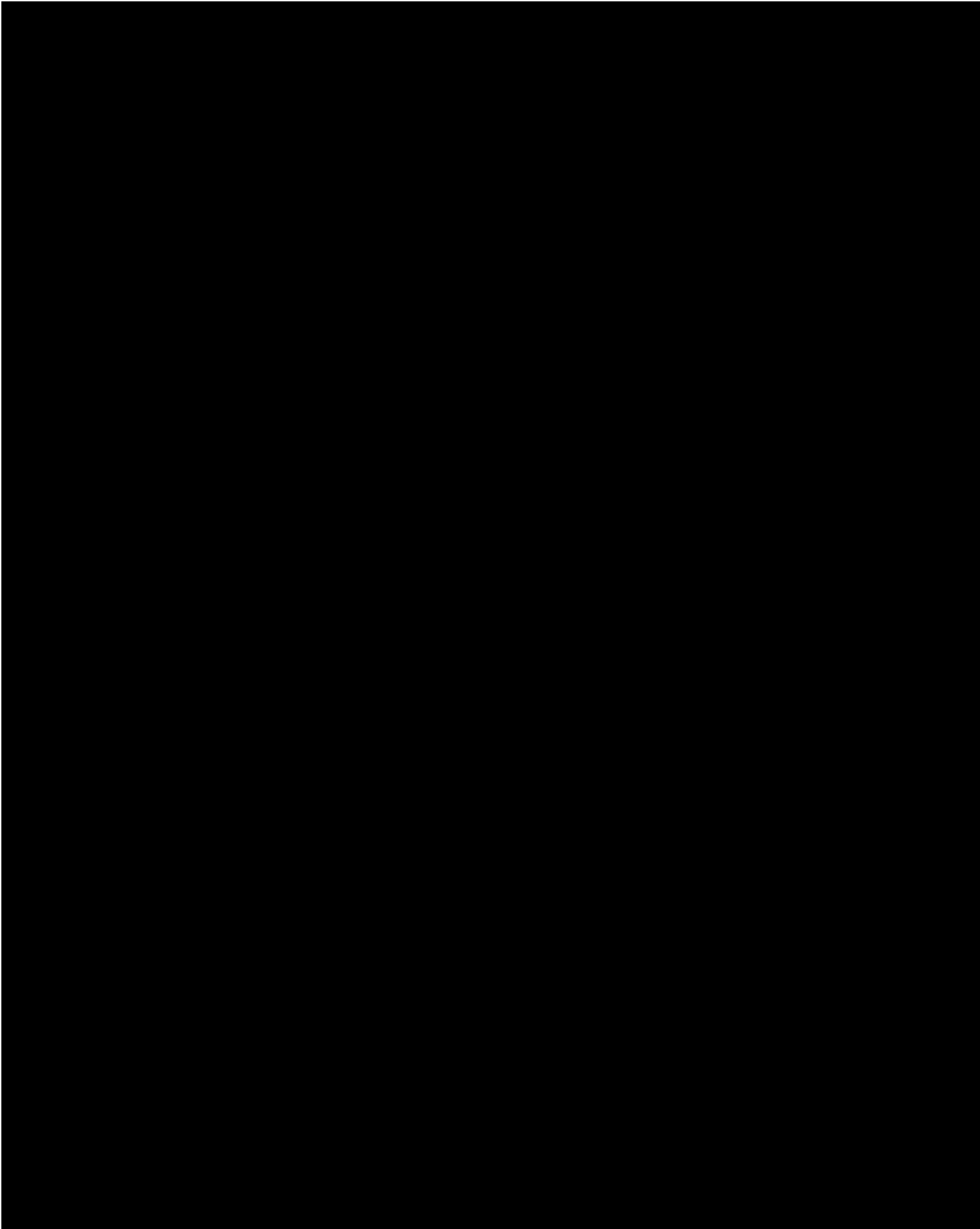
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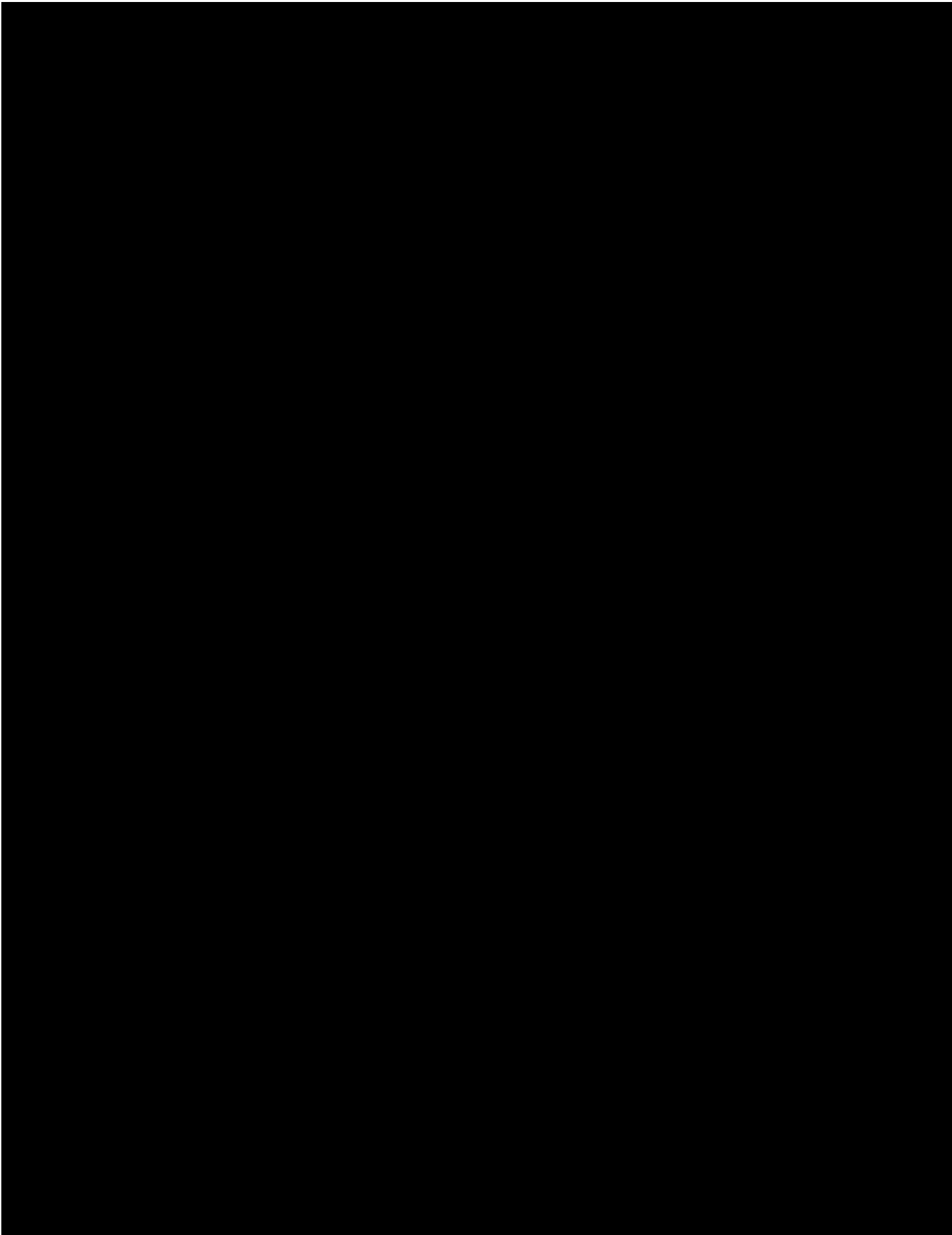
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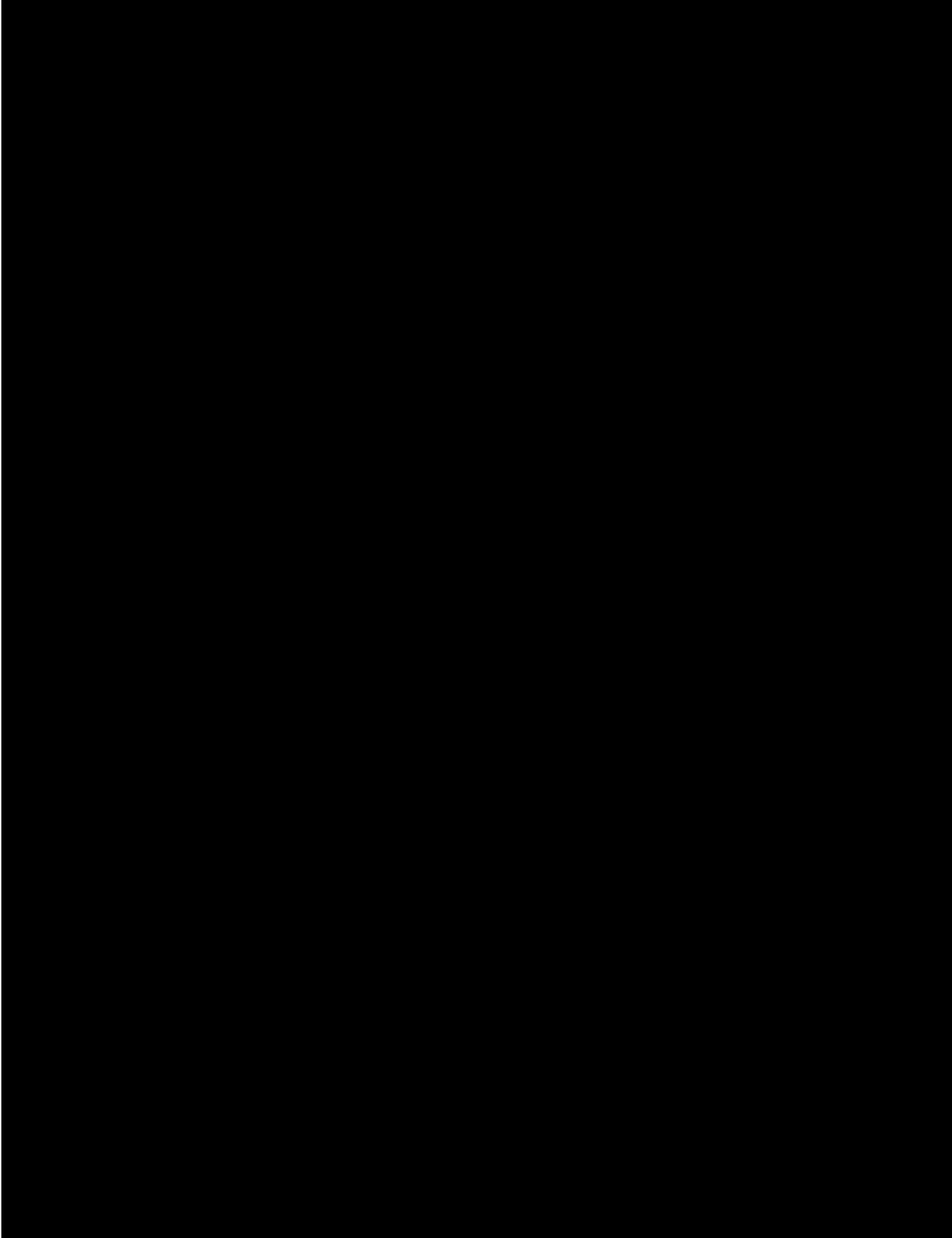
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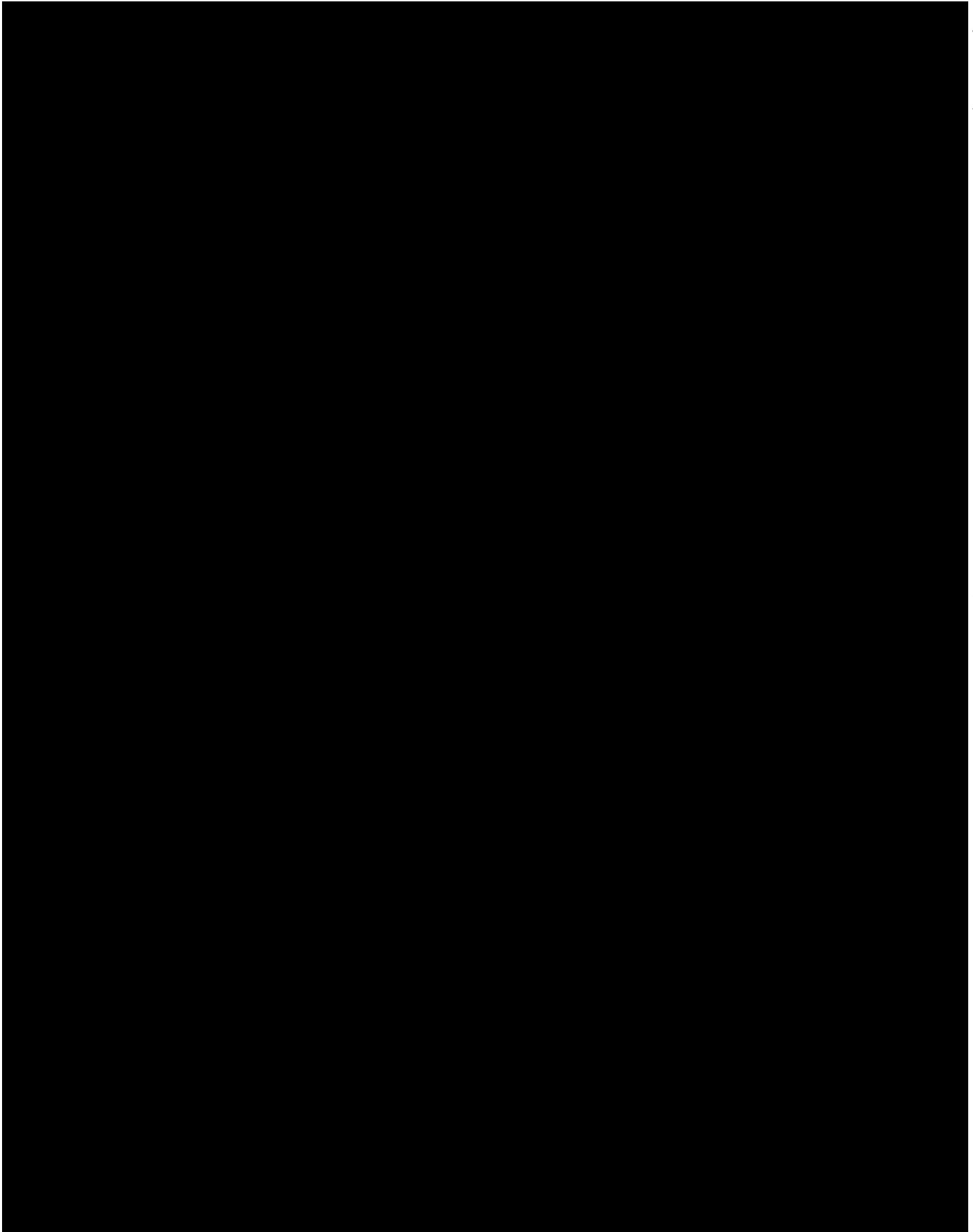






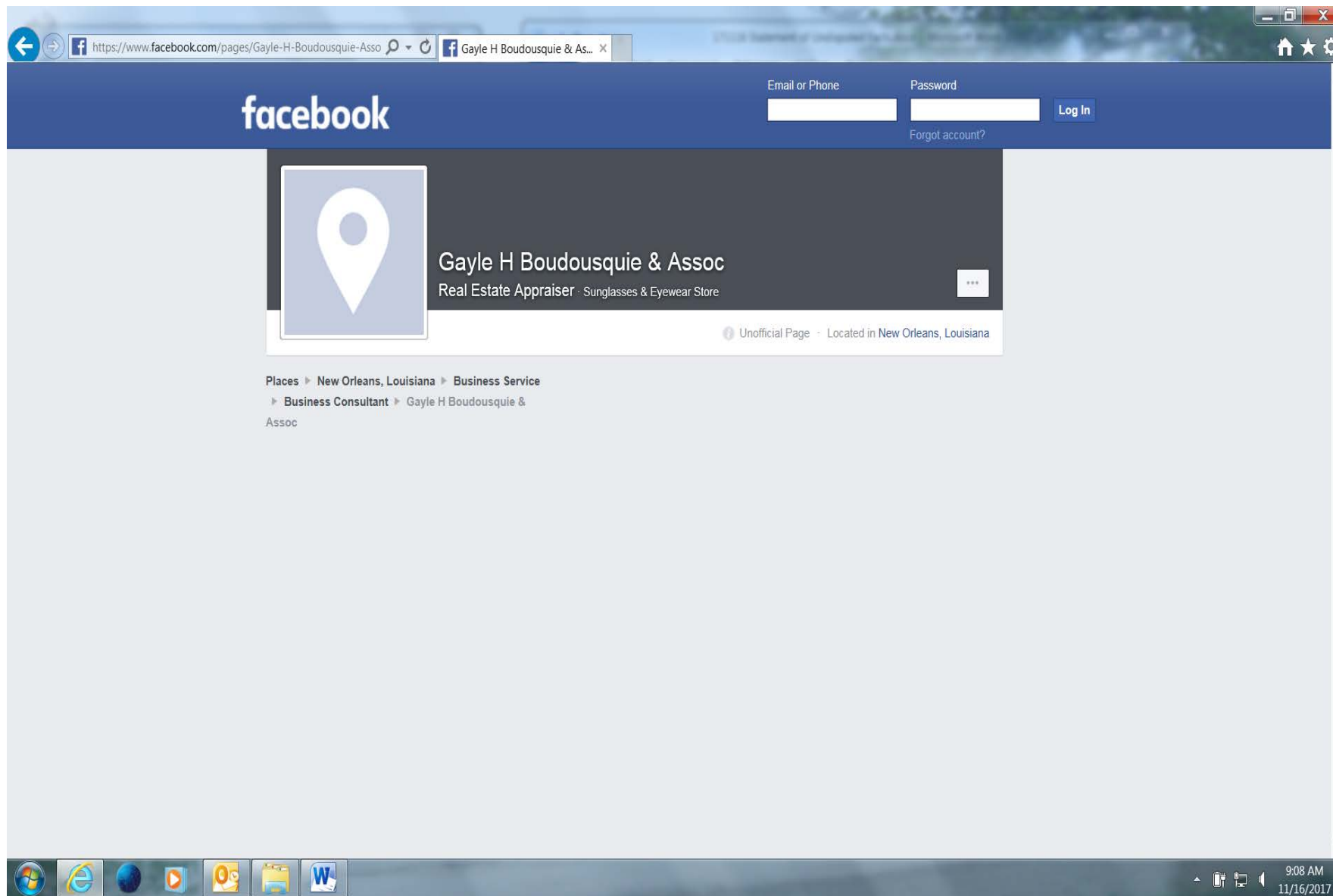






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https://www.facebook.com/pages/Gayle-H-Boudousquie-Assoc/399629066912097



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http://mgmai.com/

The screenshot shows a web browser window displaying the homepage of Mike Graham Real Estate. The browser's address bar shows 'http://mgmai.com/'. The website has a blue header with the company logo, 'MIKE GRAHAM real estate Appraisal and Brokerage', and navigation links for Home, About Us, Location, and Contact Us. A search bar is also present. The main content area features a blog post titled 'SOLD: Vacant Lots on North 18th Street in Monroe, LA' dated 13th October, 2017, by Kim Allen. The post details the sale of vacant lots in Monroe, Louisiana, listing the seller as Sidney H. Magee Revocable Trust et al, the buyer as Dhaliwal Holdings, LLC, the sale date as 10/10/2017, and the sale price as \$500,000. The land size is approximately 96,877 square feet. Sources cited include the Ouachita Parish Assessor's website, Legal Recorder, and Conveyance Record. To the right of the post is a 'SUBSCRIBE TO BLOG VIA EMAIL' section with an email address input field and a 'Subscribe' button. Below that is an 'ARCHIVES' section with a 'Select Month' dropdown menu. The Windows taskbar at the bottom shows the time as 9:15 AM on 11/16/2017.

MIKE GRAHAM
real estate
Appraisal and Brokerage

Appraisals / Brokerage / Property Management / 318-387-9092 /
magraham@mgmai.com / 1300 Hudson Lane / Monroe, LA

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SOLD: Vacant Lots on North 18th Street in Monroe, LA

13th October, 2017 · Kim Allen

Sold: Vacant lots fronting North 18th Street in Monroe, Louisiana

Seller: Sidney H. Magee Revocable Trust et al

Buyer: Dhaliwal Holdings, LLC

Sale Date: 10/10/2017

Sale Price: \$500,000

Land Size: Approximately 96,877 square feet total (per OP Assessor and Clerk records)

Sources: Ouachita Parish Assessor's website, Legal Recorder, Conveyance Record

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https://www.linkedin.com/in/newton-landry-2ab187b4/

The screenshot shows a web browser window displaying a LinkedIn profile for Newton Landry. The browser's address bar shows the URL: https://www.linkedin.com/in/newton-landry-2ab187b4/. The LinkedIn navigation bar at the top includes a search bar, Home, My Network (with a notification badge), Jobs, Messaging (with a notification badge), Notifications (with a notification badge), and Me. A 'Try Premium for Free' button is also visible.

The profile header features a blue background with a white circular placeholder for a profile picture. Below this, the name 'NEWTON LANDRY' is displayed in bold, followed by the title 'Appraiser/Real Estate Agent at Cajun Land Realty' and the location 'Pierre Part, Louisiana • 60'. A blue 'Send InMail' button is positioned below the profile information.

The 'Experience' section lists one role: 'Appraiser/Real Estate Agent' at 'Cajun Land Realty'. The 'Featured Skills & Endorsements' section shows the skill 'Real Estate' with a count of 1 and a note that 'Mark Landry has given an endorsement for this skill'.

On the right side of the profile, there is a 'Promoted' section with three advertisements: 'Johns Hopkins Online' (Earn an MS in Government Analytics), 'Choose any internet' (then add Phone + TV for just \$34.90 more per month), and 'Attorney Wanted' (We need attorneys to help our legal clients). Below this is a 'People Also Viewed' section listing five other profiles: Sharp Efferson (retired at uniroyal chemical), Peter Drop (3rd Business Manager Triene), Kim Singletary (Warehouse Manager at Lion Copolymer, LLC), Bob Kapinus, and Thom Wood (3rd State Farm Agent).

The Windows taskbar at the bottom shows the Start button, several application icons (Internet Explorer, Google Chrome, Word, etc.), and the system tray with the date and time: 9:21 AM, 11/16/2017.

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https://www.linkedin.com/in/tommie-mcmorris-915a1117/

The screenshot shows a web browser window displaying a LinkedIn profile. The browser's address bar shows the URL: https://www.linkedin.com/in/tommie-mcmorris-915a1117/. The LinkedIn navigation bar at the top includes a search bar, icons for Home, My Network, Jobs, Messaging, Notifications, and Me, and a 'Try Premium for Free' button. Below the navigation bar is an advertisement: 'Exclusive Offer for DC - Get a game-changing, 10-course MBA for only \$20K. Ad ...'. The main profile area features a blue header with a network graphic and a circular profile picture placeholder. The name 'Tommie McMorris' is displayed, followed by the title 'Independent Real Estate Professional' and the company 'Tommie McMorris Appraisals'. The location is listed as 'Baton Rouge, Louisiana Area' with a distance of '27 mi'. A blue 'Connect' button is positioned below the profile information. The 'Experience' section shows a role as 'Real Estate Appraiser & Notary' at 'Tommie McMorris Appraisals'. To the right of the profile, the 'Contact and Personal Info' section is visible, along with a 'Promoted' sidebar containing three advertisements: 'Choose any internet', 'Become a Law Mentor', and 'Are You An Attorney?'. Below these are 'People Also Viewed' suggestions for Terri Iverstine, Barry Smith, Kathy Eaves, and Frank Tallia. The Windows taskbar at the bottom shows the system tray with the time '9:30 AM' and date '11/16/2017'.

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http://events.allianceswla.org/list/member/the-pauley-corporation-lake-charles-112884



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http://www.theadvocate.com/baton_rouge/news/business/article_156b3223-053f-5b91-8d90-4c6887821644.html

http://www.theadvocate.com/baton_rouge/news/business/arti... People in Business for Marc... X

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People in Business for March 31

The Advocate APR 6, 2013 - 2:00 PM (0)

PREV

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NEXT

Sandra Harper, president of Our Lady of the Lake College, has been elected to the board of directors of the Association of Catholic Colleges and Universities. The association represents about 200 Catholic institutions of higher learning in the U.S., plus two dozen international universities.

Terry Compton, a diabetes educator on the faculty of Southeastern Louisiana University's School of Nursing, has been elected to the board of directors of the American Association of Diabetes Educators.

LSU researcher Clinton Willson has been named director of engineering design and innovation for the Water Institute of the Gulf.

Willson will remain a professor in the Department of Civil and Environmental Engineering at LSU and continue to serve on LSU's Coastal Sustainability Studio executive board.

http://wheels.theadvocate.com/ 9:39 AM 11/16/2017

Other officers are Steve Maley, operations manager for Badger Oil Corp., chairman-elect and Kenneth "Kenny" Crouch, owner of Pressure Control Specialties, treasurer.

AROUND SOUTH LA.

Gov. Bobby Jindal has made appointments and reappointments from the local area to several boards, commissions and committees.

- Louisiana Drug Control and Violent Crime Policy Board: Carlos Stout, chief of police for Carencro; Steve Caraway, chief of police for Kenner; and James "Doug" Browning, chief of police for Central.
- Louisiana Educational Television Authority: Sandy Breland, of Baton Rouge, general manager of WAFB-TV.
- Residential Building Contractors Subcommittee: Wes Wyman Jr., of Belle Chasse, owner of W.L. Wyman Construction Co. Inc.; Billy Ward, of Brusly, owner and president of Champion Builders LLC; and Kay Gibson, of Lafayette, owner of M & K Gibson Construction Inc.
- Addictive Disorders Regulatory Authority: Dr. Ronald Taravella, of Baton Rouge, a psychiatrist at the Ascension Parish Prison and medical director of the Baton Rouge Area Alcohol and Drug Center.
- Louisiana Real Estate Appraisers Board: Bill Kipf, of Bill Kipf, Real Estate Appraiser and Appraisal Consultants in Baton Rouge.
- Environmental Education Commission: Nancy Rabalais, of Baton Rouge, executive director of the Louisiana Universities Marine Consortium.
- Louisiana Board of International Commerce: Gregory R. Rusovich, of New Orleans, chief executive officer of Transoceanic Trading and Development Co.; Don Sanders, of Baton Rouge, a partner of Orion Instruments LLC; Jay Hardman, of Baton Rouge, executive director of the Port of Greater Baton Rouge; Gary P. LaGrange, of New Orleans, president and CEO of the Port of New Orleans; Robert Scafield, of Chalmette, executive director of the St. Bernard Port Harbor and Terminal District; Philippe J. Gustin, of Lafayette, director of Le Centre International de Lafayette, the Lafayette Consolidated Government's International Trade Division; Dominik Knoll, of New Orleans, CEO of the World Trade Center of New Orleans; Dan Feibus, of Lafayette, CEO of Zags USA; John F. Fay Jr., of Fay, Nelson & Fay LLC in New Orleans; Joel T. Chaisson, of Destrehan, executive director of the Port of South Louisiana; Kevin Blondiau, of Belle Chasse, a river pilot for the Crescent River Port Pilots Association; and Marion Fox, of Jennings, executive director of Jefferson Parish Economic Development and Tourist Commission.

RESOURCES

- Letter to the editor
- News tips

PREV

NEXT

9:40 AM 11/16/2017

Attorney Needed ASAP - Crucial need for local attorney in your area. View new cases today. | Ad

...

Janis M. Bonura, SRA

Appraisal Review Officer at First NBC Bank
First NBC Bank • University of New Orleans
Greater New Orleans Area • 370

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Experience

Appraisal Review Officer

First NBC Bank
Oct 2014 – Present • 2 yrs 6 mos • Greater New Orleans Area

Certified Residential Appraiser

Murphy Appraisal Services
Jun 2003 – Present • 13 yrs 10 mos

Residential Appraiser

The Louisiana Chapter of the Appraisal Institute
2002 – Present • 15 yrs

Education



University of New Orleans
General Studies
1994 – 1999

Featured Skills & Endorsements

- Appraisal Insti...** · 1 **Norman C. Hingle III** has given an endorsement for this skill
- AI-RSS Design...** No endorsements yet

Accomplishments

- 3 Organizations**
Louisiana Chapter of the Appiasal Institute
[See more organizations](#)

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Janis' Profile
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Benjamin Pri-Tal • 3rd Attorney

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Hospitality Professional

Douglas Lewis
IT Manager at Solomon Grou

Jonathan Byrd • 3rd
--Byrd Capital L.L.C.

Matt Wise • 3rd
Lobbyist at Crossroads Strate LLC

Rebecca Ridge
VP Loan Operations at First Bank

Tricia L. Gaddis
Vice President Residential Lending CCB Community Bar NMLS#413291



CURRICULUM

Getting Compliant

Getting compliant with FICAP is a simple, cost effective process. The first step for any financial institution is establishing the appropriate bank policy and procedures in accordance with regulatory requirements...

[Read More](#)



Cheryl B. Bella , MAI, AI-GRS

FICAP National Chief Compliance Officer

cbella@ficapusa.com

(225) 933-7971

1508 Heatherview Court Baton Rouge, Louisiana 70815

System Training

All FICAP system training is conducted by FICAP Compliance Officers who have the expertise and skills to effectively communicate the training needs of each constituent. Training is conducted...

[Read More](#)

Employment History

Professional Designations & Certifications

Designated by the Appraisal Institute as MAI Member Designated by the Appraisal Institute as a General Review Specialist Louisiana State Certified General Appraiser - Certificate #0394 Texas Certified General Real Estate Appraiser - TX 1380278 G Licensed Real Estate Salesman, State of Louisiana (inactive status) Certificate of Completion "Performing Phase I Environmental Inspection"



Questions/Register FICAP

FICAP's cadre of experts is ready to answer your questions and to assist you in finding the proper solutions to satisfy your valuation services management and compliance needs.

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Chief Compliance Officer

Aug 2001 - Present

Bella Appraisal Consulting Services, LLC

Fee Appraiser
Property Consultant
Instructor for appraisal groups, lenders and real estate agents
Financial Institution Appraisal Consultant

Appraisal Review
Appraisal Policy
Appraisal Procedures and Forms
Bank Staff Training: Regulations, Appraisal Review, Appraisal Procedures

HANCOCK BANK

Appraisal Officer, Manager of the Appraisal

Sep 1999 - Aug 2001

**Department,
State of
Louisiana**

Establish & Manage the Appraisal Department for the State of Louisiana. Duties include - establish and write bank-wide appraisal policy and procedures for ordering appraisals, qualifying appraisers and reviewing appraisals. Created and presented training programs on governmental regulations and bank appraisal policy for lenders in Mississippi and Louisiana

**BANK ONE
CORPORATION** **Vice President** Jun 1998 - May 1999
Manager of "The Real Estate Appraisal Group" for the State of Louisiana. Duties include enforcement of policy, ordering appraisals, qualifying appraisers, reviewing appraisals and training lenders.

**FIRST
COMMERCE
CORPORATION** **Vice President** Jun 1992 - Jun 1998
Establish and Manage Real Estate Appraisal Services at City National Bank in Baton Rouge; Review Appraiser; Affiliate Liaison for all Louisiana affiliate locations. Duties include assisting in policy and procedure formation, establishing an approved appraiser list, qualifying environmental inspectors, reviewing appraisals and developing and presenting training programs for lenders.

**APPRAISAL
EMPLOYMENT
HISTORY** **Argote, Derbes,
Graham,
Shuffield &
Tatje, Inc., New** Jan 1987 - May 1992

Orleans and
Baton Rouge
offices
Fee Appraiser

Education

Professional Seminars (Developer & Instructor)

Property Measurement and Pricing - LREC 2015 Mandatory	2015
Missouri Bankers Association - Appraisal Compliance Seminar	2015
Louisiana Bankers Association - Appraisal Compliance Seminar	2014
Real Estate Agent-Appraiser Forum: Can We Talk? - LA Chap. of AI & GBRAR	2014

VIEW MORE

Education (Continued)

Formal Education

BS Louisiana State University	1987
--------------------------------------	------

Successfully Completed Appraisal Courses with Examinations

Review Theory - General	2014
402 Business Practices and Ethics-Appraisal Institute	2006
USPAP Uniform Standards of Professional Appraisal Practice (USPAP) - Appraisal Institute	2006
Analyzing Operating Expenses-Appraisal Institute	2002

VIEW MORE

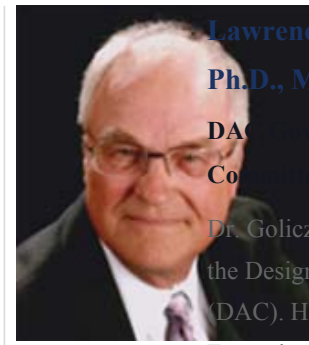
Professional Real Estate Related Memberships and Positions (Present and Past)

Appraisal Institute Member in Good Standing
Designated Appraiser Coalition - Founding Member
FICAP: Chief Compliance Officer
Member of Greater Baton Rouge Association of Realtors
Instructor for the Greater Baton Rouge Association of Realtors (GBRAR)
Instructor for Louisiana Banker's Association (LBA)
Course Developer and Instructor for Louisiana Real Estate Commission
Louisiana Real Estate Appraisers Board - Peer Review Committee
Appraisal Institute Member in Good Standing
Guest Speaker - Capital Region Builders Association, LA Chapter of AI

Louisiana Chapter of the Appraisal Institute

2013 President
2012 Vice President
2011 Treasurer
2010 Secretary
Previously, MAI Admissions Committee
Previously, External Affairs Chairman

LEADERSHIP



**Lawrence (Larry) J. Golicz,
Ph.D., MAI, ASA**

**DAC Governance - Executive
Committee Chair**

Dr. Golicz is a Founding Member of the Designated Appraiser Coalition (DAC). His service as DAC Executive Committee Chairman has...

[Read More](#)

CONTACT US

If you would like to learn more about FICAP or wish to inquire about joining the FICAP initiative; please provide and submit the following information.

First Name

Last Name

Email

Phone #

Bank Name:

Please select company type

Questions or Comments



Type the text

[Privacy & Terms](#)

Please provide the information requested and we will have the appropriate FICAP representative contact you to answer any questions you may have.

SUBMIT REQUEST

Email: administration@ficapusa.com

Phone: ((727) 919-1611

Fax: (727) 771-1107

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As spring makes its long awaited appearance, everything seems to come to life again. The aroma of blooming flowers and freshly cut grass is almost intoxicating as we switch gears for the warmer weather. Spring is also prime time for real estate, so if you are considering selling this season its time to get prepared! First, it is vital to know the **true** market value of your property, a current appraisal performed by a licensed appraiser supports your asking price. A listing appraisal from **Appraisals Plus, LLC.** is a full appraisal of your property, with a few additional benefits:

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Tab 7

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Tab 8

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

**COMMISSIONERS: Maureen K. Ohlhausen, Acting Chairman
Terrell McSweeney**

In the Matter of

**Louisiana Real Estate Appraisers Board,
Respondent**

DOCKET NO. 9374

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, 15 U.S.C. § 41, *et seq.*, and by virtue of the authority vested in it by said Act, the Federal Trade Commission (the “Commission”), having reason to believe that the Louisiana Real Estate Appraisers Board has violated Section 5 of the Act, and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues this complaint stating its charges as follows:

NATURE OF THE CASE

1. The Louisiana Real Estate Appraisers Board (the “Board”), a state agency controlled by licensed real estate appraisers, has unreasonably restrained price competition for real estate appraisal services provided to appraisal management companies (“AMCs”) in Louisiana. AMCs act as agents for lenders in arranging for real estate appraisals.

2. The Board adopted a regulation, effective as of November 20, 2013, purportedly implementing a requirement under federal and Louisiana law that AMCs pay appraisers a “customary and reasonable” fee for real estate appraisal services. In both promulgating and subsequently enforcing that regulation, the Board has unlawfully restrained price competition.

3. First, by its express terms, the Board’s fee regulation unreasonably restrains competition by displacing a marketplace determination of appraisal fees. Under the regulation, AMCs must compensate appraisers at a rate determined by one of three methods: (1) an AMC may use a survey of fees recently paid by lenders in the relevant geographic area; (2) an AMC may use a fee schedule established by the Board; or (3) an AMC may identify recently paid fees and adjust this base rate using six specified factors. By requiring one of these three methods, the Board prevents AMCs and appraisers from arriving at appraisal fees through bona fide negotiation and through the operation of the free market.

4. Second, in subsequently enforcing its regulation, the Board has unlawfully restrained price competition, effectively requiring AMCs to match or exceed appraisal rates listed in a published survey. To that end, the Board commissioned the Southeastern Louisiana University Business Research Center (“SLU Center”) to survey recent fees paid by lenders. The SLU Center conducted three annual surveys, in 2013, 2014, and 2015, and produced three reports on fees paid in 2012, 2013, and 2014, respectively. According to the Board, the SLU Center reports identify the median fees paid by lenders for five types of appraisals in nine geographic regions in Louisiana, stated separately for urban, suburban and rural settings. The Board provided AMCs with notice of the SLU Center reports and posted the reports on its website.

5. The Board has effectively required AMCs to pay appraisal fees that equal or exceed the median fees identified in the SLU Center reports. For example, the Board initiated two enforcement actions against AMCs for allegedly violating fee requirements under the Board’s regulation. In each case, the Board resolved the enforcement action by securing the AMC’s agreement to pay appraisal fees at or above the level set forth in the SLU Center reports. Other AMCs that learned of the Board’s enforcement actions, in order to avoid disciplinary action, now use the SLU Center reports to determine the fees that they pay appraisers.

6. Through the promulgation of its regulation and through its investigative and enforcement actions, the Board—controlled at all relevant times by active market participants—has harmed competition through its regulation of fees paid by AMCs for appraisal services.

7. Independent state officials have not supervised the Board’s discretionary actions. The actions of the Board restrict price competition among appraisers without any legitimate justification or defense, including the “state action” defense, and therefore violate Section 5 of the Federal Trade Commission Act.

RESPONDENT

8. The Louisiana Real Estate Appraisers Board is organized, exists, and transacts business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at 9071 Interline Avenue, Baton Rouge, Louisiana 70809. The Board regulates and licenses both appraisers and AMCs.

9. AMCs are independent companies engaged by lenders to procure real estate appraisals. AMCs generally may not operate in Louisiana without first obtaining a license from the Board. The Board is empowered to discipline an AMC that violates any applicable Louisiana statute or regulation, including by revoking or suspending an AMC’s license and imposing fines or civil penalties.

10. By statute, the Board consists of eight licensed appraisers and two representatives of the lending industry. One of the eight appraiser members must also be engaged in the business of appraisal management. The Governor of Louisiana appoints each Board member for a three-year term.

11. Collectively, the appraiser members control the operation of the Board. Appraiser members are active market participants because, among other things, appraiser members are licensed by the Board and have private interests in the Board's acts and practices.

JURISDICTION

12. The Board is a "person" within the meaning of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45.

13. The acts and practices of the Board, including the acts and practices alleged herein, are in commerce or affect commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44. Appraisers offering appraisal services in Louisiana contract with AMCs based outside of Louisiana, including for the transfer of money across state lines. In addition, AMCs that contract for appraisal services in Louisiana act as agents for lenders based outside of Louisiana.

THE PROVISION OF APPRAISAL SERVICES THROUGH APPRAISAL MANAGEMENT COMPANIES

14. Most residential real estate purchases are financed by a mortgage on the real estate that is the subject of the transaction. In most cases, a residential mortgage requires an appraisal of the real estate used as collateral for the loan, performed by an appraiser licensed under state law.

15. Institutions that lend money for residential real estate transactions engage appraisers directly or through an agent, including an AMC. An AMC typically maintains a "panel" of licensed appraisers in each locality in which it does business, negotiates with and engages an appraiser from the panel, pays the appraiser for an appraisal report, reviews and edits the appraisal report, and provides the appraisal report to the lender, in exchange for a fee.

Federal Law Regarding AMCs

16. In the wake of the financial crisis of 2007-2008, policy makers perceived that inflated appraisals had contributed to a housing "bubble," *i.e.*, an unsustainable run-up in housing prices. One concern was that some appraisers experienced undue pressure from, or had ties to, lenders or other parties with financial interests in mortgage transactions.

17. In response to these concerns, Congress included in the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("Dodd-Frank") provisions intended to ensure that appraisers would operate independently, shielded from inappropriate influence exerted by lenders or other interested parties.

18. One set of appraisal independence provisions in Dodd-Frank and its implementing rules prohibits contacts between lender personnel and retained appraisers that might influence an appraiser's independent judgment. In part because of these prohibitions, lenders increasingly turned to AMCs to arrange for required appraisal services. Today, lenders engage AMCs to obtain an appraisal in most residential real estate transactions.

19. Also to promote appraisal independence, Dodd-Frank requires lenders and their agents, in covered transactions, to compensate appraisers "at a rate that is customary and reasonable for appraisal services performed in the market area of the property being appraised." Covered transactions are loans that extend consumer credit secured by the consumer's principal dwelling, such as mortgages and home equity loans.

20. Dodd-Frank includes a provision known as an "antitrust savings clause." Dodd-Frank provides that "[n]othing in this Act ... shall be construed to modify, impair, or supersede the operation of any of the antitrust laws." In other words, Congress specifically directed that Dodd-Frank was not intended to displace generally applicable antitrust principles, including the prohibition on unreasonable agreements in restraint of trade.

21. Under Dodd-Frank, Congress tasked the Board of Governors of the Federal Reserve System (the "Federal Reserve") with issuing rules on behalf of the Federal Reserve and other federal banking agencies to further specify appraisal independence requirements.

22. In October 2010, the Federal Reserve issued rules implementing Dodd Frank's appraisal independence requirements. In its commentary on the rules, the Federal Reserve interpreted the statutory requirement that lenders pay "customary and reasonable" appraisal fees to mean "that the marketplace should be the primary determiner of the value of appraisal services, and hence the customary and reasonable rate of compensation" for appraisers.

23. The October 2010 rules specify that lenders or their agents presumptively comply with the statutory customary and reasonable appraisal fee requirement in one of two ways ("presumptions of compliance"). A lender or its agent may pay to an appraiser a fee "reasonably related to recent rates paid for comparable appraisal services performed in the geographic market of the property," as informed by six identified factors: (i) the type of property; (ii) the scope of work; (iii) the time in which the appraisal must be performed; (iv) the appraiser's qualifications; (v) the appraiser's experience and professional record; and (vi) the appraiser's work quality. Alternatively, a lender or its agent may pay a fee based on "objective third-party information," including fee schedules, studies, and independent surveys of recent appraisal fees (excluding fees paid by AMCs).

24. In commentary on the October 2010 rules, the Federal Reserve clarified that the two identified presumptions of compliance are not the only permissible ways to comply with the customary and reasonable fee requirement under Dodd-Frank. If a lender or its agent arrives at an appraisal fee in another way, whether the fee is customary and reasonable shall depend on all relevant facts and circumstances, without a presumption of either compliance or violation.

25. Another provision in Dodd-Frank directs federal banking agencies to establish minimum requirements for states that choose to regulate AMCs. Among other things, these requirements must ensure that “appraisals are conducted independently and free from inappropriate influence and coercion pursuant to the appraisal independence standards” set forth in Dodd-Frank. Congress did not require states to delegate regulation of customary and reasonable fee requirements to active market participants.

26. In 2015, federal banking agencies jointly issued rules implementing this Dodd-Frank provision. The rules provide that any state that chooses to regulate AMCs must require any AMC that is not regulated by a federal banking agency to “[e]stablish and comply with processes and controls reasonably designed to ensure that the AMC conducts its appraisal management services in accordance with [Dodd Frank’s appraisal independence requirements].” The rules also provide that any state that chooses to regulate AMCs must maintain an AMC licensing program within the state appraiser licensing agency with mechanisms to discipline AMCs for violations of appraisal-related laws. The rules do not require states or state appraiser licensing agencies to impose standards for customary and reasonable fee requirements beyond what federal law provides, or to set customary and reasonable fees at any particular level.

Louisiana Statutes Regarding AMCs

27. In 2009, the Louisiana legislature passed a new law subjecting AMCs to oversight by the Board (the “AMC Law”), and requiring any AMC that wishes to operate in Louisiana to obtain a license from the Board. The Board is empowered to investigate, censure, and discipline AMCs that violate the law.

28. In 2012, the Louisiana legislature amended the AMC Law to require AMCs to “compensate appraisers at a rate that is customary and reasonable for appraisals being performed in the market area of the property being appraised, consistent with the presumptions of compliance under federal law.” The AMC Law authorizes the Board to promulgate regulations necessary for enforcement of the AMC Law. The AMC Law does not require the Board to impose standards for customary and reasonable fee requirements beyond what federal law provides, or to set customary and reasonable fees at any particular level.

THE BOARD’S ACTIONS TO SUPPRESS COMPETITION

29. The Board suppresses competition among appraisers and displaces market forces. The Board’s executive director has stated: [REDACTED]

30. In 2013, driven by its apparent dissatisfaction with the free market, the Board adopted a regulation purporting to implement the AMC Law, known as Rule 31101. The regulation, which specifies how AMCs must comply with the customary and reasonable fee requirement, unlawfully restrains competition on its face by prohibiting AMCs from arriving at an appraisal fee through the operation of the free market.

31. Specifically, Rule 31101 requires AMCs to pay fees set pursuant to one of three prescribed methods. First, an AMC may rely on third-party fee schedules, studies, or surveys of fees paid by lenders. Second, an AMC may rely on a fee schedule formally adopted by the Board. Third, an AMC may rely on rates recently paid in the relevant geographic market, adjusted by the six factors identified in the parallel federal rules (set out in paragraph 23 above). Because Rule 31101 identifies these methods as the exclusive ways for arriving at customary and reasonable fees, it precludes AMCs from arriving at appraisal fees through the operation of the free market.

32. In enforcing Rule 31101, the Board has also unlawfully restrained price competition. Although Rule 31101 identifies three methods of compliance, the Board has effectively required payment of appraisal fees at least as high as median fees listed in fee surveys that the Board itself has commissioned.

33. Beginning in 2013, the Board commissioned the SLU Center to survey recent fees paid by lenders to appraisers in Louisiana. The SLU Center surveyed lenders and, [REDACTED] appraisers. [REDACTED]

34. [REDACTED] appraisers were eager to participate in the survey. [REDACTED]

[REDACTED] Appraisers responded, [REDACTED]

35. For fees paid in each of 2012, 2013, and 2014, the SLU Center prepared a report identifying median appraisal fees for urban, suburban, and rural areas statewide and in nine geographic regions in Louisiana, for each of five common types of real estate appraisals. For example, the 2014 survey reported that the median statewide fee for the appraisal of an individual condominium unit in a suburban area was \$450. Reported median fees combined survey responses from lenders and appraisers. The Board provided AMCs with notice of the SLU Center survey results and posted them on its website.

36. The Board views the SLU Center survey results as setting a floor for appraisal fees that AMCs must pay appraisers. As the Board's executive director reportedly said at an industry conference, the survey "sets out our expectations regardless of what presumption might be used, regardless of what analytics and magic formulas an AMC might have, this is our expectation." AMCs that do not follow the rates set forth in the SLU Center reports risk investigation and discipline by the Board.

37. One investigation, against an AMC known as CoesterVMS (“Coester”), began

[REDACTED] The investigation led to a Board complaint alleging that Coester had violated customary and reasonable fee requirements under Louisiana law. The matter was resolved by a stipulated order under which Coester agreed to “follow the current Louisiana fee schedule,” *i.e.*, the median fees set forth in SLU Center reports. Coester also agreed to pay the Board \$5,000 in administrative costs.

38. The Board publicized its settlement with Coester. The settlement was closely followed within the industry. Trade press reported that the Board had “made history” with its enforcement against an AMC of the customary and reasonable fee requirement.

39. Another investigation, against an AMC known as iMortgage Services (“iMortgage”), [REDACTED] began after an appraiser complained that the AMC had offered low fees. The investigation led to a Board complaint alleging that scores of appraisal fees paid by iMortgage failed to meet the customary and reasonable fee requirement under Louisiana law. Over the course of proceedings, the Board dropped allegations about most of these transactions. Among others, the Board dropped all allegations related to appraisal fees that it could not directly measure against SLU Center survey results, and allegations related to fees that were equal to or exceeded median fees reported in the survey. In the end, the Board limited the proceeding to nine appraisal fees that were lower than corresponding median fees set forth in the SLU Center report.

40. After a hearing, the Board entered findings and an order against iMortgage. The Board determined that iMortgage violated the customary and reasonable fee requirement under Louisiana law in each of the nine instances addressed at the hearing. The Board censured iMortgage, fined it \$10,000 plus administrative costs, and conditionally suspended iMortgage’s license to operate as an AMC. The Board stayed the suspension pending iMortgage’s submission of an acceptable plan to comply with the Board’s ruling. The Board rejected iMortgage’s first proposed compliance plan and accepted iMortgage’s compliance plan only when iMortgage agreed to pay fees consistent with the most recent SLU Center report.

41. The Board’s proceeding against iMortgage was public and closely followed within the industry. Trade press reported on the Board’s ruling that iMortgage had not paid customary and reasonable appraisal fees and on the sanctions that the Board imposed on the AMC.

42. The Board investigated other AMCs in response to appraiser complaints about low fees. [REDACTED]

43. The conduct of the Board constitutes concerted action among the Board and its members.

50. The Board possesses and has exercised the power to restrain competition among appraisers in the relevant market. The Board's actions have tended to suppress, and will continue to suppress, price competition among appraisers for the provision of real estate appraisal services to AMCs in Louisiana.

51. Neither Congress nor the Louisiana legislature has required the Board to set customary and reasonable fees at a particular level. Rather, the Board, acting in its discretion, has effectively required AMCs to pay appraisal fees that equal or exceed the median fees identified in SLU Center survey reports.

52. The Louisiana AMC Law does not clearly articulate an intention to displace competition in the setting of appraisal fees.

53. A controlling number of Board members are active market participants. The Board's actions have not been supervised by independent state officials, that is, by persons who are not participants in the Louisiana appraisal industry.

54. Congress did not, through Dodd-Frank or any other statute, require, authorize, or intend that unsupervised active market participants shall regulate appraisal fees. States may comply with Dodd-Frank requirements without violating the antitrust laws.

VIOLATION OF THE FTC ACT

55. The acts and practices of the Board described above constitute concerted action that unreasonably restrains trade and are unfair methods of competition in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45. Such acts and practices, and the effects thereof, are continuing and will continue or recur in the absence of appropriate and effective relief.

NOTICE

Notice is hereby given to the Respondent that the thirtieth day of January, 2018, at 10:00 a.m., is hereby fixed as the time, and Federal Trade Commission offices, 600 Pennsylvania Avenue, NW, Washington, DC 20580, as the place when and where a hearing will be had before an Administrative Law Judge of the Federal Trade Commission, on the charges set forth in the complaint, at which time and place you will have the right under the Federal Trade Commission Act to appear and show cause why an order should not be entered requiring you to cease and desist from the violations of law charged in the complaint.

You are notified that the opportunity is afforded you to file with the Commission an answer to this complaint on or before the fourteenth (14th) day after service of it upon you. An answer in which the allegations of the complaint are contested shall contain a concise statement

of the facts constituting each ground of defense; and specific admission, denial, or explanation of each fact alleged in the complaint or, if you are without knowledge thereof, a statement to that effect. Allegations of the complaint not thus answered shall be deemed to have been admitted.

If you elect not to contest the allegations of fact set forth in the complaint, the answer shall consist of a statement that you admit all of the material allegations to be true. Such an answer shall constitute a waiver of hearing as to the facts alleged in the complaint and, together with the complaint, will provide a record basis on which the Commission shall issue a final decision containing appropriate findings and conclusions and a final order disposing of the proceeding. In such answer, you may, however, reserve the right to submit proposed findings of fact and conclusions of law under § 3.46 of said Rules.

Failure to file an answer within the time above provided shall be deemed to constitute a waiver of your right to appear and to contest the allegations of the complaint, and shall authorize the Commission, without further notice to you, to find the facts to be as alleged in the complaint and to enter a final decision containing appropriate findings and conclusions and a final order disposing of the proceeding.

The Administrative Law Judge shall hold a prehearing scheduling conference not later than ten (10) days after an answer is filed by the Respondent. Unless otherwise directed by the Administrative Law Judge, the scheduling conference and further proceedings will take place at the Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, DC 20580. Rule 3.21(a) requires a meeting of the parties' counsel as early as practicable before the prehearing scheduling conference, and Rule 3.31(b) obligates counsel for each party, within five days of receiving the Respondent's answer, to make certain initial disclosures without awaiting a formal discovery request.

NOTICE OF CONTEMPLATED RELIEF

Should the Commission conclude from the record developed in any adjudicative proceedings in this matter that the Board has violated or is violating Section 5 of the Federal Trade Commission Act, as alleged in the complaint, the Commission may order such relief as is supported by the record and is necessary and appropriate, including, but not limited to:

1. Requiring the Board to rescind and to cease and desist from enforcing Rule 31101, any order based on an alleged violation of Rule 31101, and any agreement with an AMC or other person resolving an alleged violation of Rule 31101.
2. Requiring the Board to cease and desist from raising, fixing, maintaining, or stabilizing prices or price levels, rates or rate levels, or engaging in any other pricing action in connection with the sale of real estate appraisal services.
3. Requiring the Board to cease and desist from adopting, promulgating, or enforcing any regulation, rule, or policy relating to the determination of compensation levels for real estate appraisal services.

4. Requiring the Board to provide appropriate notice of the Commission's order, including by:
- a. placing a prominent notice on the Board's website stating that the Board has been ordered to rescind and cease and desist from enforcing Rule 31101, together with a link to the Commission's order;
 - b. sending by mail or email to each AMC licensed in Louisiana a copy of the notice placed on the Board's website, together with a link to the Commission's order; and
 - c. distributing a copy of the Commission's order to every current and future Board member; and every officer, manager, representative, agent and employee of the Board.
5. Such additional relief as is necessary to correct or remedy, or prevent the recurrence of, the anticompetitive acts alleged in the complaint.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this thirtieth day of May, 2017, issues its complaint against the Board.

By the Commission.

Donald S. Clark
Secretary

SEAL:

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of

Louisiana Real Estate Appraisers Board,
Respondent

Docket No. 9374

**ANSWER OF RESPONDENT LOUISIANA REAL ESTATE APPRAISERS BOARD
TO THE COMPLAINT**

Respondent Louisiana Real Estate Appraisers Board (“LREAB” or the “Board”), through its undersigned counsel, hereby answers the Complaint (the “Complaint”) filed by the Federal Trade Commission (“FTC”). LREAB denies that it has engaged in conduct that violates Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45. Except to the extent specifically admitted herein, LREAB denies each and every allegation in the Complaint, including all allegations contained in headings or otherwise not contained in one of the Complaint’s 1-55 numbered paragraphs.

GENERAL RESPONSE TO THE COMMISSION’S ALLEGATIONS

To shore up the integrity of the residential mortgage appraisal process and, thereby, help to avert a recurrence of the real estate-fueled financial crisis of 2007-2009, the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”) requires States to empower their real estate licensing agency, *inter alia*, to ensure that Appraisal Management Companies (“AMCs”) pay residential appraisers “customary and reasonable” fees for residential appraisal services. This requirement ensures the integrity and quality of residential mortgage appraisals.

Louisiana is one of the first States to implement these requirements of the Dodd-Frank Act by empowering the LREAB— a state board consisting of experts in mortgage lending, commercial real estate appraisal, and residential real estate appraisal, with no one constituency comprising a majority—to promulgate a “customary and reasonable” fee rule.

After receiving input from all stakeholders in various public meetings, hearings, and through written comments, the LREAB unanimously promulgated a rule regarding the AMCs’ payment of “customary and reasonable” fees (“Rule 31101”). Rule 31101 not only follows the mandates of the Dodd-Frank Act in requiring AMCs to pay appraisers a “customary and reasonable” fee for appraisals, but also in providing AMCs multiple methods of compliance with the “customary and reasonable” residential appraisal fee requirement. As part of that guidance, the Board commissioned independent studies to identify, on an annual basis, the median fees paid by lenders for five different types of appraisal services in nine geographic regions. Where the Board has received credible complaints of AMCs offering fees below “customary and reasonable” levels, it has investigated. The majority of these investigations closed with no action. In two instances involving repeated violations, the AMCs proposed or accepted, as a temporary compliance method, to pay the applicable median fee as shown by the annual independent study.

The FTC’s Complaint now asserts that, by fulfilling their duties to follow and enforce Dodd-Frank’s mandate for “customary and reasonable” residential appraisal fees, LREAB members “conspired” to raise appraisal prices. The LREAB categorically and vociferously denies these allegations as factually false and politically wrong-headed. The State of Louisiana and the LREAB diligently implemented and followed the Dodd-Frank federal mandates so as to protect the greater public interest in a financially sound home real estate market. Other States

are looking to Louisiana’s example similarly to promulgate and enforce Dodd-Frank’s “customary and reasonable” residential appraisal fee requirement. These false conspiracy allegations and FTC overreach now place both Louisiana’s and other States’ federally-mandated implementation and enforcement efforts in serious jeopardy.

The LREAB did not violate Section 5 of the FTC Act. The Board’s rules were tailored to implement the federal mandate that the state licensing agency must (1) register AMCs and (2) enforce AMC compliance with the “customary and reasonable” fee requirement. LREAB’s actions throughout the rule-making process—tracking the express language of Dodd-Frank and allowing extensive public comment on its proposed rules—demonstrate LREAB’s painstaking efforts both to be consistent with federal law and responsive to public and industry concerns. The FTC has no cause, legal or factual, to punish the LREAB for acting in good faith to implement federal laws and policies designed to serve the public interest by ensuring the integrity of the residential mortgage appraisal process.

NATURE OF THE CASE

1. To the extent the allegations in paragraph 1 are legal conclusions, no response is required. LREAB admits that AMCs act as agents for lenders in arranging for real estate appraisals. LREAB denies all other allegations in paragraph 1.

2. To the extent the allegations in paragraph 2 are legal conclusions, no response is required. LREAB admits that the Board promulgated a rule on November 20, 2013 that required appraisers to be compensated at “customary and reasonable” rates. LREAB denies all other allegations in paragraph 2.

3. To the extent the allegations in paragraph 3 purport to describe the Board’s regulation, that regulation is the best evidence of its contents, and no response is necessary. To the

extent the allegations in paragraph 3 are legal conclusions, no response is required. LREAB denies all other allegations in paragraph 3. Specifically, LREAB denies that the “Board’s fee regulation unreasonably restrains competition by displacing a marketplace determination of appraisal fees.”

4. LREAB admits that it commissioned the SLU Center to survey fees paid by lenders to appraisers in response to AMC concerns that state and local fee survey data was not readily available for their use in complying with the “customary and reasonable” requirement. LREAB further admits that the SLU Center conducted annual independent appraisal fee studies, in 2013, 2014, 2015, and 2016, and produced reports on appraisal fees paid in 2012, 2013, 2014, and 2015, respectively. LREAB admits that the SLU Center reports identify the median fees paid by lenders for five types of appraisals in nine geographic regions in Louisiana, stated separately for urban, suburban, and rural settings. LREAB admits that it provided AMCs with notice of the SLU Center independent appraisal fee studies and posted the studies on its website, indicating that the independent appraisal fee study was “a courtesy to all licensees; **however, its use is not mandatory.**” LREAB denies that it “unlawfully restrained price competition.” LREAB denies that it effectively required “AMCs to match or exceed appraisal rates listed in a published survey.” To the extent any further response is required, LREAB denies all other allegations in paragraph 4.

5. To the extent the allegations in paragraph 5 are legal conclusions, no response is required. LREAB admits that it initiated two enforcement actions against AMCs. LREAB denies all other allegations in paragraph 5. Specifically, LREAB denies that the “Board has effectively required AMCs to pay appraisal fees that equal or exceed the median fees identified in the SLU Center reports.”

6. To the extent the allegations in paragraph 6 are legal conclusions, no response is required. LREAB denies all other allegations in paragraph 6.

7. To the extent the allegations in paragraph 7 are legal conclusions, no response is required. LREAB denies all other allegations in paragraph 7.

RESPONDENT

8. LREAB admits the allegations in paragraph 8.

9. LREAB admits that the Louisiana Legislature has tasked the Board with implementing and enforcing certain statutes and regulations regarding the conduct of AMCs. LREAB does not have sufficient knowledge or information to admit or deny the other allegations in paragraph 9.

10. To the extent paragraph 10 purports to describe Louisiana Revised Statute Section 37:3394(B), the statute is the best evidence of its contents. Additionally, LREAB denies that “by statute, the Board consists of eight licensed appraisers.” Louisiana Revised Statute Section 37:3394(B) requires that at least four Board members are “general appraisers” and “at least two of the ten members shall be residential appraisers.”

11. To the extent the allegations in paragraph 11 are legal conclusions, no response is required. LREAB denies all other allegations in paragraph 11. Specifically, LREAB denies that all appraiser members of the Board are active participants in the residential appraisal market.

JURISDICTION

12. LREAB admits the allegations in paragraph 12.

13. To the extent the allegations in paragraph 13 contain legal conclusions, no response is required. LREAB lacks sufficient knowledge to admit or deny the remaining allegations in paragraph 13.

**THE PROVISION OF APPRAISAL SERVICES THROUGH
APPRAISAL MANAGEMENT COMPANIES**

14. LREAB does not have sufficient knowledge or information to admit or deny the allegations in paragraph 14.

15. LREAB denies that AMCs have the ability to “edit” appraisal reports. LREAB does not have sufficient knowledge or information to admit or deny the other allegations in paragraph 15.

Federal Law Regarding AMCs

16. LREAB does not have sufficient information concerning the perceptions of policy makers to admit or deny the allegations in paragraph 16.

17. LREAB admits the allegations in paragraph 17.

18. To the extent the allegations in paragraph 18 purport to describe the Dodd-Frank Act, the Dodd-Frank Act is the best evidence of its contents, and no response is necessary. LREAB admits the remaining allegations in paragraph 18.

19. To the extent the allegations in paragraph 19 purport to describe the Dodd-Frank Act, the Dodd-Frank Act is the best evidence of its contents, and no response is necessary.

20. To the extent the allegations in paragraph 20 purport to describe the Dodd-Frank Act, the Dodd-Frank Act is the best evidence of its contents, and no response is necessary. To the extent the allegations in paragraph 20 contain legal conclusions, no response is necessary.

21. To the extent the allegations in paragraph 21 purport to describe the Dodd-Frank Act and the rules issued by the Governors of the Federal Reserve System on behalf of the Federal Reserve and other federal banking agencies, the Dodd-Frank Act and those issued rules are the best evidence of their content, and no response is necessary.

22. To the extent the allegations in paragraph 22 purport to describe the Federal Reserve’s October 2010 Interim Rules or commentary on Dodd-Frank, that commentary is the

best evidence of its contents and no response is necessary. To the extent the allegations in paragraph 22 contain legal conclusions, no response is necessary.

23. To the extent the allegations in paragraph 23 purport to describe the Federal Reserve's October 2010 Interim Rules, those rules are the best evidence of their contents and no response is necessary. To the extent the allegations in paragraph 23 contain legal conclusions, no response is necessary.

24. To the extent the allegations in paragraph 24 purport to describe the Federal Reserve's October 2010 Interim Rules or commentary on Dodd-Frank, that commentary and those rules are the best evidence of their contents and no response is necessary. To the extent the allegations in paragraph 24 contain legal conclusions, no response is necessary.

25. To the extent the allegations in paragraph 25 purport to describe the Dodd-Frank Act, the Dodd-Frank Act is the best evidence of its contents, and no response is necessary. To the extent the allegations in paragraph 25 are legal conclusions, no response is necessary. LREAB admits that Dodd-Frank mandated that state licensing agencies tasked with regulating appraisers must also regulate AMCs.

26. To the extent the allegations in paragraph 26 purport to describe the Dodd-Frank Act or the rules implementing Dodd-Frank, the Dodd-Frank Act and/or those rules are the best evidence of their contents, and no response is necessary. To the extent the allegations in paragraph 26 are legal conclusions, no response is necessary.

Louisiana Statutes Regarding AMCs

27. To the extent the allegations in paragraph 27 purport to describe Louisiana laws, those laws are the best evidence of their contents, and no response is necessary. To the extent the allegations in paragraph 27 are legal conclusions, no response is necessary.

28. To the extent the allegations in paragraph 28 purport to describe Louisiana laws, those laws are the best evidence of their contents, and no response is necessary. To the extent the allegations in paragraph 28 are legal conclusions, no response is necessary.

THE BOARD'S ACTIONS TO SUPPRESS COMPETITION

29. To the extent the allegations in paragraph 29 are legal conclusions, no response is necessary. LREAB denies that the Board “suppresses competition among appraisers and displaces market forces.” LREAB admits the remaining allegations of paragraph 29.

30. To the extent the allegations in paragraph 30 are legal conclusions, no response is necessary. LREAB admits that it promulgated Rule 31101 on November 20, 2013. LREAB denies all other allegations in paragraph 30. Specifically, LREAB denies that its decision to comply with a federal mandate by implementing Rule 31101 was “driven by its apparent dissatisfaction with the free market.”

31. To the extent paragraph 31 purports to describe Rule 31101, that Rule is the best evidence of its contents and no response is required. LREAB denies all other allegations in paragraph 31. Specifically, LREAB denies that “[b]ecause Rule 31101 identifies these methods as the exclusive ways for arriving at customary and reasonable fees, it precludes AMCs from arriving at appraisal fees through the operation of the free market.”

32. To the extent paragraph 32 contains legal conclusions, no response is necessary. LREAB denies all other allegations in paragraph 32.

33. LREAB admits that it commissioned the SLU Center to conduct an independent appraisal fee study of fees paid by lenders in Louisiana and that the SLU Center surveyed both lenders and appraisers. LREAB admits that the SLU center requested responses from lenders and appraisers and received more responses from appraisers. LREAB denies all other allegations in paragraph 33.

34. LREAB admits that it encouraged both appraisers and lenders to participate in the SLU survey. LREAB denies all other allegations in paragraph 34.

35. LREAB admits the allegations in paragraph 35.

36. LREAB admits that its executive director said that the SLU Center survey “sets out our expectations regardless of what presumption might be used, regardless of what analytics and magic formulas an AMC might have, this is our expectation.” LREAB denies the remaining allegations in paragraph 36. Specifically, LREAB denies that the SLU Center survey sets a “floor” for appraisal fees.

37. LREAB admits that it conducted an investigation against Coester and that Coester proposed (and the Board agreed to) a stipulated order to resolve the matter. To the extent paragraph 37 purports to describe the stipulated order, that order is the best evidence of its contents, and no response is necessary. LREAB denies all other allegations in paragraph 37.

38. LREAB does not have sufficient knowledge or information to admit or deny that “[t]he settlement was closely followed within the industry.” LREAB admits that “[t]rade press reported that the Board had ‘made history’ with its enforcement against an AMC of the customary and reasonable fee requirement.” LREAB denies all other allegations in paragraph 38.

39. LREAB admits that it conducted an investigation into allegations that iMortgage failed to compensate appraisers at “customary and reasonable” rates. LREAB denies the remaining allegations in paragraph 39.

40. LREAB admits that after a lengthy hearing, and a full and fair opportunity for iMortgage to present any evidence of its compliance with Rule 31101, the Board entered findings and an order against iMortgage. To the extent paragraph 40 purports to describe the contents of the Board’s order against iMortgage, that order is the best evidence of its contents, and no response is necessary. LREAB denies all other allegations in paragraph 40.

41. LREAB admits that the trade press reported on the Board's ruling against iMortgage. LREAB does not have sufficient knowledge or information to admit or deny the remaining allegations in paragraph 41.

42. LREAB admits that it investigated other AMCs for potential violations of the "customary and reasonable" fee rule. LREAB denies all other allegations in paragraph 42. Specifically, LREAB denies that it has ever taken enforcement actions against an AMC merely for charging a "low fee."

43. To the extent paragraph 43 contains legal conclusions, no response is necessary. LREAB denies the allegations in paragraph 43.

EFFECTS ON COMPETITION OF THE BOARD'S ACTIONS

44. To the extent paragraph 44 contains legal conclusions, no response is necessary. LREAB denies all other allegations in paragraph 44. Specifically, LREAB denies that its efforts to comply with a Federal mandate have "restrained competition," "harmed consumers," or raised prices for "appraisal services in Louisiana above competitive levels."

45. LREAB denies the allegations in paragraph 45 on the basis that the quoted information included in the paragraph is so incomplete as to be misleading. To the extent that paragraph 45 purports to describe the contents of a document, that document is the best evidence of its contents and no response is necessary. LREAB does not have sufficient knowledge or information to admit or deny the other allegations of paragraph 45.

46. LREAB admits that a non-Board member of the appraisal community made that statement to an AMC. LREAB denies all other allegations in paragraph 46.

47. LREAB admits that a non-Board member of the appraisal community made that statement to an AMC. LREAB denies all other allegations in paragraph 47.

48. LREAB admits that AMCs in Louisiana may choose to use the SLU Center survey to determine “customary and reasonable” appraisal fees and as a means of compliance with the mandates of Dodd-Frank, as implemented through the Board’s Rule 31101. LREAB denies all other allegations in paragraph 48.

49. To the extent the allegations in paragraph 49 are legal conclusions, no response is necessary. LREAB denies all other allegations in paragraph 49.

50. To the extent the allegations in paragraph 50 are legal conclusions, no response is necessary. LREAB denies all other allegations in paragraph 50.

51. To the extent the allegations in paragraph 51 are legal conclusions, no response is necessary. LREAB denies all other allegations in paragraph 51. Specifically, the Board denies that it has “set” fees at any “particular level” in its efforts to implement the federally-mandated “customary and reasonable” fee requirement.

52. To the extent paragraph 52 purports to describe the contents of Louisiana Revised Statute 37:3415 *et seq.*, that law is the best evidence of its contents, and no response is necessary. LREAB denies all other allegations in paragraph 52.

53. To the extent the allegations in paragraph 53 are legal conclusions, no response is necessary. LREAB denies all other allegations in paragraph 53. Specifically, LREAB denies that a “controlling number of Board members are active market participants.”

54. To the extent the allegations in paragraph 54 are legal conclusions, no response is necessary. To the extent that paragraph 54 purports to describe the contents of Dodd-Frank, that law is the best evidence of its contents, and no response is necessary. LREAB admits that states, including Louisiana, “may comply with Dodd-Frank requirements without violating the antitrust laws,” and specifically avers that the LREAB has so complied.

VIOLATION OF THE FTC ACT

55. To the extent the allegations in paragraph 55 are legal conclusions, no response is necessary. LREAB denies all other allegations in paragraph 55.

AFFIRMATIVE DEFENSES

LREAB asserts the following defenses, without assuming the burden of proof on such defenses that would otherwise rest with the Commission:

1. The Complaint fails to state a claim upon which relief can be granted under Section 5 of the FTC Act, 15 U.S.C. § 45.
2. The Complaint fails adequately to allege a plausible relevant services market.
3. The Complaint fails adequately to allege that the Board has a controlling number of active participants in the relevant **residential** appraisal market.
4. LREAB has acted in good faith to comply with a federal regulatory mandates.
5. The Complaint fails to allege any plausible harm to competition.
6. The Complaint fails to allege any plausible harm to consumers or consumer welfare.
7. The alleged potential harm to competition is not actionable.
8. Neither the filing of this administrative action nor the contemplated relief are in the public interest, pursuant to 15 U.S.C. § 45.
9. LREAB is immune from federal antitrust liability under *Parker v. Brown*, 317 U.S. 341 (1943).
10. LREAB has not knowingly or intentionally waived any applicable defenses, and it reserves the right to assert and rely upon other applicable defenses that may become available or

apparent throughout the course of the action. LREAB reserves the right to amend, or seek to amend, its answer or affirmative defenses.

NOTICE OF CONTEMPLATED RELIEF

LREAB respectfully requests that the Administrative Law Judge (i) deny the FTC's contemplated relief, (ii) dismiss the Complaint in its entirety with prejudice, (iii) pursuant to 16 C.F.R. § 3.81, award LREAB its fees and expenses of defending this action, and (iv) award such other and further relief as the Administrative Law Judge may deem proper.

Dated: June 19, 2017

Respectfully submitted,

/s/ W. Stephen Cannon

W. Stephen Cannon
Seth D. Greenstein
Richard O. Levine
James J. Kovacs
Kristen Ward Broz
Constantine Cannon LLP
1001 Pennsylvania Avenue, NW
Suite 1300 N
Washington, DC 20004
Phone: 202-204-3500
scannon@constantinecannon.com

*Counsel for Respondent, the
Louisiana Board of Real Estate
Appraisers*

Tab 9

2012 La. R.S. 37:3415.15

2012 Louisiana Code Archive

**LOUISIANA STATUTES ANNOTATED > LOUISIANA REVISED STATUTES > TITLE 37.
PROFESSIONS AND OCCUPATIONS > CHAPTER 51-A. APPRAISAL MANAGEMENT COMPANY
LICENSING AND REGULATION ACT**

§ 37:3415.15. Fees; customary and reasonable; disclosure

- A. An appraisal management company shall compensate appraisers at a rate that is customary and reasonable for appraisals being performed in the market area of the property being appraised, consistent with the presumptions of compliance under federal law.
- B. An appraisal management company shall separately state to the client all of the following:
- (1) The fees paid to an appraiser for appraisal services.
 - (2) The fees charged by the appraisal management company for services associated with the management of the appraisal process, including procurement of the appraiser's services.
- C.
- (1) An appraisal management company shall not prohibit any appraiser who is part of an appraiser panel from recording the fee that the appraiser was paid by the appraisal management company for the performance of the appraisal within the appraisal report that is submitted by the appraiser to the appraisal management company.
 - (2) An appraisal management company shall not include any fees for appraisal management services performed by the company in the amount the company reports as charges for the actual completion of an appraisal by the appraiser.

History

[Acts 2012, No. 429](#), § 1, eff. May 31, 2012.

LOUISIANA STATUTES ANNOTATED

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End of Document

Tab 10

MINUTES OF MEETING
OF
LOUISIANA REAL ESTATE APPRAISERS BOARD

January 14, 2013

The Louisiana Real Estate Appraisers Board held its regular business meeting on Monday, January 14, 2013, at 9:30 a.m., at 9071 Interline Avenue, Baton Rouge, Louisiana, according to regular call, of which all members of the board were duly notified, at which meeting the following members were present:

BOARD

Roland M. Hall, Sr., Chairman
Leonard E. "Pete" Pauley, Vice Chairman
Gayle A. Boudousquie, Secretary
Newton J. "Butch" Landry
Clay F. Lipscomb
Gary S. Littlefield
Tommie McMorris

STAFF

Bruce Unangst, Executive Director
Arlene C. Edwards, Legal Counsel
Tad Bolton
Anne Brassett
Mark Gremillion
Robert Maynor
Summer Mire
Jenny Yu

Board member Mike Graham was unable to attend the meeting.

Call to Order

Chairman Hall called the meeting to order and led the Invocation. Vice Chairman Pauley led the Pledge of Allegiance. On motion made by Mr. Pauley and seconded by Mr. Littlefield, the minutes of the October 15, 2012 meeting were unanimously approved as written and circulated.

Budget Report

Ms. Yu provided the budget report for the period ending December 31, 2012 (*See Attachment*). Due to the raise in retirement costs, state agencies are now required to contribute 29.1%.

Director's Report

Director Unangst advised that the Board's new website is up for in-house viewing only. He welcomes suggestions and input from Board members.

Chairman Hall inquired about the status of the Peer Review Committee rules. Director Unangst informed members that the rules should formally take effect February 20, 2013.

Unfinished Business

Director Unangst recapped this morning's committee meeting on the proposed AMC rules. The minor revisions to the rules will make them easier to enforce in that they track federal law. Mr. Pauley made motion, seconded by Ms. Boudousquie, to ratify approval of the proposed rules. Motion passed without opposition. On behalf of the Board, Mr. McMorris acknowledged Director Unangst's diligent effort in working with REEVA and other interested parties to come to an agreement on this final draft.

New Business

On motion made by Mr. McMorris and seconded by Mr. Landry, members voted unanimously to keep the current officers of the Board.

There being no additional items to discuss, the meeting was adjourned on motion made by Vice Chairman Pauley and seconded by Mr. Landry.

Roland M. Hall, Sr., Chairman

Pete Pauley, Vice Chairman

Tab 11

39 LR 3072

Volume 39, Number 11, November 20, 2013

RULES

Reporter

39 LR 3072 *

LA - Louisiana Register > 2013 > November > November 20, 2013 > RULES > Office of the Governor -- Real Estate Appraisers Board**Agency**

Office of the Governor > Real Estate Appraisers Board

Administrative Code Citation

LAC 46:LXVII.30302, 30401, 30501, 30900, and 31101

Text

Real Estate--Appraisal Management Companies

Under the authority of the Louisiana Real Estate Appraisers Law, R.S. 37:3397 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Real Estate Appraisers Board has amended Chapters 303, 305 and 309, and promulgated Chapters 304 and 311. The purpose of the action is to: (1) establish compliance procedures whereby appraisal management company licensees can meet the amended licensing requirements enacted in Act 429 of the 2012 Regular Session consistent with the requirements of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act; (2) establish grievance or complaint procedures; and (3) further clarify investigative procedures.

Regulations

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS**Part LXVII. Real Estate****Subpart 3. Appraisal Management Companies****Chapter 303. Forms and Applications****§ 30302. Surety Bond Required; Amount and Conditions; Filing**

- A. Applicants for licensing as an appraisal management company shall submit proof of a surety bond in the amount of \$ 20,000 with a surety company qualified to conduct business in Louisiana.
- B. Bonds shall be in favor of the state of Louisiana and conditioned for the benefit of a claimant against the licensee for a violation of the Appraisal Management Company Licensing and Regulation Act and/or the rules and regulations of the board.

- C. Bonds shall remain effective and in force throughout the license period of the appraisal management company.
- D. Proof of surety bond renewal shall be provided to the board in conjunction with the annual renewal of the appraisal management company license.
- E. Failure to maintain a surety bond shall be cause for revocation or suspension of a license.
- F. A licensee who elects to submit a cash deposit or security in lieu of a surety bond, as provided in R.S. 37:3515.3(D)(5), shall restore the cash deposit or security annually upon license renewal, if a claim has reduced the deposit amount or security below \$ 20,000.
- G. The board may file suit on behalf of a party having a claim against a licensee or a party having a claim may file suit directly against the surety bond. Suits shall be filed within one year after the claim arises.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3415.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 39:3072 (November 2013).

Chapter 304. Competency

§ 30401. Appraiser License Verification

- A. Prior to making an assignment to a real estate fee appraiser, licensees shall have a system in place to verify that the appraiser holds a license in good standing in this state pursuant to the Louisiana Real Estate Appraisers Law, R.S. 37:3391 et seq. Licensees may rely on the National Registry of the Appraisal Subcommittee for purposes of appraiser license verification. Before or at the time of making an assignment to a real estate fee appraiser, licensees shall obtain a written certification from the appraiser that he or she:
 - 1. is competent in the property type of the assignment;
 - 2. is competent in the geographical area of the assignment;
 - 3. has access to appropriate data sources for the assignment;
 - 4. will immediately notify the licensee in writing if the appraiser later determines that he or she is not qualified to complete the assignment; and
 - 5. is aware that misrepresentation of competency may be subject to the mandatory reporting requirement in the most current version of the Uniform Standards of Professional Appraisal Practice (USPAP).
- B. Subsequent to a completed appraisal being submitted to the assigning licensee, any request for additional information that may impact or alter the opinion of value stated therein shall be made by the certified appraiser completing the appraisal review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3415.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 39:3072 (November 2013).

Chapter 305. Responsibilities and Duties

§ 30501. Record Keeping

- A. - A.4. ...
- B. In addition to the records that shall be maintained in Subsection A of this Section, licensees shall maintain a complete list of all real estate fee appraisers approved by the licensee to receive appraisal assignments. The list shall include, but is not limited to, the following information on each fee appraiser:
 - 1. name, license status, and qualifications;

2. errors and omission insurance status, including the carrier, the policy number, the dollar limits of the coverage and the dates covered in the policy, if such insurance is required by the licensee;
 3. experience and professional record;
 4. the areas in which each fee appraiser considers him/herself geographically competent broken down by parish and/or zip code;
 5. the type of property for each appraisal performed;
 6. the scope of work for each appraisal performed;
 7. the turn time in which the appraisal services are required to be performed;
 8. fee appraiser work quality; **[*3073]**
 9. the number and type of assignments completed per year; and
 10. the fee or remuneration or monetary compensation for each report or assignment.
- C. All records shall be kept properly indexed and readily available to the board for review upon request. Duly authorized representatives of the board shall be authorized to inspect such records at the offices of licensees between the hours of 9 a.m. and 4 p.m., Saturdays, Sundays, and legal holidays excluded, upon 10 calendar days written notice to the licensee, and to subpoena any of the said records.
- D. All records specified in this Chapter shall be retained for a period of five years; however, records that are used in a judicial proceeding, in which the appraiser provided testimony related to the appraisal assignment, shall be retained for at least two years after disposition, whichever period expires last.
- E. At any time that a document or information on file with the board becomes inaccurate or incomplete, the appraisal management company shall notify the board in writing within 10 business days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3415.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 37:2407 (August 2011), amended LR 39:3072 (November 2013).

Chapter 309. Investigations; Disciplinary Authority; Enforcement and Hearing

§ 30900. Investigations

- A. The board may, upon its own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of a licensee or certificate holder, or any person who assumes to act as such. Written complaints shall bear the signature of the complainant or that of his legal representative before any action will be taken thereon by the board.
- B. The executive director of the board may issue written authorization to investigate apparent violations of the Louisiana Appraisal Management Company Licensing and Regulation Act and/or the rules and regulations of the board.
- C. Investigations shall be conducted by the staff of the Louisiana Real Estate Appraisers Board and/or the Louisiana Real Estate Commission.
- D. If, during the course of an investigation, information is established indicating that violations of the Louisiana Appraisal Management Company Licensing and Regulation Act and/or the rules and regulations of the board have been committed by any licensee other than the licensee against whom the original complaint was made, the additional licensee may be added as a respondent to the investigation in the absence of any written complaint alleging such violations.
- E. The board may file suit in the Nineteenth Judicial District Court in the parish of East Baton Rouge to enforce a subpoena against any person that does not comply with a subpoena issued by the board.
- F. Full or partial compliance audits may be authorized by the executive director, or by affirmative vote of the board, to determine compliance with all provisions of applicable law and rules. A maximum of 10

percent of all registered licensees may be subject to audit in any calendar year. Licensees selected for audit shall be given 10 days written notice prior to commencement of the audit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3415.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 39:3073 (November 2013).

Chapter 311. Compensation of Fee Appraisers

§ 31101. General Provisions; Customary and Reasonable Fees; Presumptions Of Compliance

- A.** Licensees shall compensate fee appraisers at a rate that is customary and reasonable for appraisal services performed in the market area of the property being appraised and as prescribed by R.S. 37:3415.15(A). For the purposes of this Chapter, market area shall be identified by zip code, parish, or metropolitan area.
1. Evidence for such fees may be established by objective third-party information such as government agency fee schedules, academic studies, and independent private sector surveys. Fee studies shall exclude assignments ordered by appraisal management companies.
 2. The board, at its discretion, may establish a customary and reasonable rate of compensation schedule for use by any licensees electing to do so.
 3. Licensees electing to compensate fee appraisers on any basis other than an established fee schedule as described in Paragraphs 1 or 2 above shall, at a minimum, review the factors listed in § 31101.B.1-6 on each assignment made, and make appropriate adjustments to recent rates paid in the relevant geographic market necessary to ensure that the amount of compensation is reasonable.
- B.** A licensee shall maintain written documentation that describes or substantiates all methods, factors, variations, and differences used to determine the customary and reasonable fee for appraisal services conducted in the geographic market of the appraisal assignment. This documentation shall include, at a minimum, the following elements:
1. the type of property for each appraisal performed;
 2. the scope of work for each appraisal performed;
 3. the time in which the appraisal services are required to be performed;
 4. fee appraiser qualifications;
 5. fee appraiser experience and professional record; and
 6. fee appraiser work quality.
- C.** Licensees shall maintain records of all methods, factors, variations, and differences used to determine the customary and reasonable rate of compensation paid for each appraisal assignment in the geographic market of the property being appraised, in accordance with Section § 30501.C.
- D.** Except in the case of breach of contract or substandard performance of real estate appraisal activity, an appraisal management company shall make payment to an independent contractor appraiser for the completion of an appraisal or appraisal review assignment:
1. within 30 days after the appraiser provides the completed appraisal report to the appraisal management company; or
 2. in accordance with another payment schedule agreed to in writing by the appraiser and the appraisal management company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3415.1 et seq. [***3074**]

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 39:3073 (November 2013).

Bruce Unangst
Executive Director
1311#029

LOUISIANA REGISTER

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Tab 12

Confidential - Redacted in Entirety

Tab 13



May 30, 2013

The Southeastern Louisiana University Business Research Center (BRC) is jointly operated by the Southeast Louisiana Business Center and the Southeastern College of Business. The BRC provides applied economic analyses and research studies that aid business and economic development efforts. The Center represents one aspect of the University's commitment to economic development in the region.

The Center is located in the Southeast Louisiana Business Center on Martens Drive, two blocks west of the main campus of Southeastern Louisiana University. The Business Research Center is a proud member of the Association for University Business and Economic Research (AUBER) and the Council for Community and Economic Research (C2ER).

The following study was commissioned by the Louisiana Real Estate Appraisal Board, and was conducted using generally accepted research methods, models and techniques.

The information gathered and/or study results are for informational purposes only and are not intended to be used for investment, lending, or legal decisions. Research and results of this study do not represent any form of endorsement by Southeastern Louisiana University.

Sincerely,

A handwritten signature in black ink that reads 'William Joubert'. The signature is written in a cursive style with a small flourish at the end.

William Joubert
Director
Business Research Center

Louisiana Residential Real Estate Appraisal Fees: 2012

A study funded by and conducted for the
Louisiana Real Estate Appraisal Board (LREAB)

May 2013

Herb Holloway

Dr. A.M.M. Jamal

William Joubert



Southeastern Louisiana University
Business Research Center

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EXECUTIVE SUMMARY

The Business Research Center at Southeastern Louisiana University conducted an online survey of mortgage lenders with offices in Louisiana and licensed Louisiana real estate appraisers to collect information on typical residential real estate appraisal fees paid in Louisiana in 2012. Fee data were restricted to appraisal fees paid directly to licensed appraisers (i.e., not routed through appraisal management companies (AMCs)), per guidance of relevant federal regulations for determining "customary and reasonable" fees.

Useable responses were received from 113 mortgage lenders located in 25 parishes (plus out-of-state) and 383 appraisers with primary offices in 38 parishes (plus out-of-state). Appraisal fee data were provided for properties located in all 64 parishes.

Typical appraisal fees were collected for five appraisal types for properties in urban, suburban, and rural locations. Median fees were analyzed by region of the state based on geographic designations by the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP), illustrated in Figure 9 and listed in Appendix 3.

The five appraisal types for which typical fees were collected included:

- Form 1004 (Full appraisal)
- Form 1004 FHA (Full appraisal for FHA)
- Form 1025 (Small (1–4 units) residential income property appraisal)
- Form 1073 (Individual condominium unit appraisal)
- Form 2055 (Exterior-only inspection appraisal)

Median fees across all regions ranged from a low of \$300 - \$350 for Form 2055 appraisals to a high of \$500 - \$650 for Form 1025 appraisals.

There was little difference in median fees for urban and suburban properties, while fees for rural properties tended to be somewhat higher.

There was significant variation in typical fees between regions, precluding the use of statewide averages for any appraisal type. Table 32 on page 29 provides a summary of median fees for all appraisal types by every region and location type.

The baseline appraisal fees shown in Table 32 should be considered minimum "standard" appraisal fees, with adjustments necessary for large or complex properties or properties located in distant or remote locations.

Although there was much variation depending on property details, the median typical large/complex property fee adjustment was \$125, while the additional distance fee ranged from \$25 for travel distances of 16-25 miles to \$100 for distances of 51 miles and over.

INTRODUCTION

Enacted May 1, 2009, the Home Valuation Code of Conduct (HVCC) drastically changed the method in which residential real estate appraisal services were procured for secondary mortgage loans delivered to the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac). The required separation of mortgage production from appraiser selection led to the rapid growth in the number and volume of business of appraisal management companies (AMCs).

Due to debates about the fairness of fees paid to appraisers by some AMCs, the Consumer Financial Protection Bureau enacted additional regulations on December 22, 2011 which required that "... the creditor and its agents shall compensate a fee appraiser for performing appraisal services at a rate that is customary and reasonable for comparable appraisal services performed in the geographic market of the property being appraised."

These federal regulations are detailed at:

Title 12 – Banks and Banking
Chapter X – BUREAU OF CONSUMER FINANCIAL PROTECTION
Part 1026 – TRUTH IN LENDING (REGULATION Z)
Subpart E – Special Rules for Certain Home Mortgage Transactions
Section 1026.42 – Valuation independence
Sub-section (f) – *Customary and reasonable compensation. (1) Requirement to provide customary and reasonable compensation to fee appraisers.*

Paragraph (f) (3) – *Alternative presumption of compliance* states:

"A creditor and its agents shall be presumed to comply with paragraph (f)(1) of this section if the creditor or its agents determine the amount of compensation paid to the fee appraiser by relying on information about rates that :

- (i) Is based on objective third-party information, including fee schedules, studies, and surveys prepared by independent third parties such as government agencies, academic institutions, and private research firms;
- (ii) Is based on recent rates paid to a representative sample of providers of appraisal services in the geographic market of the property being appraised or the fee schedules of those providers; and
- (iii) In the case of information based on fee schedules, studies, and surveys, such fee schedules, studies, or surveys, or the information derived therefrom, excludes compensation paid to fee appraisers for appraisals ordered by appraisal management companies, as defined in paragraph (f)(4)(iii) of this section."

The Louisiana Real Estate Appraisal Board (LREAB) commissioned this study to provide mortgage lenders and appraisal management companies doing business in Louisiana with a convenient, concise, and complete report meeting the requirements under the above *Alternative presumption of compliance*.

METHODOLOGY

The Southeastern Louisiana University Business Research Center (BRC), in consultation with staff and officers of LREAB, decided to conduct an online survey of both Louisiana mortgage lenders and Louisiana-licensed residential real estate appraisers to collect a diverse sample of data regarding typical residential appraisal fees for various appraisal types in all geographic areas of the state.

The survey instruments, attached to this report as Appendices A & B, differed slightly for the two groups – lenders and appraisers – in order to collect different background and classification information from the two groups. Both groups were asked to provide data on their typical appraisal fees paid/charged for appraisals of properties in urban, suburban, and rural locations in all 64 parishes.

The lender and appraiser survey instruments were both hosted on the QuestionPro™ survey service, and were protected with separate passwords provided to potential survey respondents.

Lender Survey Timeline, Sample Pool, and Number of Responses

In late November 2012, BRC staff obtained lists of

- Licensed mortgage loan originators,
- State-chartered banks,
- State-chartered thrifts, and
- State-chartered credit unions

from the Louisiana Office of Financial Institutions.

The BRC also downloaded lists of Louisiana banks and credit unions from www.fdic.gov and www.ncua.gov, respectively.

Working from master lists derived from these sources, BRC staff conducted internet searches and telephoned institutions to attempt to gather e-mail addresses for mortgage lenders and mortgage-lending administrators within these institutions.

Introductory e-mails were sent out on 2/8/2013. A copy of the introductory e-mail was also provided to the Louisiana Bankers Association (LBA) on 2/6/2013 for distribution to approximately 675 LBA members.

The announcement of the opening of the online survey site, along with the link and password, was distributed to 1,216 e-mail contacts on 2/13/2013. The announcement e-mail was also provided to LBA, who distributed it to their members on 2/18/2013.

Reminder e-mails were distributed to the BRC contact list through Constant Contact on 2/26, 3/11, and 3/25/2013. LBA also sent one reminder to their members on or about 2/25/2013.

The lender survey site was closed on April 1, 2013, at which point there were 149 partial or complete survey responses from lenders.

In order to check for duplicate/multiple responses, IP addresses and/or e-mail addresses (when provided) were used to compare responses. Based on these comparisons, six of the responses were determined to be partially completed duplicates of other more complete responses, where the lender had left the survey incomplete and later come back and completed the survey again. (Due to the branching nature of some of the questions, it was not possible to go back to a previous question in the survey, and there was no mechanism for saving an incomplete survey for later completion.)

Although it is difficult to calculate a response rate due to overlap between the BRC and LBA contact lists, the 143 valid responses would represent approximately 12 percent of the 1,216 notification e-mails distributed by BRC.

Thirty of the 143 respondents indicated that they were not actively involved in mortgage lending, so their responses were removed from the data, leaving 113 useable responses from lenders.

Of these, 45 respondents indicated that all of their appraisals in 2012 were ordered through appraisal management companies, so they were directed to the end of the survey without providing any fee information, but their demographic and classification information was retained.

This left 68 responses from lenders who potentially could provide non-AMC appraisal fee information for 2012, of which 61 did.

Appraiser Survey Timeline, Sample Pool, and Number of Responses

Louisiana residential real estate appraisers received the introductory e-mail, survey opening announcement, and follow-up reminders via the LREAB membership contact list, which included 742 certified appraisers at the time of the survey.

The timing of the e-mail notifications was similar to that for the lenders described above.

By the time the appraiser survey site was closed on April 1, 2013, there were 415 partial or complete survey responses from appraisers. Ten of these were from individuals who did not hold a Louisiana residential real estate appraisal license in 2012, and thus were directed to the end of the survey without answering any questions. Another two respondents failed to indicate whether they held a license or not, so their responses were removed from the data. After closely reviewing the data and originating IP addresses, 20 responses were determined to be either duplicates of other responses or blank responses with no useable fee data, so these were also removed from the data before analysis began.

This left 383 potentially useable responses, representing 51.6 percent of the 742 certified Louisiana real estate appraisers. Of these 383, appraisal fee information was provided by 338, while the other 45 provided only classification information and/or comments.

DEMOGRAPHIC AND CLASSIFICATION INFORMATION

Mortgage Lenders

Percentage of Appraisals Ordered Directly from Licensed Real Estate Appraisers in 2012

When asked in Question 5 for the percentage of mortgage loans they processed for which they directly ordered appraisals from licensed appraisers, i.e. not through an AMC, thirty respondents indicated that they were not involved in ordering residential real estate appraisals, so they were directed to the end of the survey and their responses to earlier questions were not used in this analysis.

The remaining 113 respondents selected from pre-set answers ranging from "0%" (i.e. all appraisals ordered through AMCs) to "100%" (i.e. all appraisals ordered directly from licensed appraisers).

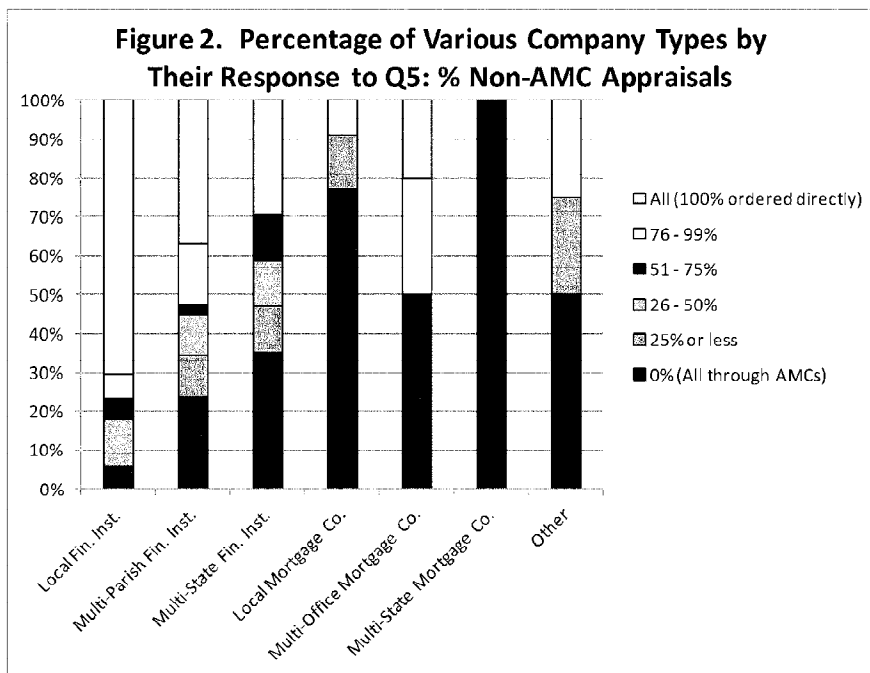
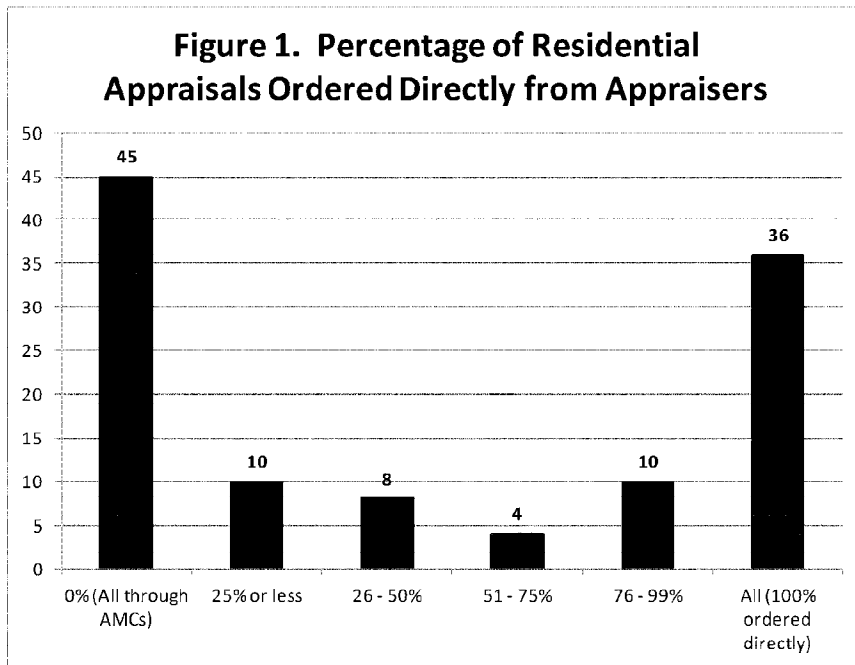
Responses are detailed in Table 1 and illustrated in Figure 1.

<u>% of Appraisals Ordered Directly from Appraisers</u>	<u>Count</u>	<u>%</u>
0% (All appraisals ordered through AMCs)	45	39.8%
25% or less	10	8.8%
26 - 50%	8	7.1%
51 - 75%	4	3.5%
76 - 99%	10	8.8%
All (100% ordered from licensed appraisers)	36	31.9%
Total	113	100.0%

Approximately 40 percent of respondents ordered all residential appraisals through AMCs, while 32 percent ordered all appraisals directly from appraisers.

The remaining 28 percent of respondents used a combination of AMC- and direct-ordered appraisals in varying proportions.

As shown in Figure 2, higher percentages of financial institutions ordered appraisals directly from appraisers, while higher percentages of mortgage companies typically ordered appraisals through AMCs.



Position/Occupation of Respondents

Question 1 of the lender survey asked respondents to indicate their position or occupation. Approximately 35 percent of respondents with some non-AMC appraisals indicated that they

were "Mortgage loan officers" in 2012, compared to 62 percent of respondents with 100 percent AMC appraisals (Table 2).

Approximately 21 percent of respondents with some non-AMC appraisals were "Mortgage loan department managers", and 32 percent selected "Other". Textual responses accompanying the "Other" selections are detailed in Table 3.

<u>Position/Occupation</u>	<u>Respondents with some/all non-AMC appraisals</u>		<u>Respondents with 100% AMC appraisals</u>		<u>All Responses</u>	
	<u>Count</u>	<u>%</u>	<u>Count</u>	<u>%</u>	<u>Count</u>	<u>%</u>
Staff person/asst. in mortgage loan dept.	5	7.4%	1	2.2%	6	5.3%
Mortgage loan officer	24	35.3%	28	62.2%	52	46.0%
Mortgage loan department manager	14	20.6%	5	11.1%	19	16.8%
Administrator	3	4.4%	4	8.9%	7	6.2%
Other	<u>22</u>	<u>32.4%</u>	<u>7</u>	<u>15.6%</u>	<u>29</u>	<u>25.7%</u>
Totals	68	100.0%	45	100.0%	113	100.0%

<u>Respondents with some/all non-AMC appraisals</u>	<u>Respondents with 100% AMC appraisals</u>
Mortgage loan officer and department manager	Broker/owner
Realtor	Mort. Loan officer & Mortgage Loan Processor
VP, Bank Manager, lender	Managing Partner/owner
Loan officer and owner	CLO
Appraiser Review Coordinator	Reverse Mortgage Specialist
Operations Manager	Loan Services Manager
Consumer Lender	
Managing Partner	
Appraisal Review Officer Assistant VP	
Branch Manager (2)	
Lending Manager	
President of mortgage bank	
Appraiser Coordinator	
Chief Lending Officer	
Vice President of Lending	
Underwriter	
President: Louisiana Market	
Manager/CEO	
CEO (2)	

Employer/Company of Lender Respondents

Approximately 43 percent of respondents with some or all non-AMC appraisals in 2012 worked for financial institutions with branches in multiple parishes in Louisiana, while another 24 percent worked for financial institutions with offices or branches in only one

parish (Table 4). Approximately 16 percent of respondents with some or all non-AMC appraisals in 2012 worked for financial institutions with locations in multiple states.

The largest group of respondents among those who used all AMC appraisals in 2012 was those who worked for or owned local/independent mortgage lending companies, which made up 38 percent of all-AMC respondents. Another 20 percent worked for financial institutions with offices or branches in multiple parishes, 13 percent at financial institutions with branches in multiple states, and 11 percent worked for or owned mortgage lending companies with multiple offices in Louisiana.

Only one respondent from a one-parish financial institution indicated that they used AMCs for all of their mortgage loans in 2012.

<u>Employer/Company</u>	Respondents with some/all non-AMC appraisals		Respondents with 100% AMC appraisals		All Responses	
	<u>Count</u>	<u>%</u>	<u>Count</u>	<u>%</u>	<u>Count</u>	<u>%</u>
Local financial institution with office/branches in only one parish	16	23.5%	1	2.2%	17	15.0%
Financial institution with offices/branches in multiple parishes in La.	29	42.6%	9	20.0%	38	33.6%
Financial institution with offices/branches in multiple states	11	16.2%	6	13.3%	17	15.0%
Local/independent mortgage lending company	5	7.4%	17	37.8%	22	19.5%
Mortgage lending company with multiple offices in Louisiana	5	7.4%	5	11.1%	10	8.8%
Branch office of a multi-state/national mortgage lending company	0	0.0%	4	8.9%	4	3.5%
Other	2	2.9%	2	4.4%	4	3.5%
No response	<u>0</u>	<u>0.0%</u>	<u>1</u>	<u>2.2%</u>	<u>1</u>	<u>0.9%</u>
Totals	68	100.0%	45	100.0%	113	100.0%

Primary Office Location of Respondents

Responders to the lender survey were asked to provide the zip code for the office location in which they spent the majority of their time in 2012. The zip codes were then matched to the parishes where located.

Among respondents with some/all non-AMC appraisals, the highest percentages were located in East Baton Rouge, Jefferson, and Lafayette parishes, which combined for 33 of the 68 (49 percent) non-AMC responses (Table 5).

The highest concentrations of all-AMC respondents were located in St. Tammany, East Baton Rouge, Bossier, and Lafayette parishes, which combined for 31 of the 45 (68 percent) all-AMC responses.

Parish	Respondents with some/all non-AMC appraisals		Respondents with 100% AMC appraisals		All Responses	
	Count	%	Count	%	Count	%
Ascension	1	1.5%	1	2.2%	2	1.8%
Bossier			5	11.1%	5	4.4%
Caddo	4	5.9%	2	4.4%	6	5.3%
Calcasieu	4	5.9%			4	3.5%
Caldwell	1	1.5%			1	0.9%
Concordia			1	2.2%	1	0.9%
East Baton Rouge	12	17.6%	9	20.0%	21	18.6%
East Feliciana	1	1.5%			1	0.9%
Jefferson	11	16.2%	3	6.7%	14	12.4%
Lafayette	10	14.7%	5	11.1%	15	13.3%
Lafourche	1	1.5%			1	0.9%
Lincoln	1	1.5%			1	0.9%
Livingston			1	2.2%	1	0.9%
Morehouse	2	2.9%			2	1.8%
Orleans	1	1.5%			1	0.9%
Ouachita	4	5.9%			4	3.5%
Pointe Coupee	1	1.5%			1	0.9%
Rapides	3	4.4%	1	2.2%	4	3.5%
Sabine	1	1.5%			1	0.9%
St. Charles	1	1.5%			1	0.9%
St. Landry	4	5.9%			4	3.5%
St. Mary	1	1.5%			1	0.9%
St. Tammany	1	1.5%	12	26.7%	13	11.5%
Tangipahoa	1	1.5%	3	6.7%	4	3.5%
Webster	1	1.5%			1	0.9%
Out-of-State			1	2.2%	1	0.9%
No response	<u>1</u>	<u>1.5%</u>	<u>1</u>	<u>2.2%</u>	<u>2</u>	<u>1.8%</u>
Totals	68	100.0%	45	100.0%	113	100.0%

Respondents to the lender survey were located in twenty-five of Louisiana's 64 parishes, but provided some amount of appraisal fee data for properties in all 64 parishes.

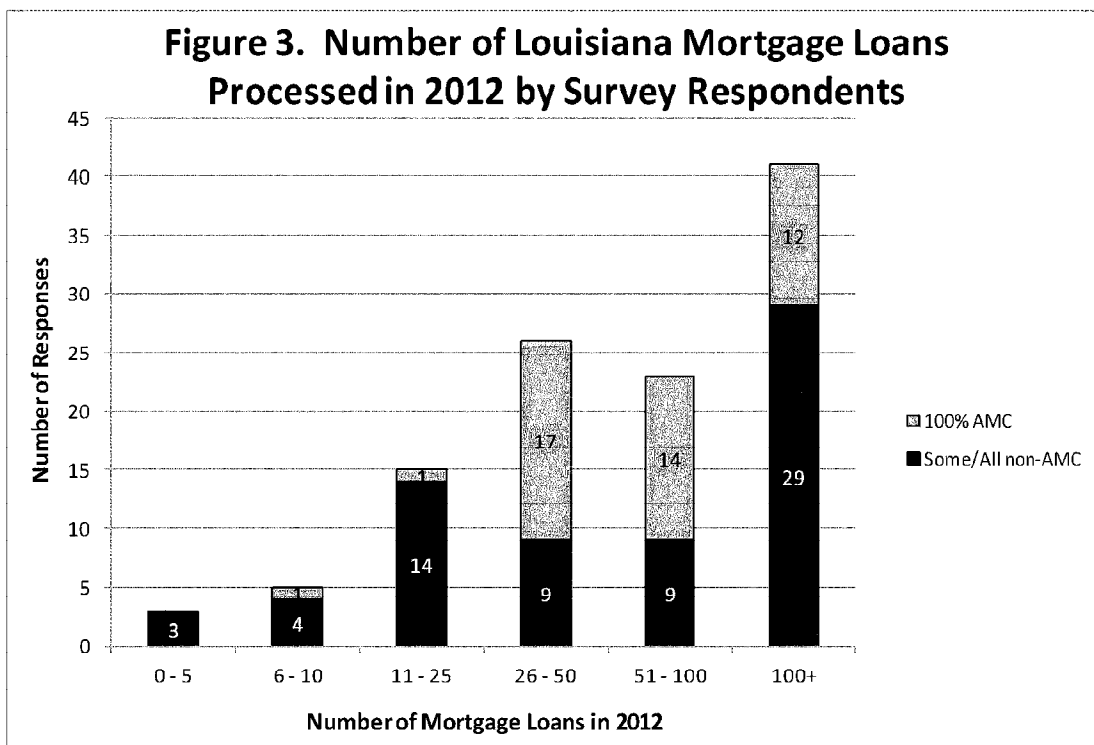
Number of Mortgage Loans Processed in 2012

Question 4 of the lender survey asked respondents to indicate how many mortgage loans for properties in Louisiana they were involved in processing during 2012.

As shown in Table 6 and Figure 3, the number of respondents tended to be greater in the categories indicating mid to high numbers of mortgage loans. Twenty-nine of the “some/all non-AMC” lenders (43 percent) indicated that they processed 100+ mortgage loans in 2012.

The largest number of responses for the “100% AMC” lenders was in the 26 – 50 mortgage loan category, indicated by 17 (38 percent) of the 45 all-AMC lenders.

Number of Loans	Respondents with some/all non-AMC appraisals		Respondents with 100% AMC appraisals		All Responses	
	Count	%	Count	%	Count	%
0 - 5	3	4.4%	0	0.0%	3	2.7%
6 - 10	4	5.9%	1	2.2%	5	4.4%
11 - 25	14	20.6%	1	2.2%	15	13.3%
26 - 50	9	13.2%	17	37.8%	26	23.0%
51 - 100	9	13.2%	14	31.1%	23	20.4%
100+	<u>29</u>	<u>42.6%</u>	<u>12</u>	<u>26.7%</u>	<u>41</u>	<u>36.3%</u>
Totals	68	100.0%	45	100.0%	113	100.0%



Appraisers

Question 1 of the appraiser’s survey instrument asked if the respondent held a license to conduct residential real estate appraisals in Louisiana in 2012.

Ten respondents indicated that they did not, so they were directed to the end of the survey before answering any other questions. Two respondents failed to answer Question 1, so their responses were removed from the analysis.

After removing 20 duplicate and incomplete responses, 383 useable responses from appraisers remained.

Position/Occupation During 2012

Appraisers responding to the survey were then asked in Question 2 to indicate their position/occupation in 2012.

As shown in Table 7 and Figure 4, almost three-fourths of responding appraisers (73 percent) were Independent Certified Residential Appraisers in 2012. Another 17 percent were Independent Certified General Appraisers, and the remaining 10 percent were In-House Staff Appraisers, "Other", or didn't respond.

The 12 "Other" responses are listed in Table 8.

<u>Position/Occupation</u>	<u>Count</u>	<u>%</u>
Independent Certified General Appraiser	65	17.0%
Independent Certified Residential Appraiser	280	73.1%
In-house (Staff) Appraiser	20	5.2%
Other	12	3.1%
No response	6	1.6%
Totals	383	100.0%

Trainee/Appraiser trainee (5)
Staff Appraiser that is a LA Certified Residential Appraiser
Realtor
Review appraiser
Certified Residential Appraiser and Certified Louisiana Deputy Assessor
Certified General Appraiser under the employ of LaDOTD
General Real Estate Appraiser
Retired

Experience Levels of Responding Appraisers

Question 3 of the appraisers' survey asked respondents how many years they had been in the appraisal business. Responses are detailed in Table 9 and Figure 5.

Responses were fairly evenly spread among the categories with six and more years of experience, ranging from 19 percent to 30 percent in each category. The greatest percentage was in the "26+ years" category, with 117 responses (30.5 percent).

The "<5 years" category had, by far, the fewest number of responses (13, 3.4 percent).

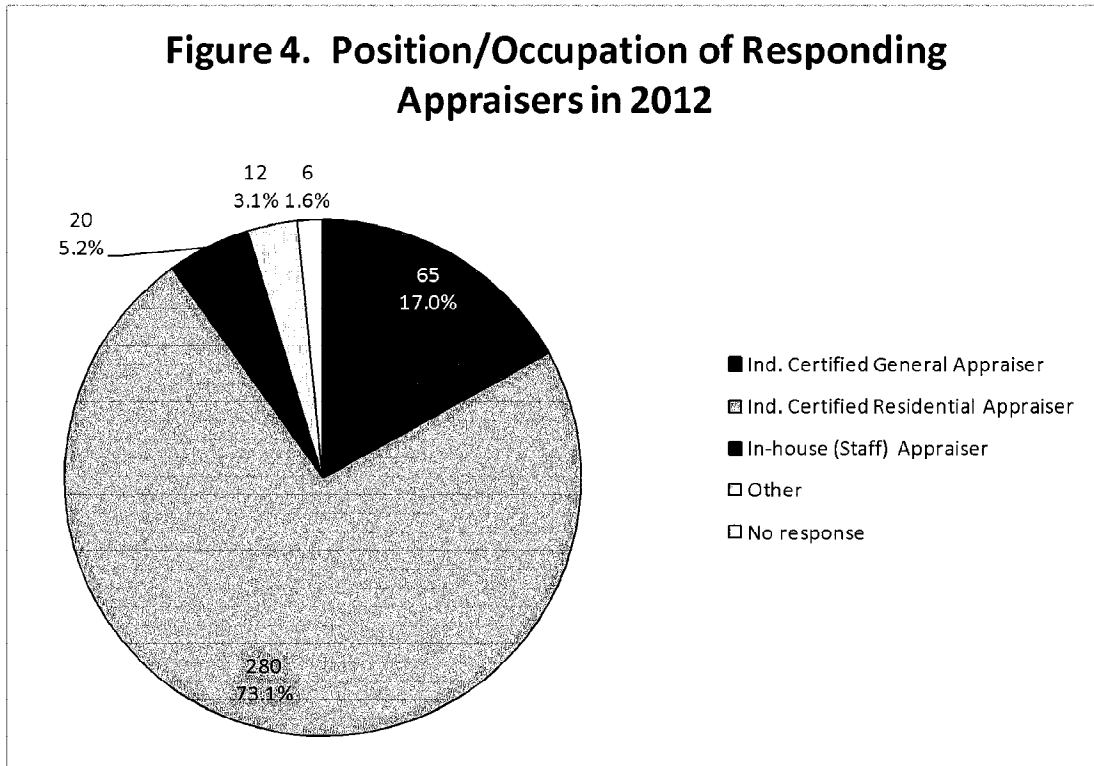
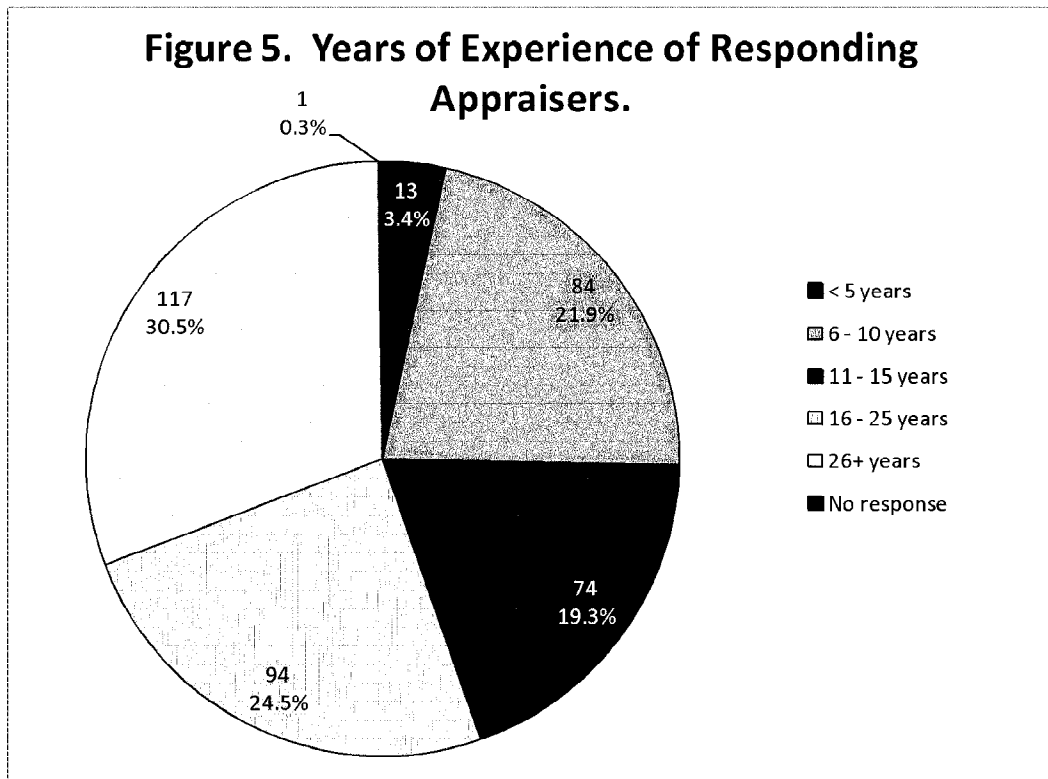


Table 9. Experience levels of responding appraisers.

<u>Years of Experience</u>	<u>Number of Responses</u>	<u>% of Responses</u>
< 5 years	13	3.4%
6 - 10 years	84	21.9%
11 - 15 years	74	19.3%
16 - 25 years	94	24.5%
26+ years	117	30.5%
No response	1	0.3%
Totals	383	100.0%



Primary Office Location of Responding Appraisers

Respondents were asked to provide the zip code of the office location where they spent the majority of their time in 2012. These zip codes were then converted to the parish where the zip code is located.

The number and percentage of responding appraisers by parish are detailed in Table 10.

Three parishes – Jefferson, East Baton Rouge, and St. Tammany – were each the primary office locations for over 10 percent of respondents, with 14.6 percent, 13.6 percent, and 11.5 percent of all responses, respectively.

Lafayette, Orleans, and Caddo parishes each contributed between five and 10 percent of responses, with 9.7 percent, 7.6 percent, and 6.8 percent, respectively.

Of the remaining 139 responses, 129 were from 32 other parishes, while 6 were from nearby states (3=MS, 1=AL, 1=AR, 1=TX). Four responding appraisers did not provide their office zip code.

Twenty-six parishes were not indicated as the primary office location of any responding appraisers, although fee data were reported for all 64 parishes.

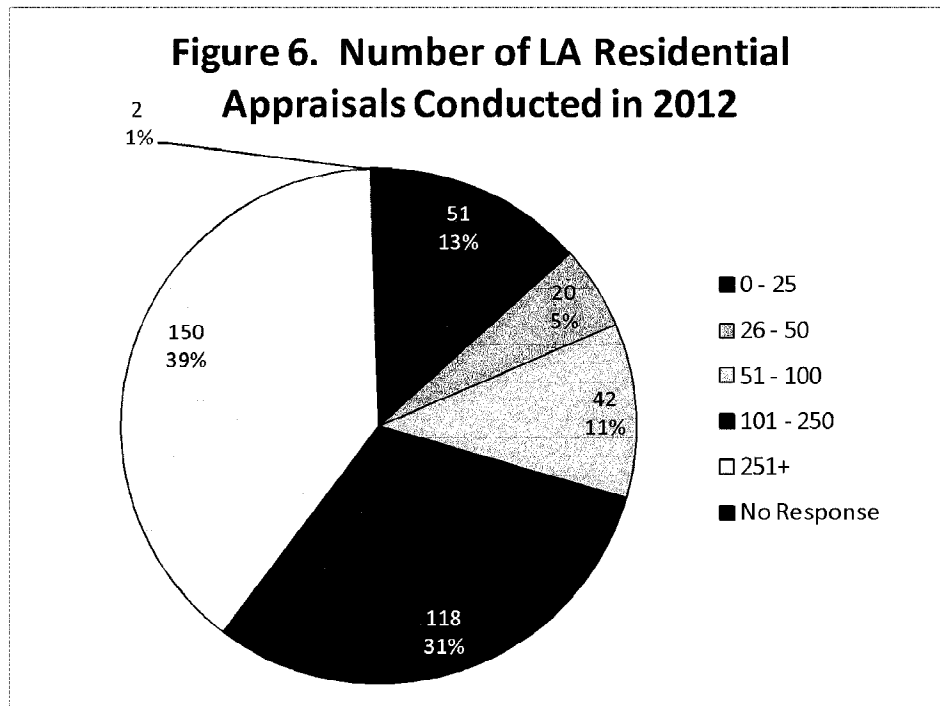
<u>Parish</u>	<u>Count</u>	<u>%</u>
Acadia	4	1.0%
Allen	1	0.3%
Ascension	7	1.8%
Assumption	2	0.5%
Beauregard	1	0.3%
Bossier	6	1.6%
Caddo	26	6.8%
Calcasieu	18	4.7%
Concordia	3	0.8%
East Baton Rouge	52	13.6%
Evangeline	1	0.3%
Iberia	5	1.3%
Jackson	1	0.3%
Jefferson	56	14.6%
Jefferson Davis	3	0.8%
Lafayette	37	9.7%
Lafourche	2	0.5%
Livingston	5	1.3%
Natchitoches	1	0.3%
Orleans	29	7.6%
Ouachita	6	1.6%
Pointe Coupee	2	0.5%
Rapides	13	3.4%
Sabine	3	0.8%
St. Bernard	1	0.3%
St. Charles	3	0.8%
St. John The Baptist	1	0.3%
St. Landry	3	0.8%
St. Martin	3	0.8%
St. Mary	1	0.3%
St. Tammany	44	11.5%
Tangipahoa	14	3.7%
Terrebonne	8	2.1%
Union	1	0.3%
Vermilion	4	1.0%
Washington	3	0.8%
Webster	2	0.5%
West Carroll	1	0.3%
Out-of-State	6	1.6%
No response	4	1.0%
Total	383	100.0%

Volume of Residential Appraisals Conducted in 2012

Responding appraisers were asked in Question 5 to indicate how many residential appraisals they conducted for properties in Louisiana in 2012.

As shown in Table 11 and Figure 6, 70 percent of respondents conducted over 100 residential appraisals in 2012, with 39 percent completing over 250.

<u>Number of Appraisals</u>	<u>Responses</u>	<u>%</u>
0 - 25	51	13.3%
26 - 50	20	5.2%
51 - 100	42	11.0%
101 - 250	118	30.8%
251+	150	39.2%
No Response	2	0.5%
Totals	383	100.0%



Percentage of Appraisals Done Directly for Clients or Lenders (non-AMC)

Respondents were next asked what percentage of their 2012 residential appraisals was completed directly for clients or lenders, i.e. NOT routed through an appraisal management company.

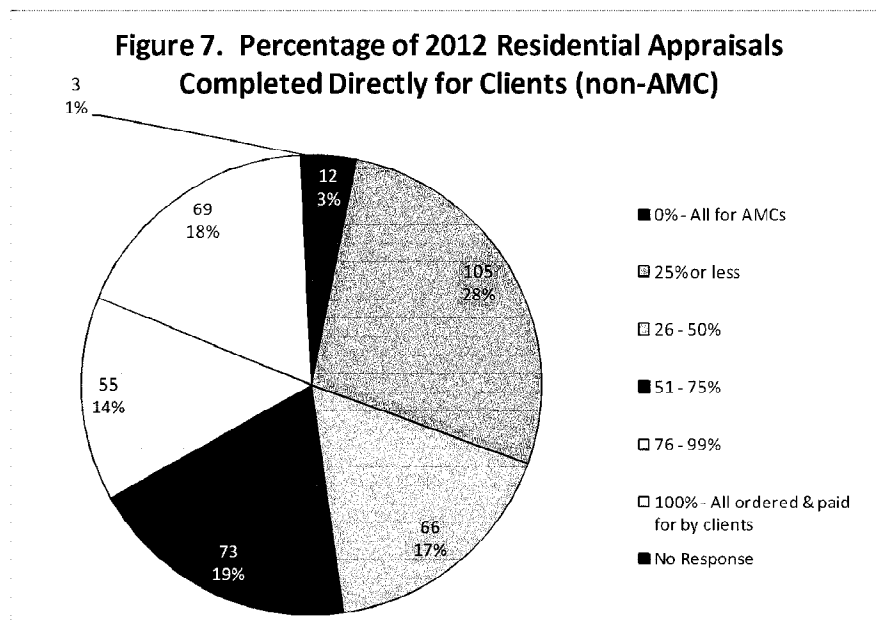
As detailed in Table 12 and illustrated in Figure 6, 12 respondents (3.1 percent) indicated that all of their 2012 residential appraisals were conducted for AMCs. Because this survey was designed to collect information specifically on non-AMC fees, these respondents were directed to the end of the survey without providing any fee information.

The single category with the most responses (105, 27.4 percent) was the "25% or less" category, indicating that 75 percent or more of their residential appraisal business in 2012 was conducted via AMCs. Combining the "25% or less" and the "26 – 50%" categories, approximately 45 percent of responding appraisers indicated that over half of their 2012 residential appraisals were conducted for AMCs.

Summing the three remaining response categories, approximately 52 percent of respondents indicated that over half of their residential appraisals in 2012 were conducted directly for clients or lenders, with 18 percent indicating that all of their residential appraisals were done directly for clients/lenders.

Table 12. Percentage of 2012 residential appraisals done directly for clients (not routed through AMCs).

Percentage of non-AMC Appraisals	Count	%
0% - All for AMCs	12	3.1%
25% or less	105	27.4%
26 - 50%	66	17.2%
51 - 75%	73	19.1%
76 - 99%	55	14.4%
100% - All ordered & paid for by clients	69	18.0%
No Response	3	0.8%
Totals	383	100.0%



APPRAISAL FEE DATA

Appraisal fee information was collected from mortgage lenders and licensed appraisers for properties in all 64 parishes in Louisiana for five types of residential appraisals:

- Form 1004 (Full appraisal)
- Form 1004 FHA (Full appraisal for FHA)
- Form 1025 (Small (1-4 units) residential income property appraisal)
- Form 1073 (Individual condominium unit appraisal)
- Form 2055 (Exterior-only inspection appraisal)

The survey also collected separate fees for each appraisal type depending on whether the property was located in an urban, suburban, or rural location.

Mean (average) fees are subject to skewing by very high or very low responses, so median fees will be used throughout this analysis. Because the median is the value at the midpoint of all responses, with an equal number higher and lower, it is a useful proxy for "mid-range" or "typical" appraisal fees.

The number of non-blank responses (n) included in calculating the median will also be reported for all data cells.

2012 Median Appraisal Fees by Type of Appraisal (Statewide)

Median values for each of the appraisal types, averaged across all 64 parishes and all three locations (urban, suburban, rural), are detailed in Table 13.

Form 1025 appraisals had the highest median response statewide and across all location types (\$550), followed by Form 1004 FHA (\$450), Form 1073 (\$425), Form 1004 (\$400), and Form 2055 (\$325).

The number of responses for each appraisal type is much higher than the number of individuals responding to the lender and appraiser surveys because many respondents provided data for multiple parishes and location types.

	Form 1004	Form 1004 FHA	Form 1025	Form 1073	Form 2055
n	4,856	3,680	2,594	2,240	3,078
Median	\$400	\$450	\$550	\$425	\$325

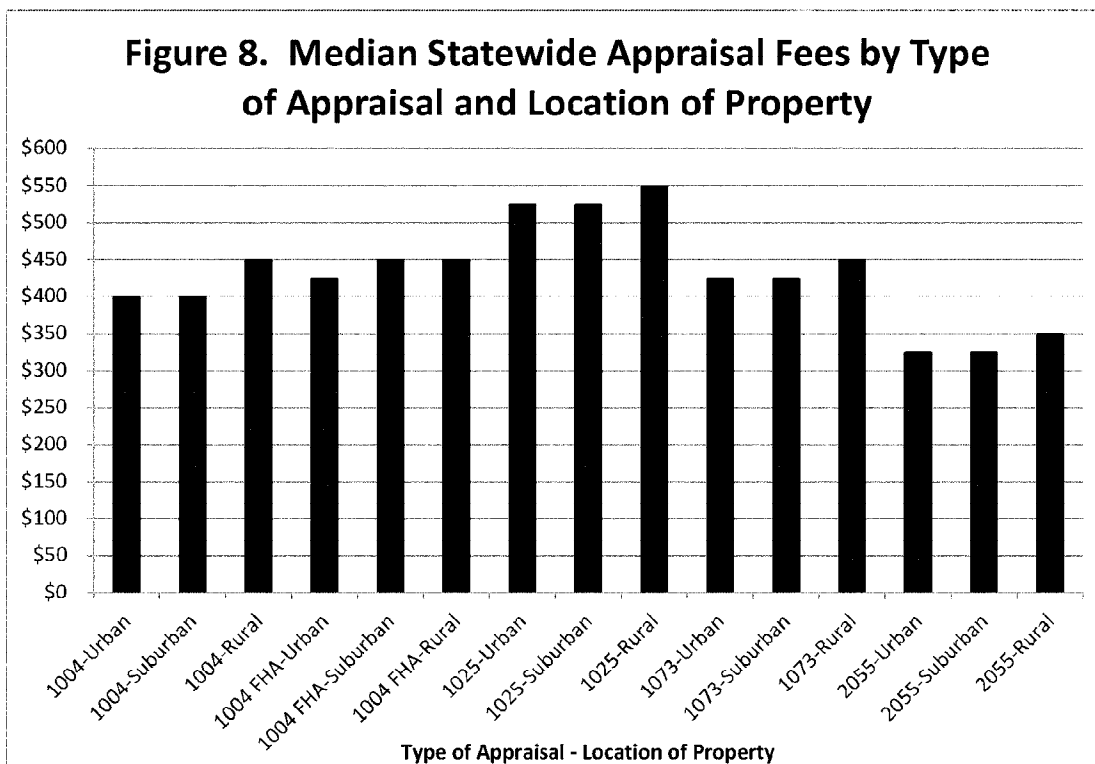
Table 14 separates the statewide statistics for each appraisal type by the location type of the subject property: urban, suburban, or rural.

Median appraisal fees for urban and suburban properties were equal for four of the five appraisal types – Form 1004, Form 1025, Form 1073, and Form 2055. Median rural appraisal fees for these same four appraisal types were \$25 to \$50 higher than the urban/suburban fees.

The median fee for suburban Form 1004 FHA appraisals (\$450) was equal to the median fee for rural properties, and \$25 higher than the median fee for urban Form 1004 FHA appraisals (\$425).

Figure 8 graphically illustrates the statewide medians by appraisal and location types.

	Form 1004			Form 1004 FHA			Form 1025		
	Urban	Suburb.	Rural	Urban	Suburb.	Rural	Urban	Suburb.	Rural
n	1,464	1,799	1,593	1,146	1,369	1,165	845	1,012	737
Median	\$400	\$400	\$450	\$425	\$450	\$450	\$525	\$525	\$550
	Form 1073			Form 2055					
	Urban	Suburb.	Rural	Urban	Suburb.	Rural			
n	741	890	609	953	1,175	950			
Median	\$425	\$425	\$450	\$325	\$325	\$350			

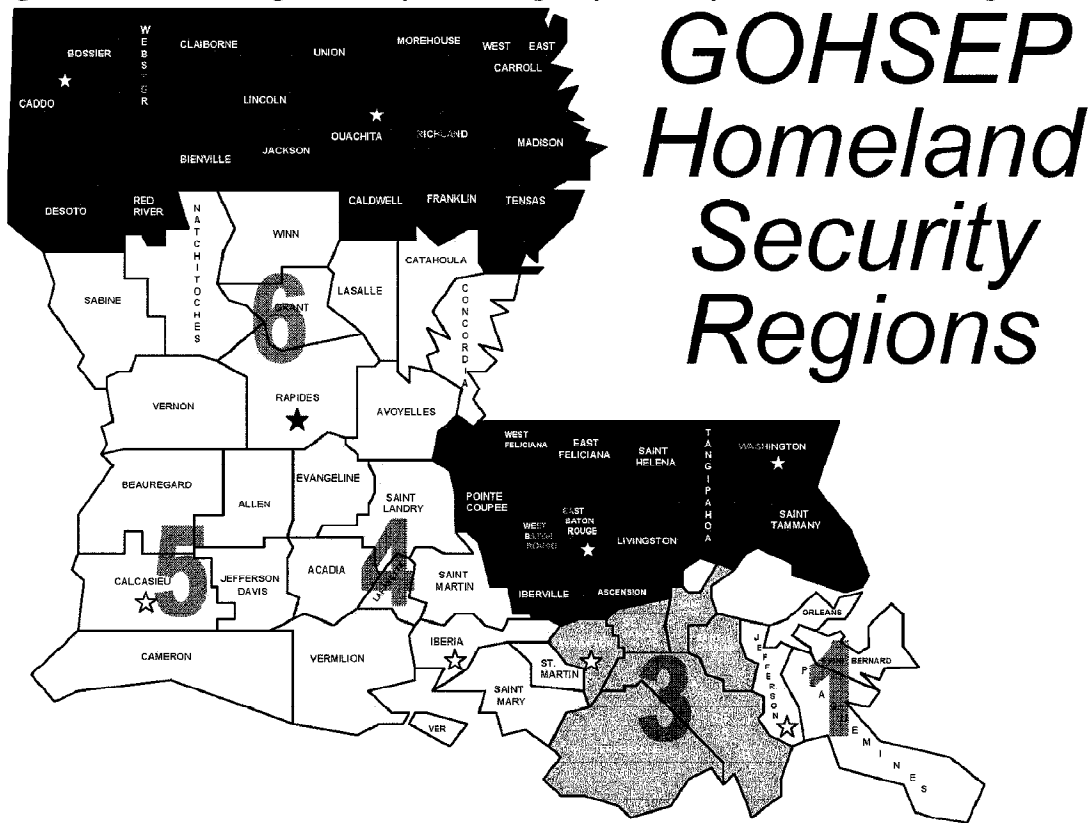


2012 Median Appraisal Fees by Region

In order to compare median appraisal fees by different regions of the state, a map of Louisiana used by the Governor’s Office of Homeland Security and Emergency Preparedness (GOHSEP) was utilized to divide the state into nine regions (Figure 9). A table listing the parishes included in each region is attached as Appendix 3.

The survey collected appraisal fee information for each parish individually. Responses for the 64 parishes were grouped into appropriate regions based on the GOHSEP map.

Figure 9. GOHSEP regional map used to group the 64 parishes into nine regions.



Form 1004 Appraisal Fees by Region

Tables 15, 16, and 17 detail the median Form 1004 fees for urban, suburban, and rural properties, respectively, in all nine regions.

Median Form 1004 fees for urban and suburban properties (Tables 15 & 16) were no different from each other, and were highest in Regions 4 and 6 (\$425). Median urban and suburban fees in the other seven regions were all equal at \$400.

	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
n	258	372	141	196	95	82	119	50	151
Median	\$400	\$400	\$400	\$425	\$400	\$425	\$400	\$400	\$400

	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
n	326	438	219	241	104	81	118	58	214
Median	\$400	\$400	\$400	\$425	\$400	\$425	\$400	\$400	\$400

Median Form 1004 fees for rural properties (Table 17) were \$50 higher than median urban/suburban fees in Regions 2, 7, and 9, \$25 higher in Regions 1, 3, 4 and 6, and equal in Regions 5 and 8.

	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
n	175	407	149	259	115	106	121	81	180
Median	\$425	\$450	\$425	\$450	\$400	\$450	\$450	\$400	\$450

Figure 10 illustrates graphically the median fees for Form 1004 appraisals by property type in all nine regions.

Form 1004 FHA Appraisal Fees by Region

Tables 18-20 detail the median Form 1004 FHA fees reported by respondents for urban, suburban, and rural properties in the nine regions.

As shown in Table 21, median fees for Form 1004 FHA appraisals were typically \$25 - \$50 higher than Form 1004 appraisals for urban and suburban properties, except for urban properties in Zone 5, where they were the same (\$400).

For rural properties, median fees for Form 1004 FHA appraisals were the same as Form 1004 in five regions, \$25 higher in Regions 1, 3, and 5, and \$50 higher in Region 8.

Form 1004 FHA median fees are illustrated graphically in Figure 11.

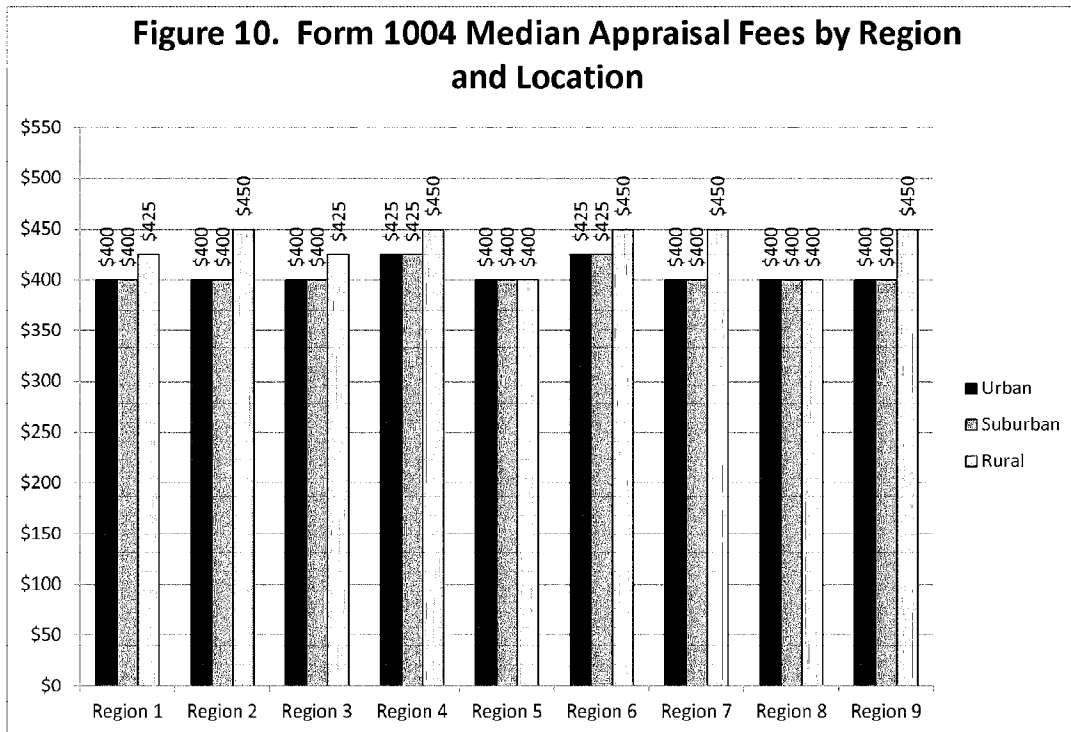


Table 18. Median Form 1004 FHA appraisal fees for URBAN properties by region.

	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
n	223	253	104	165	75	72	102	41	111
Median	\$425	\$425	\$425	\$450	\$400	\$450	\$450	\$450	\$425

Table 19. Median Form 1004 FHA appraisal fees for SUBURBAN properties by region.

	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
n	273	305	155	187	79	67	108	49	146
Median	\$425	\$425	\$425	\$450	\$425	\$450	\$450	\$450	\$425

Table 20. Median Form 1004 FHA appraisal fees for RURAL properties by region.

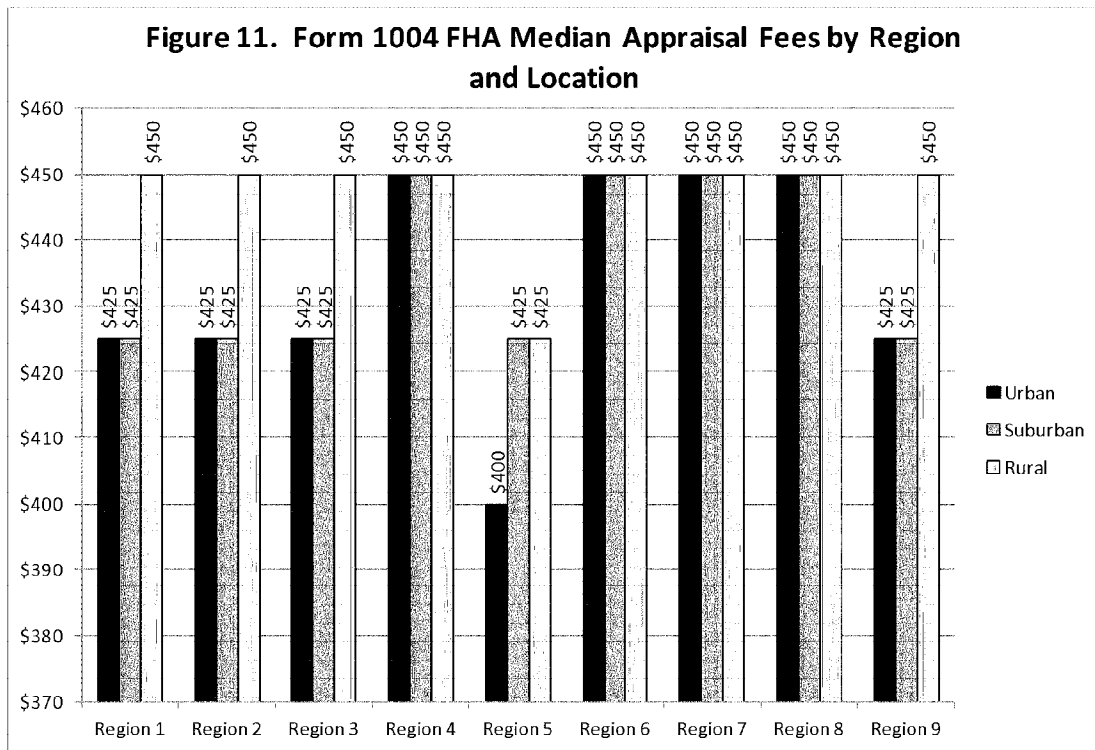
	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
n	142	291	102	180	84	77	104	54	131
Median	\$450	\$450	\$450	\$450	\$425	\$450	\$450	\$450	\$450

Form 1025 Appraisal Fees by Region

Form 1025 appraisals – for small (1-4 units) residential income properties – had the highest median fees reported by respondents, averaging \$100 - \$125 higher than Form 1004, 1004 FHA, and 1073 appraisals, and \$200 higher than Form 2055 appraisals.

Table 21. Comparison of Form 1004 FHA median fees with median fees for Form 1004 appraisals in nine Louisiana regions.

	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
1004 FHA Urban	\$425	\$425	\$425	\$450	\$400	\$450	\$450	\$450	\$425
1004 Urban	<u>\$400</u>	<u>\$400</u>	<u>\$400</u>	<u>\$425</u>	<u>\$400</u>	<u>\$425</u>	<u>\$400</u>	<u>\$400</u>	<u>\$400</u>
Difference	\$25	\$25	\$25	\$25	\$0	\$25	\$50	\$50	\$25
1004 FHA Suburban	\$425	\$425	\$425	\$450	\$425	\$450	\$450	\$450	\$425
1004 Suburban	<u>\$400</u>	<u>\$400</u>	<u>\$400</u>	<u>\$425</u>	<u>\$400</u>	<u>\$425</u>	<u>\$400</u>	<u>\$400</u>	<u>\$400</u>
Difference	\$25	\$25	\$25	\$25	\$25	\$25	\$50	\$50	\$25
1004 FHA Rural	\$450	\$450	\$450	\$450	\$425	\$450	\$450	\$450	\$450
1004 Rural	<u>\$425</u>	<u>\$450</u>	<u>\$425</u>	<u>\$450</u>	<u>\$400</u>	<u>\$450</u>	<u>\$450</u>	<u>\$400</u>	<u>\$450</u>
Difference	\$25	\$0	\$25	\$0	\$25	\$0	\$0	\$50	\$0



Median Form 1025 fees by region for urban, suburban, and rural properties are shown in Tables 22, 23, and 24, respectively, and compared graphically in Figure 12.

Median urban and suburban Form 1025 fees were equal in seven of the nine regions. In Region 6, the median urban fee was \$25 higher than the median suburban fee, while in Region 7 the median suburban fee was \$25 higher than the urban fee.

Median Form 1025 appraisal fees for rural properties were equal to both urban and suburban fees in three regions and higher than both in five regions. In Region 6, the median fee for rural properties was equal to the median fee for urban properties, and both were \$25 higher than the median fee for suburban properties.

Table 22. Median Form 1025 appraisal fees for URBAN properties by region.

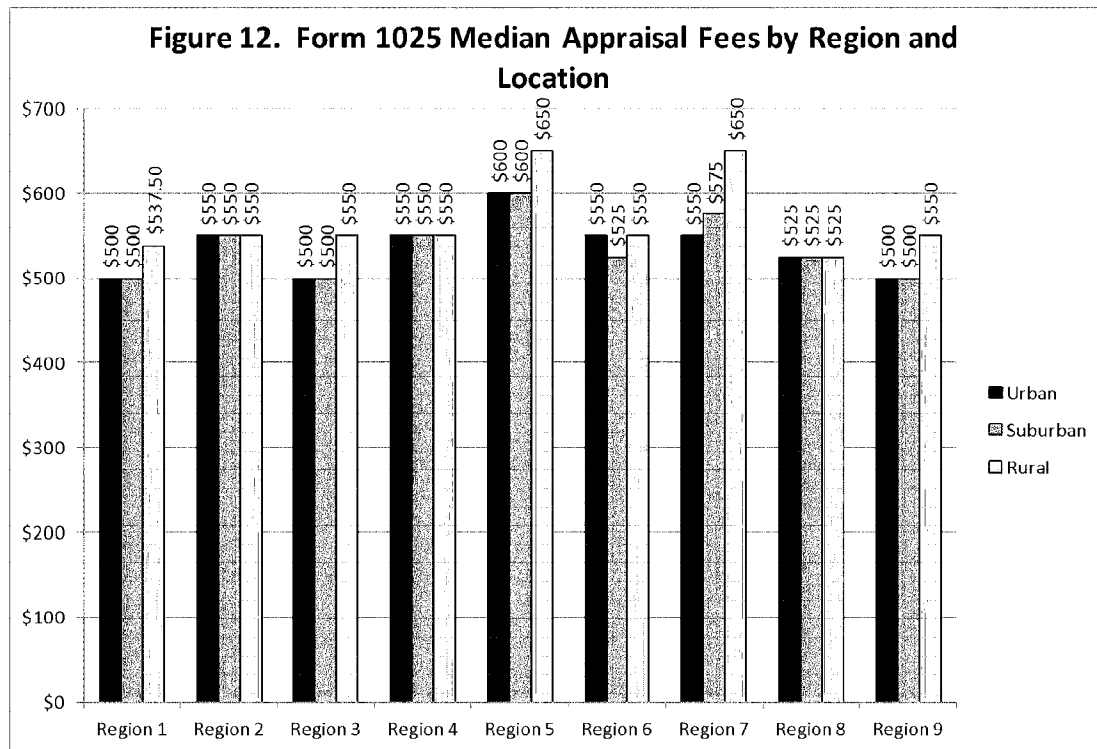
	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
n	206	186	93	120	36	31	44	23	106
Median	\$500	\$550	\$500	\$550	\$600	\$550	\$550	\$525	\$500

Table 23. Median Form 1025 appraisal fees for SUBURBAN properties by region.

	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
n	253	222	130	136	38	34	41	25	133
Median	\$500	\$550	\$500	\$550	\$600	\$525	\$575	\$525	\$500

Table 24. Median Form 1025 appraisal fees for RURAL properties by region.

	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
n	120	199	79	116	35	33	34	20	101
Median	\$537.50	\$550	\$550	\$550	\$650	\$550	\$650	\$525	\$550



Form 1073 Appraisal Fees by Region

Form 1073 appraisals – for individual condominium units - had similar median fees to Form 1004/1004-FHA appraisals in several regions, but were somewhat higher in Regions 5, 6, and 8 (Tables 25-27).

	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
n	193	196	83	91	16	19	46	7	90
Median	\$400	\$400	\$400	\$450	\$525	\$500	\$437.50	\$500	\$400

	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
n	231	235	113	107	16	21	41	7	119
Median	\$400	\$400	\$400	\$450	\$525	\$500	\$450	\$550	\$400

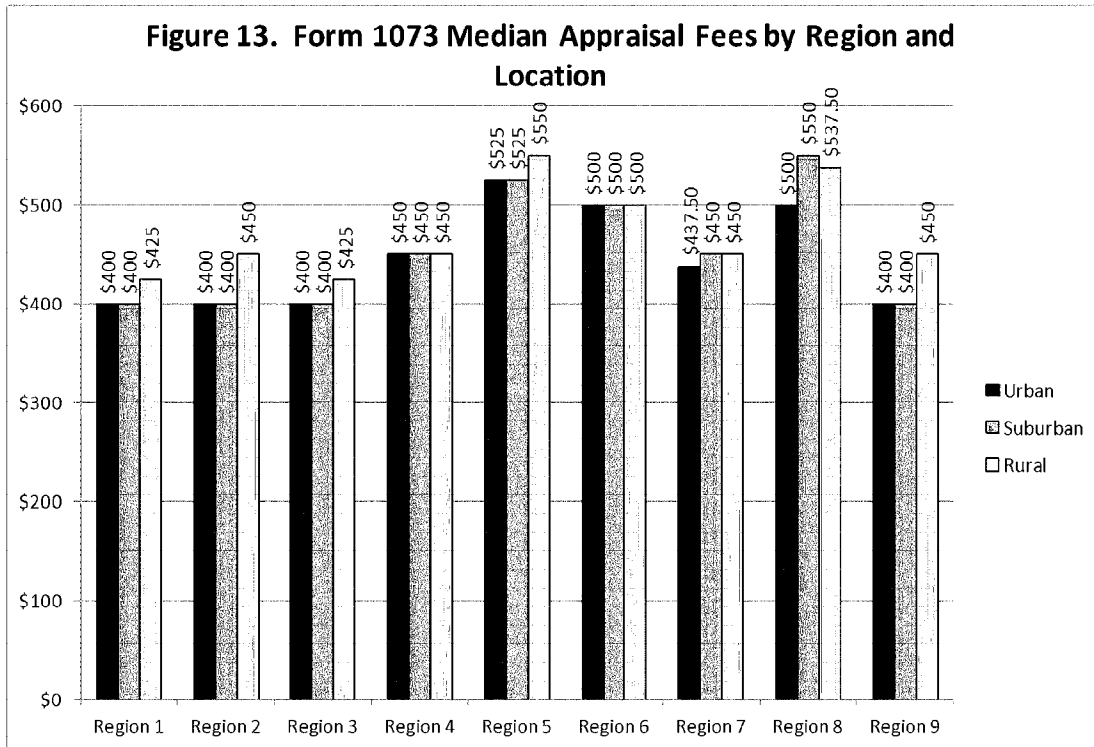
	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
n	103	196	64	92	14	19	31	4	86
Median	\$425	\$450	\$425	\$450	\$550	\$500	\$450	\$537.50	\$450

As illustrated in Figure 13, urban and suburban median fees for Form 1073 appraisals differed in only two regions – Region 7 and Region 8. The difference in Region 7 was slight – the median fee for suburban properties was \$12.50 higher than for urban properties.

The difference in Region 8 was larger, with the median fee for suburban properties \$50 higher, but it should be noted that there were relatively few responses for Region 8.

Median Form 1073 appraisal fees for rural properties were equal to urban and suburban fees in Regions 4 and 6, and higher than both in Regions 1, 2, 3, 5, and 9.

In Region 7, the median fee for rural properties was equal to the median suburban fee, which was slightly higher than the median fee for urban properties. In Region 8, the median fee for rural Form 1073 appraisals was, again, higher than the median fee for urban properties, but slightly lower than the median fee for suburban properties.



Form 2055 Appraisal Fees by Region

Form 2055 appraisals – “Exterior-only inspection appraisals” – had the lowest median fees of all appraisal types in the survey, ranging from \$300 to \$350 depending on region and location of property (Tables 28-30).

As shown in Figure 14, Form 2055 median fees for urban and suburban properties differed only in Regions 2, 8, and 9, where the median fees for suburban properties were somewhat higher (\$5 - \$25).

Median Form 2055 appraisal fees in Regions 4, 5, and 6 were equal to each other and equal across urban, suburban, and rural property locations, with all having medians of \$350.

In regions 1, 7, and 9, median rural fees were higher than either urban or suburban median fees.

In Region 2, median fees for rural properties equaled those for suburban properties (\$350), with both only slightly higher than the median fee for urban properties (\$345).

In Region 8, the median fee for rural Form 2055 appraisals (\$312.50) was higher than for urban properties (\$300), but lower than the median fee for suburban properties (\$325).

Table 28. Median Form 2055 appraisal fees for URBAN properties by region.

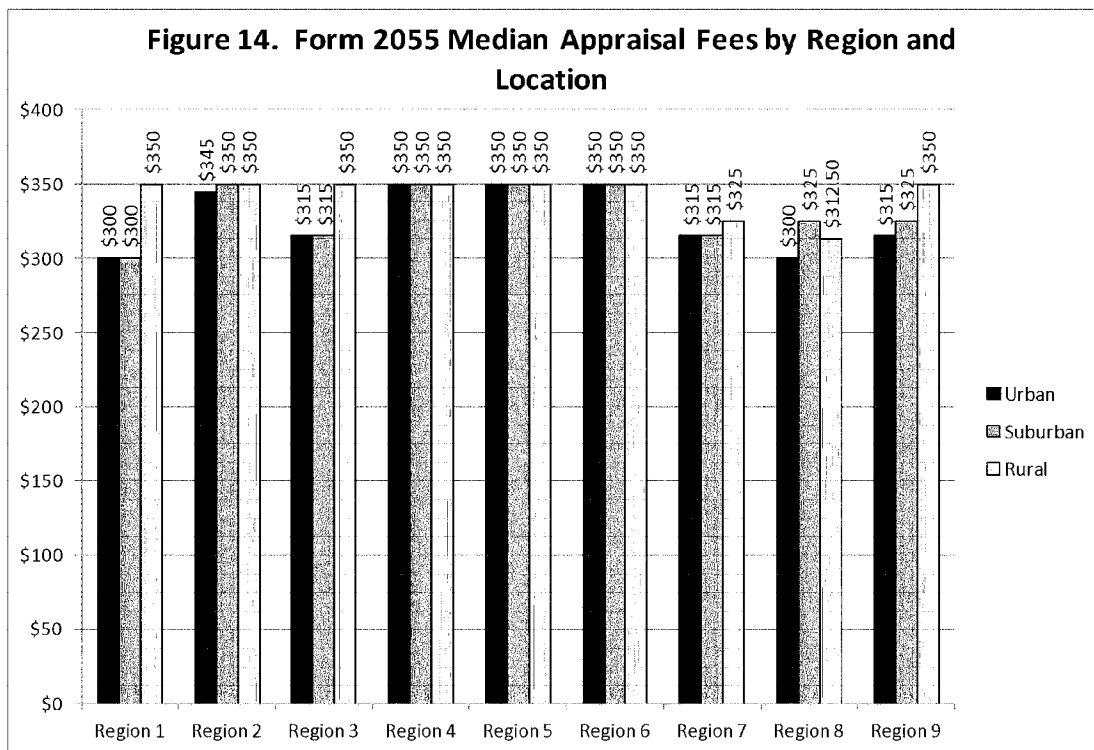
	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
n	181	225	88	146	40	49	89	33	102
Median	\$300	\$345	\$315	\$350	\$350	\$350	\$315	\$300	\$315

Table 29. Median Form 2055 appraisal fees for SUBURBAN properties by region.

	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
n	234	262	139	164	43	52	91	43	147
Median	\$300	\$350	\$315	\$350	\$350	\$350	\$315	\$325	\$325

Table 30. Median Form 2055 appraisal fees for RURAL properties by region.

	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9
n	114	246	96	148	49	53	83	44	117
Median	\$350	\$350	\$350	\$350	\$350	\$350	\$325	\$312.50	\$350



ADDITIONAL APPRAISAL FEE ADJUSTMENTS

The appraisal fees collected in the survey and discussed in the preceding sections were for "typical" appraisals and should be considered as minimum or baseline fees for the various types of appraisals.

Fees may need to be adjusted upward for complex, unique, or high-value properties, or for properties at distant locations requiring significant travel.

Additional Fee for Appraisals of Complex, Unique, or Very Expensive Properties

Question 11 of the lenders' survey and Question 12 of the appraisers' survey asked respondents if they paid/charged additional or higher fees for appraisals of "complex, unique, or very expensive properties", and if so, how much of an additional fee was typical.

A total of 301 lenders and appraisers responded that they did pay/charge additional fees for large, expensive, or complex properties.

Of these 301, 251 respondents indicated a fixed value or range (\$100 - \$200, \$100+, etc.). Of the 251 respondents, 11 included verbiage which indicated they may have been specifying the total fee instead of the additional fee, so those responses were disregarded.

In order to calculate statistics, the midpoint of the remaining 240 responses was used when a range was specified. For example, if the respondent said "\$100 - \$200" then the midpoint value of \$150 was used in the calculations.

If the respondent indicated one end of a range, e.g. "\$100+" or "up to \$300", then that single endpoint was used.

Using the protocol described above, the 240 responses had a **median additional fee of \$125**.

Another three respondents indicated that their appraisal fee increased at a fixed rate based on the square footage of the home, as detailed below:

- "\$100 every 100sf (*supposed to be 1000sf ?*) over 5000sf GLA"
- "\$25.00 per each increment of 500 square feet GLA over 2500 rounded upwards. If 'Very' large, complex, or comparables are great distances apart and/or from subject, possibly \$50.00-\$100.00 additional to the charges listed above."
- "\$100 per 1000 over 3000sf."

Fifteen respondents indicated a percentage increase instead of a dollar amount, with a **median percentage of 37.5 percent**. (Where a range of percentages was indicated, a midpoint or endpoint protocol similar to that discussed above was used to derive a single estimate.)

Eighteen respondents did not specify a percentage or an amount, but said that the additional fee varied or depended on the characteristics of the property.

The remaining 13 respondents who indicated that they paid/charged higher fees for appraisals of large or complex properties did not indicate a typical amount or explanation, or provided an explanation that was not applicable.

Additional Fee for Appraisals of Properties in Remote or Distant Locations

Questions 12 – 13c of the lenders' survey and Questions 13 – 14c of the appraisers' survey asked respondents if they paid/charged additional or higher appraisal fees for properties in remote or distant locations, and, if so, what the typical increase was, how it was determined, and how it varied with distance.

Of the 372 respondents who answered the distance fee questions, 297 indicated that they did pay/charge additional fees for remote or distant locations, while 75 respondents said they did not.

Of the 297 who indicated that they paid/charged additional distance fees, 130 said the fee was a flat rate, and 120 of these provided information on typical fees. **The median additional flat rate distance fee was \$50**, which was also the most common response (mode).

A variable fee based on mileage was used by 155 respondents, and 142 of these provided information on typical distance fees for four mileage brackets provided in the survey:

- 10 – 15 miles
- 16 – 25 miles
- 26 – 50 miles
- 51+ miles

Responses and statistics are detailed in Table 31. Since the intent of blank responses could not be determined, they were left out of the calculations of the medians. However, zero responses were included.

	<u>10 – 15 miles</u>	<u>16 – 25 miles</u>	<u>26 – 50 miles</u>	<u>51+ miles</u>
Blank Responses	62	48	24	56
Fee=\$0 Responses	54	30	5	2
Number of Non-Blank, Non-Zero Responses	26	64	113	84
Median Fee (incl. Fee=\$0 Responses)	\$0	\$25	\$50	\$100

Eleven respondents indicated that their distance fees were mileage-based. **The median mileage fee was \$0.55 per mile.**

One respondent indicated that they paid additional fees for remote or distant locations, but provided no information on the method used or typical fees.

SUMMARY

The Business Research Center at Southeastern Louisiana University conducted an online survey of mortgage lenders with offices in Louisiana and licensed Louisiana real estate appraisers to collect information on "customary and reasonable" residential real estate appraisal fees.

Useable responses were received from 113 mortgage lenders located in 25 parishes (plus out-of-state) and 383 appraisers with primary offices in 38 parishes (plus out-of-state). Appraisal fee data were provided for properties located in all 64 parishes.

Typical appraisal fees were collected for five appraisal types for properties in urban, suburban, and rural locations. Fees were analyzed by region based on designations by the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP), illustrated in the map in Figure 9.

Median fees for all appraisal types and locations for all nine regions and the state as a whole are shown in Table 32.

Type of Appraisal	Property Location	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9	State-wide
1004	Urban	\$400	\$400	\$400	\$425	\$400	\$425	\$400	\$400	\$400	\$400
	Suburb.	\$400	\$400	\$400	\$425	\$400	\$425	\$400	\$400	\$400	\$400
	Rural	\$425	\$450	\$425	\$450	\$400	\$450	\$450	\$400	\$450	\$450
1004FHA	Urban	\$425	\$425	\$425	\$450	\$400	\$450	\$450	\$450	\$425	\$425
	Suburb.	\$425	\$425	\$425	\$450	\$425	\$450	\$450	\$450	\$425	\$450
	Rural	\$450	\$450	\$450	\$450	\$425	\$450	\$450	\$450	\$450	\$450
1025	Urban	\$500	\$550	\$500	\$550	\$600	\$550	\$550	\$525	\$500	\$525
	Suburb.	\$500	\$550	\$500	\$550	\$600	\$525	\$575	\$525	\$500	\$525
	Rural	\$538	\$550	\$550	\$550	\$650	\$550	\$650	\$525	\$550	\$550
1073	Urban	\$400	\$400	\$400	\$450	\$525	\$500	\$438	\$500	\$400	\$425
	Suburb.	\$400	\$400	\$400	\$450	\$525	\$500	\$450	\$550	\$400	\$425
	Rural	\$425	\$450	\$425	\$450	\$550	\$500	\$450	\$538	\$450	\$450
2055	Urban	\$300	\$345	\$315	\$350	\$350	\$350	\$315	\$300	\$315	\$325
	Suburb.	\$300	\$350	\$315	\$350	\$350	\$350	\$315	\$325	\$325	\$325
	Rural	\$350	\$350	\$350	\$350	\$350	\$350	\$325	\$312	\$350	\$350

These fees should be considered as minimum or baseline residential appraisal fees. Adjustments may be necessary for large or complex properties or for properties in remote or distant locations.

APPENDICES

Appendix 1 – Lender Survey Instrument

Survey: LREAB Appraisal Fee Survey

Louisiana Residential Appraisal Fee Survey

This survey has been commissioned by the Louisiana Real Estate Appraisers Board in order to collect data on "customary and reasonable" appraisal fees paid to Louisiana-licensed real estate appraisers in 2012 as outlined in the Federal regulations entitled as:

Title 12 - Banks and Banking
 Chapter 9 - BUREAU OF CONSUMER FINANCIAL PROTECTION
 Part 1026 - TRUTH IN LENDING (REGULATION Z)
 Subpart E - Special Rules for Certain Home Mortgage Transactions
 Section 1026.42 - Valuation independence.

This survey and the resulting report have been designed to meet the requirements of the "Alternative presumption or compliance" for customary and reasonable compensation described in the above-referenced regulations.

All responses are strictly confidential, will not be associated with your identity or e-mail address, and will only be released in aggregate form.

Participants who complete this survey are invited to request a copy of the final survey report by entering their e-mail address at the conclusion of the survey.

Should you have any questions about the survey or need more information, please contact:

Herb Holloway
 Research Economist
 Southwestern Louisiana University
 Business Research Center
 (985) 549-3199
 herb.holloway@slu.edu

Thank you very much for your participation.

DEMOGRAPHIC AND BACKGROUND INFORMATION

1. Please indicate your position/occupation during 2012:

- Staff person or assistant in multiple branch offices
- Mortgage loan officer
- Mortgage loan department manager
- Administrator
- Other

2. Please select the description which BEST describes your employer/company in 2012:

- Local financial institution with offices/branches in only one parish
- Financial institution with offices/branches in multiple parishes of Louisiana
- Financial institution with offices/branches in multiple states
- Local independent mortgage lending company
- Mortgage lender institution with multiple offices in Louisiana
- Branch office of a multi-state national mortgage lending company
- Other

3. Please enter the five-digit zip code for the office location in which you spent the majority of your time in 2012:

_____-_____-_____-_____-_____-

4. Approximately how many mortgage loans, for properties located in Louisiana, were you involved in processing during calendar year 2012?

- 0 - 5
- 6 - 10
- 11 - 25
- 26 - 50

- 51 - 100
- 100+

5. Of the mortgage loans you worked on in 2012, for approximately what percentage did you order appraisals directly from a licensed real estate appraiser (i.e., not from an appraisal management company (AMC))?

- I am not involved in ordering residential real estate appraisals. (You will be directed to the end of the survey.)
- 0% - All appraisals are ordered through appraisal management companies (AMCs). (You will be directed to the end of the survey.)
- 25% or less.
- 26 - 50%
- 51 - 75%
- 76 - 99%
- All (100%) ordered directly from licensed real estate appraisers.

The remainder of the survey will ask for details of typical fees paid in 2012 for appraisals ordered directly from licensed real estate appraisers. Please DO NOT include any information related to appraisals ordered through appraisal management companies (AMCs).

In the tables below, please enter the typical/average appraisal fee paid directly to licensed real estate appraisers (NOT routed through AMCs) in 2012 for the following types of appraisals, including appropriate addenda:

- Form 1004 (Full appraisal)
- Form 1004 UA (Full appraisal for FHA)
- Form 1025 (Small (1-4 units) residential income property appraisal)
- Form 1073 (Individual condominium unit appraisal)
- Form 2025 (Extensive-only inspection appraisal)

Please input the typical fees for properties in each parish for which you handled mortgage loans. Columns are provided for you to input typical fees for urban, suburban and rural property appraisals, as applicable, for each parish. (If fees for urban, suburban and rural properties are the same for a particular parish, please enter that amount in each of the columns.)

Question 6. Form 1004 (Full Appraisal)

Typical residential appraisal fees paid directly to licensed appraisers in 2012.

(Please enter numbers only - no dollar sign necessary.)

	Urban	Suburban	Rural
Acadia			
Allen			
Ascension			
Assumption			
Avery-Dale			
Bouttegard			
Brennle			
Bossier			
Caddo			
Calcasieu			
Califoune			
Cameron			
Catahoula			
Claborne			
Concordia			
DeSoto			
East Baton Rouge			
East Carroll			
East Feliciana			
Evangeline			
Franklin			
Grant			
Iberville			
Iberville			
Jackson			

	Urban	Suburban	Rural
Alcona			
Alford			
Ascension			
Assumption			
Arcyelles			
Beauregard			
Berwick			
Bossier			
Caddo			
Cadillac			
Calderwell			
Cameron			
Catahoula			
Catahouche			
Cenacola			
Censler			
East Baton Rouge			
East Carroll			
East Feliciana			
Erangeline			
Franklin			
Grant			
Iberia			
Iberville			
Jackson			
Jefferson			
Jefferson Davis			
Lafayette			
Lafourche			
Lassalle			
Lincoln			
Livingston			
Madison			
Mandeville			
Maschkeches			
Orleans			
Ouachita			
Plaquemine			
Poivre Couper			
Rapides			
Ross River			
Richland			
Redline			
St. Bernard			
St. Charles			
St. Helena			
St. James			
St. John			
St. Landry			
St. Landis			
St. Mary			
St. Tammany			
Tangipahoa			
Tensas			
Terrebonne			
Union			
Vernon			

13.b. How much additional distance fee would your company have paid for appraisals the following distances from your location? (Please enter numbers only -- no dollar sign necessary.)

Distance	Additional Fee
10 - 15 miles	
16 - 20 miles	
21 - 30 miles	
31+ miles	

13.c. What mileage rate is paid per mile for distant appraisals by your company? (Please enter numbers and a decimal point only -- no dollar sign necessary.)

14. Would you like to receive an electronic version of the report containing the results of this survey?

Yes

No

POWERED BY  QuestionPro

Appendix 2 – Appraiser Survey Instrument

Survey: REAL APPRAISAL FEE SURVEY - Appraiser Version

Louisiana Residential Appraisal Fee Survey

This survey has been commissioned by the Louisiana Real Estate Appraisers Board in order to collect data on "customary and reasonable" appraisal fees paid to Louisiana-licensed real estate appraisers in 2012 as outlined in the federal regulations defined at:

Title 12 - Banks and Banking
 Chapter X - BUREAU OF CONSUMER FINANCIAL PROTECTION
 Part 4026 - TRUTH IN LENDING (REGULATION Z)
 Subpart C - Special Rules for Certain Home Mortgage Transactions
 Section 1026.42 - Valuation Independence.

This survey and the resulting report have been designed to meet the requirements of the "Alternative presumption of compliance" for customary and reasonable compensation described in the above-referenced regulations.

All responses are totally confidential, will not be associated with your identity or e-mail address, and will only be released in aggregate form.

Participants who complete this survey are invited to request a copy of the final survey report by entering their e-mail address at the conclusion of the survey.

Should you have any questions about the survey or need more information, please contact:

Beth Holmway
 Research Economist
 Southern State Louisiana University
 Business Research Center
 (985) 549-3199
 beth.holmway@slu.edu

Thank you very much for your participation.

DEMOGRAPHIC AND BACKGROUND INFORMATION

1. Did you hold a license to conduct residential real estate appraisals in the state of Louisiana in 2012?

Yes

No

2. Please indicate your position/occupation during 2012:

Independent Certified General Appraiser

Independent Certified Residential Appraiser

In-house (Staff) Appraiser

Other (please specify)

3. Approximately how many years have you been in the appraisal business?

0-5 years

6-10 years

11-15 years

16-25 years

26+ years

4. Please enter the five-digit zip code for the office location in which you spent the majority of your time in 2012:

5. Approximately how many residential appraisals for properties located in Louisiana did you conduct during calendar year 2012?

0-25

26-50

51-100

Caddo			
Calhoun			
Concordia			
DeSoto			
East Baton Rouge			
East Carroll			
East Feliciana			
Evangeline			
Franklin			
Grant			
Iberia			
Iberville			
Jackson			
Jefferson			
Jefferson Davis			
Lafayette			
Lafourche			
Lasalle			
Leech			
Livingston			
Madison			
Mandeville			
Natchitoches			
Orleans			
Ouachita			
Plaquemine			
Poinciana			
Rapides			
Red River			
Richland			
St. Bernard			
St. Charles			
St. Helena			
St. James			
St. John			
St. Landry			
St. Martin			
St. Mary			
St. Tammany			
Tangipahoa			
Tensas			
Terrebonne			
Union			
Vernon			
Washington			
West			
West Baton Rouge			
West Carroll			
West Feliciana			
Winn			

Question 9. Form 1025 (Small residential income property: 1-4 units)

Typical residential appraisal fees received from non-AMC clients in 2012.

(Please enter numbers only - no dollar signs necessary.)

County	2011	2012	2013
Madison	100	100	100
Mockhouse	100	100	100
Washington	100	100	100
Greens	100	100	100
Charlton	100	100	100
Richmond	100	100	100
Pointe Coupee	100	100	100
Racine	100	100	100
Red River	100	100	100
Richland	100	100	100
Rapide	100	100	100
St. Bernard	100	100	100
St. Charles	100	100	100
St. Helena	100	100	100
St. James	100	100	100
St. John	100	100	100
St. Landry	100	100	100
St. Martin	100	100	100
St. Mary	100	100	100
St. Tammany	100	100	100
Tangipahoa	100	100	100
Tensas	100	100	100
Terrebonne	100	100	100
Union	100	100	100
Vermilion	100	100	100
Vernon	100	100	100
Washington	100	100	100
Wabster	100	100	100
West Baton Rouge	100	100	100
West Carroll	100	100	100
West Feliciana	100	100	100
Winn	100	100	100

12. Do you typically charge additional or higher fees for appraisals of complex, unique, or very expensive properties?

- Yes
- No

13. Do you typically charge additional or higher fees for appraisals in remote or distant locations?

- Yes
- No

14. How is the additional distance fee determined?

- Flat fee
- Variable fee based on distance
- Mileage based fee

14.a. What was the typical additional distance fee you charged in 2012?

14.b. How much additional distance fee did you charge in 2012 for appraisals the following distances from your location? (Please enter numbers only -- no dollar sign necessary.)

Distance	Additional Fee
10 - 15 miles	
16 - 20 miles	
21 - 30 miles	
31 - 40 miles	
41+ miles	

14.c. What rate per mile did you charge in 2012 for distant appraisals by your company? (Please enter numbers and a decimal point only -- no dollar sign necessary.)

Rate per mile: _____

15. Would you like to receive an electronic version of the report containing the results of this survey?

Yes

No

POWERED BY  QuestionPro

Appendix 3 – Parishes in each GOHSEP Region

<u>Region</u>	<u>Parishes Included</u>
Region 1	Jefferson, Orleans, Plaquemines, St. Bernard
Region 2	Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, West Baton Rouge, West Feliciana
Region 3	Assumption, Lafourche, St. Charles, St. James, St. John, Terrebonne
Region 4	Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, St. Mary, Vermilion
Region 5	Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis
Region 6	Avoyelles, Catahoula, Concordia, Grant, LaSalle, Natchitoches, Rapides, Sabine, Vernon, Winn
Region 7	Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Webster
Region 8	Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll
Region 9	St. Tammany, Tangipahoa, Washington

Tab 14

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Tab 15

Confidential - Redacted in Entirety

Tab 16

Confidential - Redacted in Entirety

Tab 17

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Tab 18

MINUTES OF MEETING
OF
LOUISIANA REAL ESTATE APPRAISERS BOARD

June 4, 2015

The Louisiana Real Estate Appraisers Board held its regular business meeting on Thursday, June 4, 2015, at 9:00 a.m., at 9071 Interline Avenue, Baton Rouge, Louisiana, according to regular call, of which all members of the board were duly notified, at which meeting the following members were present:

BOARD

Roland M. Hall, Sr., Chairman
Leonard E. "Pete" Pauley, Jr., Vice Chairman
Gayle A. Boudousquie, Secretary
Newton J. "Butch" Landry
Clay F. Lipscomb
Tommie E. McMorris, Sr.

STAFF

Bruce Unangst, Executive Director
Arlene Edwards, Legal Counsel
Judge Darrell White, Hearing Officer
Summer Mire
Anne Brassett
Robert Maynor
Chad Mayo
Ryan Shaw
Marsha Stafford
Henk vanDuyvendijk
Sara Wheeler
Jenny Yu

GUESTS

Scott Levy, Adams and Reese, LLP
Joe Mier, Certified Residential Appraiser #R1016
Mary Ellen Pauley
Rob Rieger, Adams and Reese, LLP
Rebecca Smith, Adams and Reese, LLP
Tim Theriot, Certified Residential Appraiser #R3864

Board members Michael Graham and Gary Littlefield were unable to attend the meeting.

Call to Order

Chairman Hall called the meeting to order and led the Invocation. Vice Chairman Pauley led the Pledge of Allegiance. On motion made by Mr. Lipscomb and seconded by Mr. Pauley, the minutes of the April 20, 2015 meeting were unanimously approved as written and circulated.

Budget Report

Ms. Yu provided the budget report for the period ending April 30, 2015 (*See Attachment A*). Revenue is up by \$20,000, there is over \$560,000 in the bank, and we remain in the black.

Executive Session

At 9:10 a.m., Mr. Pauley made motion, seconded by Mr. Lipscomb, to enter into Executive Session. Motion passed without opposition. On motion made by Mr. Pauley and seconded by Mr. Lipscomb, the board voted unanimously to come back into regular session at 9:25 a.m.

Investigative Matters

1. Stipulations and Order – Case No. 2013-2070: Coester Appraisal Management Group
Mr. Pauley made motion to approve the Stipulations and Order as presented and executed by Respondent, Coester Appraisal Management Group. This approval acknowledges written confirmation from Respondent's attorney that the Louisiana fee schedule referred to in the order shall be the most current version of the Louisiana fee survey. Mr. Landry seconded the motion, which passed without opposition.

Director's Report

Director Unangst advised that the new office sign, which will include the Real Estate Appraisers Board, should be completed within the next week or two.

Members were introduced to Judge Darrell White, who will serve as the Board's hearing officer in the event of any formal hearings against appraisal management companies licensed in Louisiana.

Director Unangst informed the Board that Kristi Klamet, one of the Appraisal Subcommittee's Program Policy Managers who oversees our licensing and certification program, stopped by the office for an informal visit last Tuesday. Ms. Klamet spent the morning visiting with staff and Director Unangst and addressing any questions or concerns, looked over the revised law/rules, and reviewed applications for initial certification issued after January 1, 2015. Her visit went quite well, and we are scheduled for our formal visit sometime next year.

Director Unangst expects the Governor's Office to name new appointees to fill the expired Board member terms within the next few weeks.

Investigative Matters (Cont'd.)

2. Steven Kennedy appeared before the Board to request authorization to obtain his appraiser trainee license. On July 16, 2002, Mr. Kennedy pled guilty to Possession of Cocaine. For this offense, he was sentenced to thirty (30) months hard labor. On April 9, 2013, Mr. Kennedy pled guilty to (Ct. 1), Possession of Hydrocodone and (Ct. 2), Possession of Diazepam. For these offenses, he was sentenced to three (3) years hard labor for each count, with sentences to run concurrent with credit for time served. Mr. Kennedy was released from prison on October 21, 2013. He is currently on parole supervision, and his parole will expire on September 18, 2015. He is in compliance with all parole conditions and is progressing satisfactorily. Vice Chairman Pauley told Mr. Kennedy he is proud of him for moving forward in a positive manner; however, he is still on probation. Mr. Pauley made motion, seconded by Mr. McMorris, to postpone judgment until Mr. Kennedy's parole expires, and to have his prospective mentor and supervisor, Jim Thorns, write a letter of absolution, in which he acknowledges awareness of Mr. Kennedy's past. Motion passed by a unanimous roll call vote of 5-0.

Unfinished Business – None

New Business – None

There being no additional items to discuss, the meeting was adjourned on motion made by Mr. Pauley and seconded by Mr. Landry.

Roland M. Hall, Sr., Chairman

Gayle A. Boudousquie, Secretary

Tab 19

From: Advanced Appraisal Services, LLC <appraisalrequest@cox.net>
Sent: Wednesday, January 29, 2014 12:36 PM
To: Bruce Unangst <BUnangst@lrec.state.la.us>
Subject: Low fee offered by Imortgage Services AMC
Attach: 1808 Helvetia Ct Laplace \$200 FHA 1004.JPG

Hi, I hope you are doing well in this cold weather we are having. I remember that Joe Mier said that we need to keep you and the board informed of companies that offer fees far below C&R rates so I wanted to share this one with you. I often receive orders from this company IMortgage Services that offer the lowest fees I have seen. The funny thing is usually when I click on them to decline they are already gone. This time I stopped at the accept/decline screen to show the product requested and the fee. As a "test" I actually did a conditional accept of the order at a fee of \$375.00 since I am familiar with the Laplace neighborhood this is located in and go there about 3-4 times a week anyway. I seriously doubt that the order will be accepted but felt I need to at least counter to show where they need to be in terms of fees. I have attached a screenshot of the order as it came to me this morning.

Regards,

John Panzavecchia

John Panzavecchia CRA R1410 - VA# 5000726
Advanced Appraisal Services, LLC
221 Cotton Bayou Lane
Kenner, LA 70065
504-338-6463 ph
888-691-6463 fax
appraisalrequest@cox.net
<http://www.advancedappraisalservices.biz/>

<<...>>

Tab 20

Confidential - Redacted in Entirety

Tab 21

December 08, 2015

ADMINISTRATIVE HEARING

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STATE OF LOUISIANA EX REAL

LOUISIANA REAL ESTATE
APPRAISAL BOARD

VERSUS

CASE NUMBER
2014-1500

IMORTGAGE SERVICES, LLC

HEARING TAKEN PURSUANT TO THE ADMINISTRATIVE
PROCEDURES ACT, TAKEN AT THE LOUISIANA REAL
ESTATE COMMISSION AND APPRAISAL BOARD, 9071
INTERLINE AVENUE, BATON ROUGE, LOUISIANA, ON
DECEMBER 8, 2015 COMMENCING AT 9:13 A.M.

REPORTED BY:

RACHEL TORRES-REGIS, CCR, RPR
CERTIFIED COURT REPORTER



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APPEARANCES OF COUNSEL:

FOR THE LOUISIANA REAL ESTATE APPRAISERS BOARD:

DELATTE, EDWARDS & MARCANTEL
(BY: ARLENE EDWARDS, ESQUIRE)
92487 BLUEBONNET BOULEVARD, SUITE C
BATON ROUGE, LOUISIANA 70810

FOR THE DEFENDANT, IMORTGAGE SERVICES, LLC:

ADAMS AND REESE, LLP
(BY: KELLEN J. MATHEWS, ESQUIRE)
(BY: ROBERT L. RIEGER, JR., ESQUIRE)
(BY: REBECCA S. HELVESTON, ESQUIRE)
450 LAUREL STREET, SUITE 1900
BATON ROUGE, LOUISIANA 70801



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ADMINISTRATIVE HEARING

1 APPEARANCES OF THE LOUISIANA REAL ESTATE

2 APPRAISERS BOARD MEMBERS:

3

4 ROLAND HALL

5 JAMES PURGERSON

6 NEWTON "BUTCH" LANDRY

7 TOMMIE MCMORRIS

8 JANIS BONURA

9 MICHAEL GRAHAM

10 CLAYTON LIPSCOMB

11 TIMOTHY HAMMETT

12 BRUCE UNANGST

13

14 ALSO PRESENT:

15 JUDGE WHITE

16

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MR. HALL:

We will call the hearing to order. The hearing will be pursuant to the Administrative Procedures Act, and ask Ms. Edwards to call the case. Let's see. The -- I'm not sure if I have a number.

MS. EDWARDS:

I have it.

MR. HALL:

Okay. We'll turn it over to the -- Ms. Arlene Edwards.

MS. EDWARDS:

Arlene Edwards on behalf of the Louisiana Real Estate Appraisers Board. This is Case No. 2014-1500, Louisiana Real Estate Appraiser Board versus iMortgage Services, LLC.

Bob, do you want to introduce yourself?

MR. RIEGER:

I will. May it please the Board, my name is Rob Rieger. I practice law with Adams and Reese.



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ADMINISTRATIVE HEARING

1 With me are my colleagues, Kellen
2 Mathews and Rebecca Helveston. We
3 proudly represent iMortgage Service. I
4 would like to take the opportunity to
5 quickly introduce some of the people
6 that the Board will hear as part of our
7 case.

8 Arlene, if that's okay with
9 you.

10 MS. EDWARDS:

11 Sure.

12 MR. RIEGER:

13 First of all is our company
14 witness, Mr. Dean Kelker,
15 vice-president and chief compliance
16 officer. We also have Mr. Bill
17 Matchneer as an expert in certain
18 regulatory proceedings and the law at
19 the federal level. He is a former CFPB
20 member and is a lawyer.

21 And also Mr. Jeff Dickstein.
22 Mr. Dickstein is a member of REVAA. He
23 is appearing on behalf of REVAA. He is
24 vice-president and senior compliance
25 officer for Protect Services, also in



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ADMINISTRATIVE HEARING

1 AMC. He has flown in from California.
2 Mr. Kelker is in from Pittsburgh. And
3 Mr. Matchneer is in from Washington
4 D.C.

5 I just want to let the Board
6 know our client is very, very serious
7 about this, takes these proceedings
8 very seriously. We want to put our best
9 foot forward and let you understand
10 some of the questions that we have
11 about all of this.

12 Arlene?

13 And Judge White, good
14 morning.

15 MS. EDWARDS:

16 And Judge White will be
17 presiding.

18 Judge White, I'm going to ask
19 that -- I think Mr. Matchneer is the
20 expert.

21 MR. RIEGER:

22 Yes.

23 MS. EDWARDS:

24 Other than Mr. Matchneer, I'm
25 going to ask for an order of



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ADMINISTRATIVE HEARING

1 sequestration for the witnesses.

2 JUDGE WHITE:

3 Is there any objection to
4 that, Mr. Rieger, an order of
5 exclusion?

6 MR. RIEGER:

7 I see no reason why
8 sequestration is required, Your Honor.
9 This is not any matter of life and
10 death. We are not talking about sums of
11 money. We're basically saying witnesses
12 of a hearing that -- I think it's a lot
13 to do with the public interest and how
14 the public is perceived in this
15 particular area, as I understand it,
16 and it may be among the first of its
17 type.

18 I think it's important that
19 the witnesses get a flavor for what
20 other witnesses may say and that there
21 is no need for sequestration in this
22 instance.

23 JUDGE WHITE:

24 Do you have any legal
25 authority to oppose it, Mr. Rieger?



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ADMINISTRATIVE HEARING

1 MR. RIEGER:

2 I just feel like this is more
3 of a quasi -- this is more of an
4 administrative procedure than it is a
5 quasi-judicial, if you will, Your
6 Honor. I would argue that the
7 sequestration rules don't necessarily
8 apply.

9 JUDGE WHITE:

10 That's an interesting issue.
11 Ms. Edwards, do you have anything that
12 you could cite the Court to?

13 MS. EDWARDS:

14 No, Your Honor. I'm not aware
15 of anything that would disallow the
16 sequestration. The meeting is public,
17 it's open to the public. The public is
18 welcome to sit in here, but I think
19 that an order of sequestration is
20 appropriate for witnesses that will be
21 testifying.

22 I don't believe it's in the
23 public interest for one witness to
24 necessarily get the flavor of the
25 hearing or to hear what another witness



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ADMINISTRATIVE HEARING

1 has to say. So it certainly is open,
2 public meeting, but I think it's
3 imperative that the witnesses be
4 sequestered. The witnesses, other than
5 an expert, which is the law, are
6 allowed to sit in here. And an expert
7 is allowed to sit, but the other -- I'm
8 asking for an order of sequestration.

9 I know there's nothing in the
10 law that would require that they be
11 allowed to stay in here just because
12 it's an administrative hearing.

13 JUDGE WHITE:

14 You can't cite anything in
15 the administrative proceedings?

16 MR. RIEGER:

17 No, Your Honor, I cannot
18 other than --

19 JUDGE WHITE:

20 Or, Mr. Rieger, on the issue
21 particularly?

22 MS. EDWARDS:

23 I'm not aware of anything
24 that would disallow it.

25 JUDGE WHITE:



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ADMINISTRATIVE HEARING

1 Well, then, the question is
2 should we look to other bodies of law
3 for the purpose of analyzing this
4 issue. I'm going to grant the request
5 and, Mr. Rieger, if you wish to note
6 that.

7 So let's have -- do you want
8 to have these witnesses sworn,
9 Mr. Chairman, at this time?

10 MR. HALL:

11 Fine.

12 JUDGE WHITE:

13 All of the witnesses who may
14 testify, would you please stand and
15 raise your right hand?

16 If you may testify.

17 Do you solemnly swear or
18 affirm the testimony you may offer in
19 the matters before this Board shall be
20 the truth and nothing but the truth so
21 help you God.

22 PROSPECTIVE WITNESSES:

23 I do.

24 JUDGE WHITE:

25 Okay. All right. Let's

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ADMINISTRATIVE HEARING

1 have -- with the exception of the
2 expert witness and you have got your
3 first witness ready to go.

4 MS. EDWARDS:

5 My first witness is Robert
6 Maynor. He's right here, Your Honor.

7 MR. RIEGER:

8 Your Honor, on that we have a
9 little bit of administrative
10 housekeeping. We have some
11 stipulations, I think, that we can try
12 to streamline this a little bit, so --

13 JUDGE WHITE:

14 Okay. Those witnesses then
15 will step outside pending when you will
16 be asked to come back and testify.

17 Proceed, Ms. Edwards,
18 Mr. Rieger.

19 MR. RIEGER:

20 Thank you, Your Honor.
21 Arlene, you want to start?

22 MS. EDWARDS:

23 Yes. We have some
24 stipulations that are being entered
25 into between the Louisiana Real Estate



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ADMINISTRATIVE HEARING

1 Appraiser Board and iMortgage Services,
2 LLC.

3 Documents will be provided to
4 you, which will make a little bit more
5 sense, but the transactions represented
6 by the entries on the appraisal
7 spreadsheet attached, which will be
8 exhibit -- Attachment A represents
9 transactions that form the basis for
10 the allegations against iMortgage in
11 Case No. 2014-1500 as forth in the
12 November 17, 2015, preliminary Notice
13 of Adjudication, which will be
14 Attachment B.

15 The transactions represented
16 by the entries on the appraisal order
17 spreadsheet attached hereto as
18 Attachment A are covered transactions
19 as contemplated under 12 CFR Section
20 226-42(b)(2). All of the transactions
21 set forth in Attachment A3 of them
22 listed are outside of the scope of the
23 pertinent time period, which was set
24 forth in the preliminary notice. It
25 was December 1, 2013, through June 30,

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1 2014, where these three transactions
2 were actually created November 26,
3 2013, several days before the dates
4 that were contained within the
5 preliminary notice, therefore, we have
6 removed those.

7 Those order numbers
8 331195513, Order No. 331196623, and
9 Order No. 331193644.

10 Lastly, with regard to three
11 additional transactions, the fees paid
12 were equal to or exceed the median
13 residential appraisal fee by region as
14 set forth in the 2014 Louisiana
15 Residential Real Estate Appraisal Fees,
16 a study conducted by the Board for the
17 Board by Southeastern Louisiana
18 University Business Center. Those
19 transactions are 331196623, 3321298400,
20 3401202131.

21 To summarize, so that's not
22 confusing, and Mr. Rieger will have an
23 opportunity to address you on this,
24 there were additionally or originally
25 many more transactions that were going

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1 to come before the Board. After meeting
2 with iMortgage attorneys, we have
3 been -- removed those that are not what
4 we call cover transactions. We have
5 removed those that are outside of the
6 time period.

7 So what will be presented
8 today really are nine separate
9 appraisals that are covered
10 transactions that the position's going
11 to be of the -- of the staff that those
12 transactions are in violation of the
13 law and/or rules of the Louisiana Real
14 Estate Appraiser Board, and iMortgage
15 will take issue with that and present
16 their case.

17 So basically what we're
18 saying is by the stipulation, we've
19 held it down to nine particular
20 transactions.

21 MR. RIEGER:

22 On that, if I could be heard,
23 Ms. Edwards. The original allegation
24 letter that came out in July and then
25 the original notice of the preliminary



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1 Notice of Adjudication November 2014
2 cited iMortgage with 150 separate
3 instances of having not paid regional
4 and customary.

5 Because of the discussions
6 that we had with the staff and based on
7 information that had previously been
8 submitted to the staff with some fine
9 tuning by us, over 135 were dismissed.

10 There were also five separate
11 allegations alleging that iMortgage had
12 not paid the appraisers on a timely
13 basis as required by the statute of
14 Louisiana Regs. After further
15 investigation by the Board, those five
16 allegations were, in fact, dismissed as
17 well.

18 Coming down to the 15 that we
19 got our November 17th notice of
20 preliminary investigation, what
21 Ms. Edwards just went through is
22 further investigation, further proof
23 and persuasion by iMortgage that
24 another six of those allegations are,
25 in fact, either outside the



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1 investigatory period or outside the
2 period that the allegations were
3 brought in, time period. And second of
4 all, were, in fact, a paid -- a
5 customary -- and reasonable and
6 customary fee that was substantiated by
7 the Southeastern 2014 fee study.

8 So we're going to trial
9 again, as you said, on nine different
10 allegations. We have defenses to each
11 one of those that we believe firmly,
12 firmly demonstrate that we paid
13 customary and reasonable on all of
14 that. We paid it timely. We took it
15 into the fact all things required under
16 Louisiana and federal law to do such of
17 that.

18 Other stipulations, Arlene?

19 MS. EDWARDS:

20 No. That's it. I think those
21 are the only stipulations unless there
22 is something else that you are aware
23 of.

24 MR. RIEGER:

25 Okay. I think that's it for



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Tab 22

December 08, 2015

ADMINISTRATIVE HEARING

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STATE OF LOUISIANA EX REAL

LOUISIANA REAL ESTATE
APPRAISAL BOARD

VERSUS

CASE NUMBER
2014-1500

IMORTGAGE SERVICES, LLC

HEARING TAKEN PURSUANT TO THE ADMINISTRATIVE
PROCEDURES ACT, TAKEN AT THE LOUISIANA REAL
ESTATE COMMISSION AND APPRAISAL BOARD, 9071
INTERLINE AVENUE, BATON ROUGE, LOUISIANA, ON
DECEMBER 8, 2015 COMMENCING AT 9:13 A.M.

REPORTED BY:

RACHEL TORRES-REGIS, CCR, RPR
CERTIFIED COURT REPORTER



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1 TMI, Mr. Chair.
2 (Laughter from entire room)
3 (Whereupon a break was
4 taken.)
5 MR. HALL:
6 Ready to go back into
7 session.
8 JUDGE WHITE:
9 I believe everyone is here,
10 Mr. Chairman, who was here when we
11 recessed.
12 MR. RIEGER:
13 Yes, Your Honor.
14 JUDGE WHITE:
15 We are on the record.
16 MR. HALL:
17 Okay. What we're going to do
18 now is after our deliberation, we're
19 going to -- we have a motion and then
20 we'll discuss it.
21 MR. MCMORRIS:
22 Tommie McMorris. I move the
23 respondent iMortgage give -- they have
24 the choice set forth in the written
25 complaint. Further, after hearing all

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1 the testimony and legal documents
2 submitted, it is obvious that the
3 respondent did not follow Louisiana law
4 and rules establishing to pay
5 reasonable and customary fees.

6 MR. HALL:
7 Do I have a second?

8 MS. BONURA:
9 I will second.

10 MR. HALL:
11 We have a motion and a
12 second. Do we have any further
13 discussion?

14 Okay. Not. We'll have a roll
15 call vote. And I will call, and then I
16 will keep track.

17 Michael Graham?

18 MR. GRAHAM:
19 Yes.

20 MR. HALL:
21 Janis Bonura?

22 MS. BONURA:
23 Here.

24 MR. HALL:
25 You are voting?



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1 MS. BONURA:
2 Sorry. I'm voting yes. Thank
3 you.
4 MR. HALL:
5 Tim Hammett?
6 MR. HAMMETT:
7 Yes.
8 MR. HALL:
9 Butch Landry?
10 MR. LANDRY:
11 Yes.
12 MR. HALL:
13 Clay Lipscomb?
14 MR. LIPSCOMB:
15 Yes.
16 MR. HALL:
17 Tommie McMorris?
18 MR. MCMORRIS:
19 Yes.
20 MR. HALL:
21 Jim Purgerson?
22 MR. PURGERSON:
23 Yes.
24 MR. HALL:
25 Okay. It's unanimous and --



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1 MR. MCMORRIS:

2 I would like to say
3 something, if I could, please.

4 MR. HALL:

5 Go ahead.

6 MR. MCMORRIS:

7 I'd like to state my primary
8 reason for making my decision I did had
9 a lot to do with the e-mail that I read
10 in regards to the conflicting prices
11 and stuff and the explanation that I
12 got as well as the lack of an actual
13 survey to actually review. That would
14 probably help my determination in this
15 case a lot better had I had that, and
16 that's all I have to add.

17 MR. HALL:

18 Anybody else would like to
19 say -- have any comments about why they
20 voted the way they did?

21 MR. LIPSCOMB:

22 Yeah. I just felt like --

23 MR. HALL:

24 Identify.

25 MR. LIPSCOMB:

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1 Clay Lipscomb. I just felt
2 like the staff showed that they didn't
3 follow the Louisiana law as I had read
4 it in establishing customary and
5 reasonable fees.

6 MR. HALL:
7 Anybody else?

8 MS. BONURA:
9 For me, it's -- my decision
10 was based on the charges that we heard
11 very early this morning and then
12 re-reading what reasonable and
13 customary means, how we obtain it,
14 objective, independent. That's my
15 version opinion.

16 MR. HALL:
17 Okay. Anybody else?
18 Okay. Do we have any other
19 motions?

20 MR. GRAHAM:
21 Yes. I'd like to move that
22 the -- that this Board impose the
23 following penalties on iMortgage for
24 the charges set forth in the written
25 complaint as follows: No. 1, a penalty

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1 of \$10,000 to be paid by March 21,
2 2016.

3 2, the cost of an
4 adjudication -- of this adjudication
5 payable to Louisiana Real Estate
6 Appraisers Board to be paid by March
7 21, 2016.

8 Also, a suspension for six
9 months that will be stayed until March
10 21st, 2016, subject to iMortgage's
11 compliance of the customary and
12 reasonable fee plan approved by the
13 Louisiana Real Estate Appraisers Board.

14 And finally, if the approved
15 compliance plan submitted to the
16 Louisiana Real Estate Appraisers Board
17 by March 21st, 2016, and the penalties
18 and costs are paid by March 21st, 2016,
19 the six-month suspension shall be
20 vacated.

21 MR. HALL:

22 Do I have a second?

23 MR. MCMORRIS:

24 I second.

25 MR. HALL:



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1 Okay. Is there any discussion
2 in the -- it's my understanding that
3 March the 21st is when we have a
4 meeting in March. We have an audit in
5 some other circumstances, so our
6 meeting in January and February are
7 kind of unusual. So this is basically
8 90 days, plus or minus a few, to get
9 this board to approve a compliance
10 plan, and that's -- that's my
11 discussion.

12 Anybody else have any
13 comments about it?

14 MR. RIEGER:

15 Mr. Chairman? Sorry.

16 MR. MCMORRIS:

17 I want to go back to Hammond.

18 MR. PURGERSON:

19 I want to say, I think Mr.
20 Kelker has the ability to -- and staff
21 to put together something very
22 reasonable within 90 days. I don't
23 think we're here to cause anymore
24 burden, but hopefully we made it clear.
25 I'm going to vote against the

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1 motion, this second one just based on
2 the fine. I think that doing the action
3 plan is enough, but I fully respect
4 those that do vote for it, but --

5 MR. HALL:

6 Okay. Is there not -- is
7 there any other discussion before we
8 have a roll call vote?

9 MR. RIEGER:

10 Your Honor -- excuse me,
11 Mr. Chair, is it appropriate to ask
12 questions at this point?

13 JUDGE WHITE:

14 Well, I will comment on that,
15 Mr. Chairman, if you want me to.

16 MR. HALL:

17 Yes. I would -- go ahead.

18 JUDGE WHITE:

19 My experience as a hearing
20 officer that the state licensing Board
21 for contractors, there's been a very
22 full opportunity for hearing. The
23 matter has been placed in the hands of
24 the board and at that particular point,
25 I think the role is to listen rather



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1 than -- there may be a motion for --
2 under the administration --
3 Administrative Procedures Act for
4 rehearing, reconsideration, et cetera,
5 or an appeal to the district court, but
6 I believe it's really in the Board's
7 hands, respectfully, Mr. Rieger, at
8 this point to make these remarks.

9 MR. HALL:

10 Okay. I would like to -- the
11 Board to finish our discussion and have
12 a roll call vote and after we do that,
13 you can ask a question if you want to
14 ask a question.

15 MR. RIEGER:

16 Fair enough.

17 MR. HALL:

18 Okay. Michael Graham?

19 MR. GRAHAM:

20 Yeah.

21 MR. HALL:

22 And if you would, if you --
23 that's fine. Michael Graham.

24 MR. GRAHAM:

25 Yes.



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1 MR. HALL:
2 Janis Bonura?
3 MS. BONURA:
4 Yes.
5 MR. HALL:
6 Tim Hammett?
7 MR. HAMMETT:
8 Yes.
9 MR. HALL:
10 Troy Lipscomb?
11 MR. LIPSCOMB:
12 Yes.
13 MR. HALL:
14 Tommie McMorris?
15 MR. MCMORRIS:
16 Yes.
17 MR. HALL:
18 Jim Purgerson?
19 MR. PURGERSON:
20 No.
21 MR. HALL:
22 Okay. Motion carries.
23 MS. BONURA:
24 I think you forgot Mr.
25 Landry.



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1 MR. HALL:

2 Oh, Butch Landry.

3 MR. LANDRY:

4 Yes.

5 MR. HALL:

6 It's getting late, gentlemen.

7 I'm so sorry.

8 Is there anybody else that I
9 missed? Because I'm not trying to miss
10 anybody.

11 Okay. We have one, two,
12 three, four, five, six yea's and one
13 no. Motion passed. Is there anybody
14 that would like any other comments that
15 they have to make?

16 Okay. In that case, Mr.
17 Rieger, I understand you want to say
18 something and I want you to always know
19 that we're always willing to listen.

20 MR. RIEGER:

21 Thank you. Question, and I'm
22 trying to understand exactly how this
23 sanction works. I understand penalties,
24 pay a fine by March. Cost of the
25 adjudication by March 21st, I got those



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1 two.

2 A suspension of the license
3 for six months, but that is stayed
4 until March 21st contingent upon Board
5 approval of a compliance plan that
6 would give this Board assurance that
7 iMortgage is charging customary and
8 reasonable fees; is that correct?

9 MR. HALL:

10 Yes.

11 MR. RIEGER:

12 Okay. So there is no
13 suspension at this time?

14 MR. HALL:

15 That is correct. We felt like
16 that you should have time to come up
17 with a plan, whatever else you need,
18 and then submit it to us. And then my
19 guess is we can do some communications
20 to work it out and then -- because of
21 the Louisiana Real Estates Appraisers
22 Board business calendar, okay, we have
23 a meeting, like, January the 25th and
24 then February the 4th because we have
25 the ASC audit. So it really --



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1 MR. RIEGER:

2 Sure.

3 MR. HALL:

4 We just kind of -- so the
5 next available meeting would be March
6 the 21st. That gives us time to --
7 y'all to come up with a plan for us to
8 approve, and then we'll deal with it at
9 that time.

10 MR. RIEGER:

11 Okay. Very good. I think I
12 understand that. Thank you-all.

13 MS. EDWARDS:

14 Thank you.

15 MR. HALL:

16 Thank you. Does anybody have
17 any other comments? In light of the
18 hour --

19 MR. PURGERSON:

20 Motion to adjourn.

21 MR. HALL:

22 I was fixing to say that, but
23 what I want to do is I want everybody
24 to know that we are going to take up
25 the rest of our agenda at the next



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meeting. So I have a motion to adjourn.
Do I have a second?
MS. BONURA:
Second.
(Whereupon the hearing has been adjourned at
10:44 p.m.)

ADMINISTRATIVE HEARING December 08, 2015



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REPORTER'S CERTIFICATE

I, RACHEL TORRES-REGIS, Certified Court Reporter in and for the State of Louisiana, as the officer before whom this testimony was taken, do hereby certify that the hearing after having been duly sworn by The Court upon authority of R.S. 37:2554, did testify as hereinbefore set forth in the foregoing 559 pages;

That this testimony was reported by me in the stenotype reporting method, was prepared and transcribed by me or under my personal direction and supervision, and is a true and correct transcript to the best of my ability and understanding;

That the transcript has been prepared in compliance with transcript format guidelines required by statute or by rules of the board, and that I am informed about the complete arrangement, financial or otherwise, with the person or entity making arrangements for deposition services;

That I have acted in compliance



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1 with the prohibition on contractual
2 relationships, as defined by Louisiana Code of
3 Civil Procedure Article 1434 and in rules and
4 advisory opinions of the board;

5 That I have no actual knowledge of
6 any prohibited employment or contractual
7 relationship, direct or indirect, between a court
8 reporting firm and any party litigant in this
9 matter nor is there any such relationship between
10 myself and a party litigant in this matter. I am
11 not related to counsel or to the parties herein,
12 nor am I otherwise interested in the outcome of
13 this matter.

14
15 Dated this 29th day of December, 2015.

16
17
18
19
20 _____
21 RACHEL TORRES-REGIS, CCR, RPR
22 CERTIFIED COURT REPORTER
23
24
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Tab 23

Louisiana Real Estate Appraisers Board

State of Louisiana

Versus

iMortgage Services, LLC (AMC.0021)

Case No. 2014-1500

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND ORDER**

This matter came on for hearing December 8, 2015. Present were Judge Darrell White, Hearing Officer and Board Members: Roland M. Hall, Sr., Michael A. Graham, Janis M. Bonura, Timothy W. Hammett, Newton J. "Butch" Landry, Tommie E. McMorris, Sr., James R. Purgerson, Jr., and Clayton F. Lipscomb. Evidence was presented by Arlene Edwards, Hearing Examiner on behalf of the Board.

After due deliberation, the Board finds and orders as follows:

FINDINGS OF FACT

1. That iMortgage Services, LLC was issued a Louisiana Appraisal Management Company License for the periods January 1, 2013 through December 31, 2013 (AMC.0021), January 1, 2014 through December 31, 2014, and from January 1, 2015 through December 31, 2015.
2. That between December 1, 2013 and June 30, 2014, iMortgage Services, LLC provided nine (9) separate real estate appraisal assignments on property located in Louisiana during the time period of December 1, 2013 through June 30, 2014; that on each of the separate instances wherein iMortgage provided the nine (9) assignments, iMortgage failed to use established fees set by an objective third party or to use the factors set forth in Section 31101, in violation of LSA-R.S.37:3415.19. (1) and (2), LSA-R.S.37: 3415.15 and Section 31101 of the Rules and Regulations of the Louisiana Real Estate Appraisers Board.

CONCLUSIONS OF LAW

The Louisiana Real Estate Appraisers Board makes and enters the following conclusions of law:

1. That iMortgage Service, LLC is in violation of the following provisions of the Louisiana Revised Statutes.

LSA-R.S. 37:3419. Enforcement

A. The board may censure an appraisal management company, conditionally or unconditionally suspend, or revoke any license issued under this Chapter, levy fines or impose civil penalties not to exceed fifty thousand dollars, if in the opinion of the board, an appraisal management company is attempting to perform, is performing, has performed, or has attempted to perform any of the following acts:

- (1) Committing any act in violation of this Chapter.
- (2) Violating any rule or regulation adopted by the board in the interest of the public and consistent with the provisions of this Chapter.

LSA-R.S. 37:3415.15. Fees; customary and reasonable; disclosure

A. An appraisal management company shall compensate appraisers at a rate that is customary and reasonable for appraisals being performed in the market area of the property being appraised, consistent with the presumptions of compliance under federal law.

Chapter 311. Compensation of Fee Appraisers

§31101. General Provisions; Customary and Reasonable Fees; Presumptions of Compliance

A. Licensees shall compensate fee appraisers at a rate that is customary and reasonable for appraisal services performed in the market area of the property being appraised and as prescribed by R.S. 37:3415.15(A). For the purposes of this Chapter, market area shall be identified by zip code, parish, or metropolitan area.

1. Evidence for such fees may be established by objective third-party information such as government agency fee schedules, academic studies, and independent private sector surveys. Fee studies shall exclude assignments ordered by appraisal management companies.
2. The board, at its discretion, may establish a customary and reasonable rate of compensation schedule for use by any licensees electing to do so.
3. Licensees electing to compensate fee appraisers on any basis other than an established fee schedule as described in Paragraphs 1 or 2 above shall, at a minimum, review the factors listed in §31101.B.1-6 on each assignment made, and make appropriate adjustments to recent rates paid in the relevant geographic market necessary to ensure that the amount of compensation is reasonable.

B. A licensee shall maintain written documentation that describes or substantiates all methods, factors, variations, and differences used to determine the customary and reasonable fee for appraisal services conducted in the geographic market of the appraisal assignment. This documentation shall include, at a minimum, the following elements:

1. the type of property for each appraisal performed;
2. the scope of work for each appraisal performed;
3. the time in which the appraisal services are required to be performed;
4. fee appraiser qualifications;
5. fee appraiser experience and professional record; and
6. fee appraiser work quality.

ORDER

In conjunction with the foregoing Findings of Fact and Conclusions of Law, the Louisiana Real Estate Appraisers Board makes and enters the following Order:

That iMortgage Services, LLC be censured for the violations committed; that iMortgage Services, LLC pay a fine in the amount of \$10,000.00 and the administrative costs of this adjudicatory proceeding to the Louisiana Real Estate Appraisers Board no later than March 21, 2016; that iMortgage Services, LLC license be suspended for a period of six (6) months with a stay of enforcement be placed on this suspension pending iMortgage Services, LLC providing the Board with a compliance plan to be reviewed and approved by the Board prior to March 21, 2016; and, that if a plan is not provided and approved that the stay of enforcement will be lifted and the suspension enacted.

Bruce Unangst, Executive Director

Date

CERTIFICATE

I, Arlene Edwards, legal counsel for the Louisiana Real Estate Appraisers Board, do certify that I have this date, mailed to the respondent, iMortgage Services, LLC, c/o Robert Rieger, a true and correct copy of the foregoing Order of the Board by certified mail through the United States Postal Service.

Arlene Edwards, Attorney at Law

Date

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March 15, 2016

Mr. Bruce Unangst, Executive Director
Louisiana Real Estate Appraisers Board
P. O. Box 14785
Baton Rouge, LA 70898-4785

Re: REAB v. iMortgage Services, LLC
Case #2014-1500 – iMortgage Services, LLC Revised Compliance Plan

Dear Mr. Unangst:

iMortgage Services, LLC (“iMortgage”) received correspondence from the Louisiana Real Estate Appraisers Board (the “Board” or “LREAB”) dated March 10, 2016, regarding the compliance plan proposed by iMortgage on February 26, 2016. iMortgage was both surprised and disappointed with the Board’s rejection as the proposed plan fully satisfies the second presumption of compliance under federal law, as well as the Louisiana Real Estate Appraisers Law and Rules.

With respect to the Board’s request to review the data contained in the lender fee study used by iMortgage, the data will not be provided to LREAB. Such data and methodology belongs to a federally chartered institution and therefore is not subject to review by a state regulatory body as it has already been reviewed and accepted by the institution’s federal regulator, the Office of the Comptroller of the Currency (“OCC”). iMortgage also disagrees with the Board’s assertion that using actual experienced rates does not meet the federal presumptions of compliance as the Final Rule permits the use of actual rates of compensation experienced by appraisal management companies (“AMC”) as long as the AMC does not participate in anti-competitive activities. See 12 C.F.R. § 1026.42(f)(2). iMortgage has neither participated in any anti-competitive activities, nor have there been any relevant allegations asserting same.

That being said, iMortgage would like to move forward with its ability to conduct appraisal business in Louisiana. Consistent with the Board’s Order requiring an approved compliance plan in place by March 21, 2016, iMortgage will submit a revised compliance plan that satisfies the presumption of compliance under La Admin Code. Tit. 46, pt. LXVII §31101 utilizing the most recent Fee Study conducted by Southeastern Louisiana University Business Research Center and commissioned by the Board (the “Fee Study”). iMortgage will commit to

2570 Boyce Plaza Road, Pittsburgh, PA 15241
888-575-8555

pay the appraisal fees contained in the Fee Study for covered transactions, as defined by 12 C.F.R. § 1026.42.

As the Board is aware, based on the testimony at the December 8, 2015 hearing, iMortgage views the Fee Study as fundamentally flawed based on the fact that the data is self-reported, subjective, for an unknown scope of work, and therefore unable to be audited by a third party to verify its results.

iMortgage's agreement to pay appraisal fees based on the Fee Study should satisfy the Board as an acceptable compliance plan. The fine will be remitted, per the Board's Order under separate cover in advance of the March 21, 2016 deadline.

Sincerely,



Dean B. Kelker
Senior Vice President – Chief Risk Officer
iMortgage Services, LLC

2570 Boyce Plaza Road, Pittsburgh, PA 15241
888-575-8555

Tab 27

MINUTES OF MEETING
OF
LOUISIANA REAL ESTATE APPRAISERS BOARD

March 21, 2016

The Louisiana Real Estate Appraisers Board held its regular business meeting on Monday, March 21, 2016, at 9:00 a.m., at 9071 Interline Avenue, Baton Rouge, Louisiana, according to regular call, of which all members of the board were duly notified, at which meeting the following members were present:

BOARD

Roland M. Hall, Sr., Chairman
Clayton F. Lipscomb, Secretary
Gayle Boudousquie
Cheryl B. Bella
Janis M. Bonura
Timothy W. Hammett
Newton J. Landry
James R. Purgerson, Jr.

STAFF

Bruce Unangst, Executive Director
Arlene Edwards, Legal Counsel
Summer Mire, Confidential Assistant to Director
Anne Brassett
Mark Gremillion
Robert Maynor
Chad Mayo
Ryan Shaw
Henk VanDuyvendijk
Jenny Yu

GUESTS

Melissa Bond, Appraisal Education Provider
Rebecca Helveston, Adams and Reese, LLP

Board members Michael Graham and Tommie McMorris were unable to attend the meeting.

Call to Order & Approval of Minutes

Chairman Hall called the meeting to order and led the Invocation. Mr. Landry led the Pledge of Allegiance. On motion made by Mr. Lipscomb and seconded by Mr. Purgerson, the minutes of the February 4, 2016 meeting were unanimously approved as written and circulated.

Budget Report

Ms. Yu provided the budget report for the period ending February 29, 2016 (*See Attachment A*). The budget is in good shape and remains in the black.

Director's Report

Director Unangst asked the Board to entertain a motion to add "Executive Session" to the agenda. Ms. Bonura made motion, seconded by Mr. Lipscomb, to open the agenda for inclusion of an executive session. Motion passed by unanimous vote of 7-0.

Ms. Bonura made motion, seconded by Mr. Lipscomb, to go into Executive Session. Motion passed by unanimous vote of 7-0.

On motion made by Mr. Lipscomb and seconded by Ms. Boudousquie, the Board voted unanimously to exit executive session and return to the regular business meeting.

Director Unangst provided an overview of House Bill No. 804 (*See Attachment B*). He advised that this is basically a "clean-up" bill containing language recommended by the Appraisal Subcommittee relative to appraisal management companies and real estate appraisers.

House Bill No. 580 (*See Attachment C*), provides for preemption of actions for damages against real estate appraisers and appraisal companies, and allows for a prescriptive period for such actions.

Public Comment – None

Unfinished Business

Mr. Purgerson made motion, seconded by Mr. Hammett, to ratify approval of the final draft of the rules and regulations of the Board as filed with the Register (*See Attachment D*). Motion passed without opposition.

New Business

Director Unangst updated the Board on the revised compliance plan submitted by iMortgage Services, LLC (*See Attachment E*). Inasmuch as their plan utilizes the most recent Fee Study conducted by Southeastern Louisiana University Business Research Center and commissioned by the Board, Director Unangst acceptance of this plan. He further advised that the conditions of adjudication have been met and suspension of iMortgage Services, LLC's AMC license was stayed because of their willingness to comply with the directives of the Board's order.

Mr. Purgerson made motion, seconded by Mr. Lipscomb, to accept the compliance plan as presented by iMortgage Services, LLC. Motion passed 6-0, with Ms. Boudousquie abstaining from the vote.

There being no additional items to discuss, the meeting was adjourned on motion made by Mr. Hammett and seconded by Ms. Bonura.

Roland M. Hall, Sr., Chairman

Clayton F. Lipscomb, Secretary

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Tab 29

**CHAPTER 34A—APPRAISAL SUBCOMMITTEE
OF FEDERAL FINANCIAL INSTITUTIONS
EXAMINATION COUNCIL**

- Sec.
- 3331. Purpose.
- 3332. Functions of Appraisal Subcommittee.
- 3333. Chairperson of Appraisal Subcommittee; term of Chairperson; meetings.
- 3334. Officers and staff.
- 3335. Powers of Appraisal Subcommittee.
- 3336. Procedures for establishing appraisal standards and requiring use of certified and licensed appraisers.
- 3337. Startup funding.
- 3338. Roster of State certified or licensed appraisers; authority to collect and transmit fees.
- 3339. Functions of Federal financial institutions regulatory agencies relating to appraisal standards.
- 3340. Time for proposal and adoption of standards.
- 3341. Functions of Federal financial institutions regulatory agencies relating to appraiser qualifications.
- 3342. Transactions requiring services of State certified appraiser.
- 3343. Transactions requiring services of State licensed appraiser.
- 3344. Time for proposal and adoption of rules.
- 3345. Certification and licensing requirements.
- 3346. Establishment of State appraiser certifying and licensing agencies.
- 3347. Monitoring of State appraiser certifying and licensing agencies.
- 3348. Recognition of State certified and licensed appraisers for purposes of this chapter.
- 3349. Violations in obtaining and performing appraisals in federally related transactions.
- 3350. Definitions.
- 3351. Miscellaneous provisions.
- 3352. Emergency exceptions for disaster areas.
- 3353. Appraisal management company minimum requirements.
- 3354. Automated valuation models used to estimate collateral value for mortgage lending purposes.
- 3355. Broker price opinions.

§ 3331. Purpose

The purpose of this chapter is to provide that Federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.

(Pub. L. 101-73, title XI, §1101, Aug. 9, 1989, 103 Stat. 511.)

§ 3332. Functions of Appraisal Subcommittee

(a) In general

The Appraisal Subcommittee shall—

(1) monitor the requirements established by States—

(A) for the certification and licensing of individuals who are qualified to perform appraisals in connection with federally related transactions, including a code of professional responsibility; and

(B) for the registration and supervision of the operations and activities of an appraisal management company;

(2) monitor the requirements established by the Federal financial institutions regulatory agencies with respect to—

(A) appraisal standards for federally related transactions under their jurisdiction, and

(B) determinations as to which federally related transactions under their jurisdiction require the services of a State certified appraiser and which require the services of a State licensed appraiser;

(3) maintain a national registry of State certified and licensed appraisers who are eligible to perform appraisals in federally related transactions; and¹

(4) Omitted

(5) transmit an annual report to the Congress not later than June 15 of each year that describes the manner in which each function assigned to the Appraisal Subcommittee has been carried out during the preceding year. The report shall also detail the activities of the Appraisal Subcommittee, including the results of all audits of State appraiser regulatory agencies, and provide an accounting of disapproved actions and warnings taken in the previous year, including a description of the conditions causing the disapproval and actions taken to achieve compliance.²

(6) maintain a national registry of appraisal management companies that either are registered with and subject to supervision of a State appraiser certifying and licensing agency or are operating subsidiaries of a Federally regulated financial institution.

(b) Monitoring and reviewing foundation

The Appraisal Subcommittee shall monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation.

(Pub. L. 101-73, title XI, §1103, Aug. 9, 1989, 103 Stat. 512; Pub. L. 111-203, title III, §367(6), title XIV, §1473(b), (f)(1), July 21, 2010, 124 Stat. 1557, 2190, 2191.)

CODIFICATION

Paragraph (4) of subsection (a), which required the Appraisal Subcommittee to submit an annual report to Congress on the manner in which assigned functions were carried out, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 170 of House Document No. 103-7.

AMENDMENTS

2010—Subsec. (a)(1). Pub. L. 111-203, §1473(f)(1)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “monitor the requirements established by States for the certification and licensing of individuals who are qualified to perform appraisals in connection with federally related transactions, including a code of professional responsibility;”

Subsec. (a)(2). Pub. L. 111-203, §367(6), struck out “and the Resolution Trust Corporation” after “agencies” in introductory provisions.

Subsec. (a)(5). Pub. L. 111-203, §1473(b), added par. (5).

Subsec. (a)(6). Pub. L. 111-203, §1473(f)(1)(B), added par. (6).

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 367(6) of Pub. L. 111-203 effective on the transfer date, see section 351 of Pub. L.

¹ So in original. The word “and” probably should not appear.

² So in original. Probably should be “compliance; and”.

111-203, set out as a note under section 906 of Title 2, The Congress.

Amendment by section 1473(b), (f)(1), of Pub. L. 111-203 effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111-203, set out as a note under section 1601 of Title 15, Commerce and Trade.

§ 3333. Chairperson of Appraisal Subcommittee; term of Chairperson; meetings

(a) Chairperson

The Council shall select the Chairperson of the subcommittee. The term of the Chairperson shall be 2 years.

(b) Meetings; quorum; voting

The Appraisal Subcommittee shall meet in public session after notice in the Federal Register, but may close certain portions of these meetings related to personnel and review of preliminary State audit reports, at the call of the Chairperson or a majority of its members when there is business to be conducted. A majority of members of the Appraisal Subcommittee shall constitute a quorum but 2 or more members may hold hearings. Decisions of the Appraisal Subcommittee shall be made by the vote of a majority of its members. The subject matter discussed in any closed or executive session shall be described in the Federal Register notice of the meeting.

(Pub. L. 101-73, title XI, §1104, Aug. 9, 1989, 103 Stat. 512; Pub. L. 111-203, title XIV, §1473(c), July 21, 2010, 124 Stat. 2191.)

AMENDMENTS

2010—Subsec. (b). Pub. L. 111-203 inserted “in public session after notice in the Federal Register, but may close certain portions of these meetings related to personnel and review of preliminary State audit reports,” after “shall meet” and “The subject matter discussed in any closed or executive session shall be described in the Federal Register notice of the meeting.” at the end.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111-203, set out as a note under section 1601 of Title 15, Commerce and Trade.

§ 3334. Officers and staff

The Chairperson of the Appraisal Subcommittee shall appoint such officers and staff as may be necessary to carry out the functions of this chapter consistent with the appointment and compensation practices of the Council.

(Pub. L. 101-73, title XI, §1105, Aug. 9, 1989, 103 Stat. 512.)

§ 3335. Powers of Appraisal Subcommittee

The Appraisal Subcommittee may, for the purpose of carrying out this chapter, establish advisory committees, hold hearings prescribe¹ regulations in accordance with chapter 5 of title 5

¹ So in original. Probably should be preceded by a comma.

(commonly referred to as the Administrative Procedures Act) after notice and opportunity for comment,² sit and act at times and places, take testimony, receive evidence, provide information, and perform research, as the Appraisal Subcommittee considers appropriate. Any regulations prescribed by the Appraisal Subcommittee shall (unless otherwise provided in this chapter) be limited to the following functions: temporary practice, national registry, information sharing, and enforcement. For purposes of prescribing regulations, the Appraisal Subcommittee shall establish an advisory committee of industry participants, including appraisers, lenders, consumer advocates, real estate agents, and government agencies, and hold meetings as necessary to support the development of regulations.

(Pub. L. 101-73, title XI, §1106, Aug. 9, 1989, 103 Stat. 512; Pub. L. 111-203, title XIV, §1473(d), July 21, 2010, 124 Stat. 2191.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title XI of Pub. L. 101-73, which is classified principally to this chapter. For complete classification of title XI to the Code, see Tables.

AMENDMENTS

2010—Pub. L. 111-203 inserted “prescribe regulations in accordance with chapter 5 of title 5 (commonly referred to as the Administrative Procedures Act) after notice and opportunity for comment,” after “hold hearings” and “Any regulations prescribed by the Appraisal Subcommittee shall (unless otherwise provided in this chapter) be limited to the following functions: temporary practice, national registry, information sharing, and enforcement. For purposes of prescribing regulations, the Appraisal Subcommittee shall establish an advisory committee of industry participants, including appraisers, lenders, consumer advocates, real estate agents, and government agencies, and hold meetings as necessary to support the development of regulations.” at the end.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111-203, set out as a note under section 1601 of Title 15, Commerce and Trade.

§ 3336. Procedures for establishing appraisal standards and requiring use of certified and licensed appraisers

Appraisal standards and requirements for using State certified and licensed appraisers in federally related transactions pursuant to this chapter shall be prescribed in accordance with procedures set forth in section 553 of title 5, including the publication of notice and receipt of written comments or the holding of public hearings with respect to any standards or requirements proposed to be established.

(Pub. L. 101-73, title XI, §1107, Aug. 9, 1989, 103 Stat. 513.)

² So in original.

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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).

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694-1220.

Dayna C. Brown,

Secretary and Clerk of the Commission.

[FR Doc. 2017-20098 Filed 9-18-17; 11:15 am]

BILLING CODE 6715-01-P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS17-06]

Appraisal Subcommittee; Proposed Revised Policy Statements

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

ACTION: Proposed Revised Policy Statements.

SUMMARY: The Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council requests public comment on a proposal to revise ASC Policy Statements (proposed Policy Statements). The proposed Policy Statements provide guidance to ensure State appraiser regulatory programs comply with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, and the rules promulgated thereunder. The proposed Policy Statements would supersede the current ASC Policy Statements. The ASC previously published the Proposed Revised Policy Statements on January 10, 2017, under Docket Number AS17-01. The comment period was scheduled to close on April 10, 2017. The ASC suspended the comment period in response to the White House Chief of Staff Memorandum titled Regulatory Freeze Pending Review, signed on January 20, 2017, pending review by the Office of Management and Budget (OMB). Technical edits for clarification have been made to the proposed Policy Statements since the initial publication, which are addressed below in Supplementary Information, section III, *Statement-by-Statement*.

DATES: Comments must be received on or before November 20, 2017.

ADDRESSES: Commenters are encouraged to submit comments by the Federal eRulemaking Portal or email, if possible. You may submit comments, identified by Docket Number AS17-06, by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.Regulations.gov>. Follow the instructions for submitting 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.

- *E-Mail:* webmaster@asc.gov. Include the docket number in the subject line of the message.
- *Fax:* (202) 289-4101. Include docket number on fax cover sheet.
- *Mail:* Address to Appraisal Subcommittee, Attn: Lori Schuster, Management and Program Analyst, 1401 H Street NW., Suite 760, Washington, DC 20005.
- *Hand Delivery/Courier:* 1401 H Street NW., Suite 760, Washington, DC 20005.

In general, the ASC will enter all comments received into the docket and publish those comments on the Federal eRulemaking (*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. At the close of the comment period, all public comments will also be made available on the ASC's Web site at <https://www.asc.gov> (follow link in "What's New") as submitted, unless modified for technical reasons.

You may review comments by any of the following methods:

- *Viewing Comments Electronically:* Go to <https://www.Regulations.gov>. Enter "Docket ID AS17-06" in the Search box and click "Search." 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 comments at the ASC office, 1401 H Street NW., Suite 760, Washington, DC 20005. To make an appointment, please call Lori Schuster at (202) 595-7578.

FOR FURTHER INFORMATION CONTACT: James R. Park, Executive Director, at (202) 595-7575, or Alice M. Ritter, General Counsel, at (202) 595-7577, Appraisal Subcommittee, 1401 H Street NW., Suite 760, Washington, DC 20005.

SUPPLEMENTARY INFORMATION:

I. Background

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act

of 1989, as amended (Title XI), established the ASC.¹ The purpose of Title XI is to provide protection of Federal financial and public policy interests by upholding Title XI requirements for appraisals performed for federally related transactions.² Pursuant to Title XI, one of the ASC's core functions is to monitor the requirements established by the States³ for certification and licensing of appraisers qualified to perform appraisals in connection with federally related transactions. This is accomplished through periodic ASC Compliance Reviews of each State appraiser regulatory program (Appraiser Program) to determine compliance or lack thereof with Title XI, and to assess implementation of minimum requirements for credentialing of appraisers as adopted by the Appraiser Qualifications Board (*The Real Property Appraiser Qualification Criteria* or AQB Criteria).

Title XI as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act)⁴ expanded the ASC's core functions to include monitoring of the requirements established by States that elect to register and supervise the operations and activities of appraisal management companies⁵ (AMCs). States electing to register and supervise AMCs must implement minimum requirements in accordance with the AMC Rule.⁶ As a result, States with an

¹ The ASC Board is comprised of seven members. Five members are designated by the heads of the FFIEC agencies (Board of Governors of the Federal Reserve System [Board], Consumer Financial Protection Bureau [CFPB], Federal Deposit Insurance Corporation [FDIC], Office of the Comptroller of the Currency [OCC], and National Credit Union Administration [NCUA]). The other two members are designated by the heads of the Department of Housing and Urban Development (HUD) and the Federal Housing Finance Agency (FHFA).

² Refers to any real estate related financial transaction which: (a) A federal financial institutions regulatory agency engages in, contracts for, or regulates; and (b) requires the services of an appraiser. (Title XI § 1121(4), 12 U.S.C. 3350.)

³ The 50 States, the District of Columbia, and four Territories, which are the Commonwealth of Puerto Rico, Commonwealth of the Northern Mariana Islands, Guam, and United States Virgin Islands.

⁴ Public Law 111-203, 124 Stat. 1376.

⁵ Title XI § 1103(a)(1)(B), 12 U.S.C. 3332.

⁶ The Dodd-Frank Act added section 1124 to Title XI, *Appraisal Management Company Minimum Requirements*, which required the OCC, Board, FDIC, NCUA, CFPB, and FHFA to establish, by rule, minimum requirements for the registration and supervision of AMCs by States that elect to register and supervise AMCs pursuant to Title XI and the rules promulgated thereunder. (Title XI § 1124(a), 12 U.S.C. 3353(a).) Those rules were finalized and published on June 9, 2015, at 80 **Federal Register** 32658 with an effective date of August 10, 2015. (12 CFR 34.210-34.216; 12 CFR 225.190-225.196; 12 CFR 323.8-323.14; 12 CFR 1222.20-1222.26)

AMC regulatory program (AMC Program) will be evaluated during the ASC's Compliance Review to determine compliance or lack thereof with Title XI, and to assess implementation of the minimum requirements for State registration and supervision of AMCs as established by the AMC Rule. The amendments to Title XI by the Dodd-Frank Act also allow States with an AMC Program to add information about AMCs in their State to the National Registry of AMCs (AMC Registry). The proposed Policy Statements include guidance to the States regarding how AMC Programs will be evaluated during ASC Compliance Reviews.

II. Overview of Proposed Policy Statements

The ASC is issuing these proposed Policy Statements⁷ in three parts to provide States with the necessary information to maintain their Appraiser Programs and AMC Programs in compliance with Title XI and the rules promulgated thereunder:

> Part A, *Appraiser Program*—Policy Statements 1 through 7 correspond with the categories that are: (a) Evaluated during the Appraiser Program Compliance Review; and (b) included in the *ASC's Compliance Review Report of the Appraiser Program*.

> Part B, *AMC Program*—Policy Statements 8 through 11 correspond with the categories that are: (a) Evaluated during the AMC Program Compliance Review; and (b) included in the *ASC's Compliance Review Report of the AMC Program*.

> Part C, *Interim Sanctions*—Policy Statement 12 sets forth required procedures in the event that interim sanctions are imposed against a State by the ASC for non-compliance in either the Appraiser Program or the AMC Program.

The proposal also includes two appendices:

1. Appendix A provides an overview of the Compliance Review process; and
2. Appendix B provides a glossary of terms.

III. Statement-by-Statement

The following provides a section by section highlight of changes presented in the proposed Policy Statements.

Introduction and Purpose

The ASC proposes to expand the introduction to include the monitoring of States that elect to register and supervise the operations and activities

of AMCs, and to include an explanation of the proposed Policy Statements' three parts and appendices.

Part A: Appraiser Program

Policy Statement 1: Statutes, Regulations, Policies and Procedures Governing State Appraiser Programs

The ASC proposes to modify Policy Statement 1 to include a definition of trainee appraiser to better reflect how changes to Title XI affect Appraiser Programs with trainee requirements.

Policy Statement 2: Temporary Practice

The ASC proposes to modify Policy Statement 2 to clarify requirements for temporary practice and includes requirements to track temporary practice permits and maintain documentation.

Policy Statement 3: National Registry of Appraisers

The ASC proposes to modify Policy Statement 3 to clarify requirements regarding States' submission of registry fees and eligibility of appraisers for the Appraiser Registry.

Technical edits for clarification were made to Policy Statement 3 since the initial publication. The *Summary of Requirements* include the 5-day reporting requirement for disciplinary action consistent with the body of the Policy Statement, and clarify the requirement for States to adopt and implement a policy to protect right of access to the Appraiser Registry.

Policy Statement 4: Application Process

The ASC proposes to modify Policy Statement 4 to include additional guidance to States implementing AQB Criteria regarding the background of applicants for credentials and requires States to document applicant files with evidence supporting decisions made regarding individual appraisers. Policy Statement 4 as proposed also provides additional guidance on requirements for States to validate renewal requirements for appraisers and provides parameters for auditing education-related affidavits. Finally, Policy Statement 4 as proposed clarifies the requirement that States engage analysts who are knowledgeable about the *Uniform Standards of Professional Appraisal Practice* (USPAP) and document how the analysts are qualified.

Technical edits for clarification were made to Policy Statement 4 since the initial publication. The section titled *Processing of Applications* refers to "documentation" required rather than "files." In the section titled "*Validation Procedures, Objectives and Requirements*," the subsection

"*Selection of Work Product*" is renamed "*Experience Hours Validation*" to more accurately reflect the content of the subsection, and compliance with USPAP is moved to the following subsection titled "*USPAP Compliance*"; the subsection "*Determination of Experience Time Periods*" no longer restates AQB Criteria, but rather requires that time periods conform with AQB Criteria; and "*Supporting Documentation*" clarifies documentation required. The *Summary of Requirements* were modified to conform with these technical edits.

Policy Statement 5: Reciprocity

The ASC proposes to modify Policy Statement 5 to include a requirement that States obtain and maintain sufficient relevant documentation pertaining to an application for issuance of a credential by reciprocity.

Policy Statement 6: Education

The ASC proposes to modify Policy Statement 6 to clarify that States may not continue to accept AQB approved courses after the AQB's expiration date unless the course content is reviewed and approved by the State.

Policy Statement 7: State Agency Enforcement

The ASC proposes to modify Policy Statement 7 to clarify the requirement that States consider USPAP violations when investigating a complaint whether or not USPAP violations were the basis for the complaint.

Technical edits for clarification were made to Policy Statement 7 since the initial publication. A footnote was added to clarify that the one-year period for resolution of complaints is not intended to have the impact of a statute of limitation.

Part B: AMC Program

As proposed, Policy Statements 8, 9 & 10 duplicate the provisions of Policy Statements 1, 3 & 7 to every extent possible. The standard language is intentional and will create better understanding of the Policy Statements by the States as they will be able to anticipate how to comply based on their understanding of the Policy Statements they have been following. Differences are discussed below.

Policy Statement 8: Statutes, Regulations, Policies and Procedures Governing State AMC Programs

The ASC proposes a new Policy Statement 8 to reflect the statutory provision that States are not required to establish an AMC Program, but clarify for those States that establish AMC

⁷ These Policy Statements, adopted [date to be inserted when final], supersede all previous Policy Statements adopted by the ASC.

Programs the ASC oversight during ASC Compliance Reviews. As proposed, Policy Statement 8 reiterates that States with an AMC Program must: (1) Establish and maintain an AMC Program with the legal authority and mechanisms consistent with the AMC Rule; (2) impose requirements on AMCs consistent with the AMC Rule; and (3) enforce and document ownership limitations for State-registered AMCs. As proposed, Policy Statement 8 informs States that while they may have a more expansive definition of an AMC in their State statute, only AMCs that meet the federal definition in Title XI may be included on the AMC Registry.

Policy Statement 9: National Registry of AMCs (AMC Registry)

The ASC proposes a new Policy Statement 9 to clarify requirements for States with an AMC Program to maintain the AMC Registry in the same way they maintain the Appraiser Registry.

Technical edits for clarification were made to Policy Statement 9 since the initial publication. The *Summary of Requirements* includes the requirement for States to adopt and implement a policy to protect right of access to the AMC Registry.

Policy Statement 10: State Agency Enforcement

The ASC proposes a new Policy Statement 10 to clarify requirements for States' AMC enforcement programs in those States with an AMC Program.

Policy Statement 11: Statutory Implementation Period

The ASC proposes a new Policy Statement 11 to clarify the statutory implementation period and any extensions that may be granted.

Part C: Interim Sanctions

Policy Statement 12: Interim Sanctions

The ASC proposes a new Policy Statement 12 which modifies existing Policy Statement 8 to clarify interim sanctions which may be imposed on State Programs when those programs fail to be effective. The proposed procedures include due process provisions and rules of evidence, and would establish timeliness for proceedings.

IV. Request for Comment

The ASC seeks comment on all aspects of the proposed Policy Statements. In addition, the ASC requests comments on whether the proposed Policy Statements provide State Programs with the necessary information to understand the ASC's

expectations during a Compliance Review.

The text of the proposed Policy Statements is as follows:

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Introduction and Purpose

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as amended (Title XI) established the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC).⁸ The purpose of Title XI is to provide protection of Federal financial and public policy interests by upholding Title XI requirements for appraisals performed for federally related transactions. Specifically, those appraisals shall be performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.

Pursuant to Title XI, one of the ASC's core functions is to monitor the requirements established by the States⁹ for certification and licensing of appraisers qualified to perform appraisals in connection with federally related transactions.¹⁰ Title XI as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act)¹¹ expanded the ASC's core functions to include monitoring of the requirements established by States that elect to

⁸ The ASC board is made up of seven members. Five members are designated by the heads of the FFIEC agencies (Board of Governors of the Federal Reserve System, Bureau of Consumer Financial Protection, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, and National Credit Union Administration). The other two members are designated by the heads of the Department of Housing and Urban Development and the Federal Housing Finance Agency.

⁹ See Appendix B, Glossary of Terms, for the definition of "State."

¹⁰ See Appendix B, Glossary of Terms, for the definition of "federally related transaction."

¹¹ Public Law. 111–203, 124 Stat. 1376.

register and supervise the operations and activities of appraisal management companies¹² (AMCs).¹³

The ASC performs periodic Compliance Reviews¹⁴ of each State appraiser regulatory program (Appraiser Program) to determine compliance or lack thereof with Title XI, and to assess implementation of minimum requirements for credentialing of appraisers as adopted by the Appraiser Qualifications Board (*The Real Property Appraiser Qualification Criteria* or AQB Criteria). As a result of the Dodd-Frank Act amendments to Title XI, States with an AMC regulatory program (AMC Program) will be evaluated during the Compliance Review to determine compliance or lack thereof with Title XI, and to assess implementation of the minimum requirements for State registration and supervision of AMCs as established by the

AMC Rule.¹⁵

The ASC is issuing these revised Policy Statements¹⁶ in three parts to provide States with the necessary information to maintain their Appraiser Programs and AMC Programs in compliance with Title XI:

➤ Part A, *Appraiser Program*—Policy Statements 1 through 7 correspond with the categories that are: (a) Evaluated during the Appraiser Program Compliance Review; and (b) included in the *ASC's Compliance Review Report of the Appraiser Program*.

➤ Part B, *AMC Program*—Policy Statements 8 through 11 correspond with the categories that are: (a) Evaluated during the AMC Program Compliance Review; and (b) included in the *ASC's Compliance Review Report of the AMC Program*.

➤ Part C, *Interim Sanctions*—Policy Statement 12 sets forth required procedures in the event that interim sanctions are imposed against a State by the ASC for non-compliance in either

the Appraiser Program or the AMC Program.

Part A: Appraiser Program

Policy Statement 1

Statutes, Regulations, Policies and Procedures Governing State Appraiser Programs

A. State Regulatory Structure

Title XI requires the ASC to monitor each State appraiser certifying and licensing agency for the purpose of determining whether each such agency has in place policies, practices and procedures consistent with the requirements of Title XI.¹⁷ The ASC recognizes that each State may have legal, fiscal, regulatory or other factors that may influence the structure and organization of its Appraiser Program. Therefore, a State has flexibility to structure its Appraiser Program so long as it meets its Title XI-related responsibilities.

States should maintain an organizational structure for appraiser certification, licensing and supervision that avoids conflicts of interest. A State agency may be headed by a board, commission or an individual. State board¹⁸ or commission members, or employees in policy or decision-making positions, should understand and adhere to State statutes and regulations governing performance of responsibilities consistent with the highest ethical standards for public service. In addition, Appraiser Programs using private entities or contractors should establish appropriate internal policies, procedures and safeguards to promote compliance with the State agency's responsibilities under Title XI and these Policy Statements.

B. Funding and Staffing

The Dodd-Frank Act amended Title XI to require the ASC to determine whether States have sufficient funding and staffing to meet their Title XI requirements. Compliance with this provision requires that a State must provide its Appraiser Program with funding and staffing sufficient to carry out its Title XI-related duties. The ASC evaluates the sufficiency of funding and staffing as part of its review of all aspects of an Appraiser Program's effectiveness, including the adequacy of State boards, committees, or commissions responsible for carrying out Title XI-related duties.

C. Minimum Criteria

Title XI requires States to adopt and/or implement all relevant AQB Criteria. Requirements established by a State for certified residential or certified general appraisers, as well as requirements established for licensed appraisers, trainee appraisers and supervisory appraisers must meet or exceed applicable AQB Criteria.

D. Federally Recognized Appraiser Classifications

State Certified Appraisers

“State certified appraisers” means those individuals who have satisfied the requirements for residential or general certification in a State whose criteria for certification meet or exceed the applicable minimum AQB Criteria. Permitted scope of practice and designation for State certified residential or certified general appraisers must be consistent with State and Federal laws, including regulations and supplementary guidance.

State Licensed Appraisers

“State licensed appraisers” means those individuals who have satisfied the requirements for licensing in a State whose criteria for licensing meet or exceed the applicable minimum AQB Criteria. The permitted scope of practice and designation for State licensed appraisers must be consistent with State and Federal laws, including regulations and supplementary guidance.

Trainee Appraisers

“Trainee appraisers” means those individuals who have satisfied the requirements for credentialing in a State whose criteria for credentialing meet or exceed the applicable minimum AQB Criteria. Any minimum qualification requirements established by a State for individuals in the position of “trainee appraiser” or “supervisory appraiser” must meet or exceed the applicable minimum AQB Criteria. ASC staff will evaluate State designations such as “registered appraiser,” “apprentice appraiser,” “provisional appraiser,” or any other similar designation to determine if, in substance, such designation is consistent with a “trainee appraiser” designation and, therefore, administered to comply with Title XI. The permitted scope of practice and designation for trainee appraisers must be consistent with State and Federal laws, including regulations and supplementary guidance.

Any State or Federal agency may impose additional appraiser qualification requirements for trainee, State licensed, certified residential or

¹² Title XI § 1103(a)(1)(B), 12 U.S.C. 3332.

¹³ See Appendix B, Glossary of Terms, for the definition of “appraisal management company” or AMC.

¹⁴ See Appendix A, Compliance Review Process.

¹⁵ The Dodd-Frank Act required the Office of the Comptroller of the Currency; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; National Credit Union Administration; Bureau of Consumer Financial Protection; and Federal Housing Finance Agency to establish, by rule, minimum requirements to be imposed by a participating State appraiser certifying and licensing agency on AMCs doing business in the State. (Title XI § 1124(a), 12 U.S.C. 3353(a).) Those rules were finalized and published on June 9, 2015, at 80 *Federal Register* 32658 with an effective date of August 10, 2015. (12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; 12 CFR 1222.20–1222.26.)

¹⁶ These Policy Statements, adopted [date to be inserted when final], supersede all previous Policy Statements adopted by the ASC.

¹⁷ Title XI § 1118(a), 12 U.S.C. 3347.

¹⁸ See Appendix B, *Glossary of Terms*, for the definition of “State board.”

certified general classifications, if they consider such requirements necessary to carry out their responsibilities under Federal and/or State statutes and regulations, so long as the additional qualification requirements do not preclude compliance with AQB Criteria.

E. Non-Federally Recognized Credentials

States using non-federally recognized credentials or designations¹⁹ must ensure that they are easily distinguished from the federally recognized credentials.

F. Appraisal Standards

Title XI and the Federal financial institutions regulatory agencies' regulations mandate that all appraisals performed in connection with federally related transactions be in written form, prepared in accordance with generally accepted appraisal standards as promulgated by the Appraisal Standards Board (ASB) in the Uniform Standards of Professional Appraisal Practice (USPAP), and be subject to appropriate review for compliance with USPAP.²⁰ States that have incorporated USPAP into State law should ensure that statutes or regulations are updated timely to adopt the current version of USPAP, or if State law allows, automatically incorporate the latest version of USPAP as it becomes effective. States should consider ASB Advisory Opinions, Frequently Asked Questions, and other written guidance issued by the ASB regarding interpretation and application of USPAP.

Any State or Federal agency may impose additional appraisal standards if they consider such standards necessary to carry out their responsibilities, so long as additional appraisal standards do not preclude compliance with USPAP or the Federal financial institutions regulatory agencies' appraisal regulations for work performed for federally related transactions.

The Federal financial institutions regulatory agencies' appraisal regulations define "appraisal" and identify which real estate-related financial transactions require the services of a State certified or licensed appraiser. These regulations define "appraisal" as a "written statement independently and impartially prepared by a qualified appraiser setting forth an

opinion as to the market value of an adequately described property as of a specific date(s) supported by the presentation and analysis of relevant market information." Per these regulations, an appraiser performing an appraisal review which includes the reviewer providing his or her own opinion of value constitutes an appraisal. Under these same regulations, an appraisal review that does not include the reviewer providing his or her own opinion of value does not constitute an appraisal. Therefore, under the Federal financial institutions regulatory agencies' regulations, only those transactions that involve appraisals for federally related transactions require the services of a State certified or licensed appraiser.

G. Exemptions

Title XI and the Federal financial institutions regulatory agencies' regulations specifically require the use of State certified or licensed appraisers in connection with the appraisal of certain real estate-related financial transactions.²¹ A State may not exempt any individual or group of individuals from meeting the State's certification or licensing requirements if the individual or group member performs an appraisal when Federal statutes and regulations require the use of a certified or licensed appraiser. For example, an individual who has been exempted by the State from its appraiser certification or licensing requirements because he or she is an officer, director, employee or agent of a federally regulated financial institution would not be permitted to perform an appraisal in connection with a federally related transaction.

H. ASC Staff Attendance at State Board Meetings

The efficacy of the ASC's Compliance Review process rests on the ASC's ability to obtain reliable information about all areas of a State's Appraiser Program. ASC staff regularly attends open State board meetings as part of the on-site Compliance Review process. States are expected to make available for review by ASC staff minutes of closed meetings and executive sessions. States are encouraged to allow ASC staff to attend closed and executive sessions of State board meetings where such attendance would not violate State law or regulation or be inconsistent with other legal obligations of the State board. ASC staff is obligated to protect information obtained during the Compliance Review process concerning

the privacy of individuals and any confidential matters.

I. Summary of Requirements

1. States must require that appraisals be performed in accordance with the latest version of USPAP.²²
2. States must, at a minimum, adopt and/or implement all relevant AQB Criteria.²³
3. States must have policies, practices and procedures consistent with Title XI.²⁴
4. States must have funding and staffing sufficient to carry out their Title XI-related duties.²⁵
5. States must use proper designations and permitted scope of practice for certified residential; certified general; licensed; and trainee classifications.²⁶
6. State board members, and any persons in policy or decision-making positions, must perform their responsibilities consistent with Title XI.²⁷
7. States' certification and licensing requirements must meet the minimum requirements set forth in Title XI.²⁸
8. State requirements for trainee appraisers and supervisory appraisers must meet or exceed the AQB Criteria.
9. State agencies must be granted adequate authority by the State to maintain an effective regulatory Appraiser Program in compliance with Title XI.²⁹

Policy Statement 2

Temporary Practice

A. Requirement for Temporary Practice

Title XI requires State agencies to recognize, on a temporary basis, the certification or license of an out-of-State appraiser entering the State for the purpose of completing an appraisal assignment³⁰ for a federally related transaction. States are not, however, required to grant temporary practice permits to trainee appraisers. The out-of-State appraiser must register with the State agency in the State of temporary practice (Host State). A State may determine the process necessary for

²² Title XI § 1101, 12 U.S.C. 3331; Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

²³ Title XI §§ 1116(a), (c) and (e), 12 U.S.C. 3345; Title XI § 1118(a), 12 U.S.C. 3347.

²⁴ Title XI § 1118(a), 12 U.S.C. 3347.

²⁵ *Id.*; Title XI § 1118(b), 12 U.S.C. 3347.

²⁶ Title XI §§ 1116(a), (c) and (e), 12 U.S.C. 3345; Title XI § 1118(a), 12 U.S.C. 3347; Title XI § 1113, 12 U.S.C. 3342; AQB *Real Property Appraiser Qualification Criteria*.

²⁷ Title XI § 1118(a), 12 U.S.C. 3347.

²⁸ Title XI §§ 1116(a), (c) and (e), 12 U.S.C. 3345.

²⁹ Title XI § 1118(b), 12 U.S.C. 3347.

³⁰ See Appendix B, *Glossary of Terms*, for the definition of "assignment."

¹⁹ See Appendix B, *Glossary of Terms*, for the definition of "non-federally recognized credentials or designations."

²⁰ See Appendix B, *Glossary of Terms* for the definition of "Uniform Standards of Professional Appraisal Practice."

²¹ Title XI § 1112, 12 U.S.C. 3341; Title XI § 1113, 12 U.S.C. 3342; Title XI § 1114, 12 U.S.C. 3343.

“registration” provided such process complies with Title XI and does not impose “excessive fees or burdensome requirements,” as determined by the ASC.³¹ Thus, a credentialed appraiser³² from State A has a statutory right to enter State B (the Host State) to perform an assignment concerning a federally related transaction, so long as the appraiser registers with the State agency in State B prior to performing the assignment. Though Title XI contemplates reasonably free movement of credentialed appraisers across State lines, an out-of-State appraiser must comply with the Host State’s real estate appraisal statutes and regulations and is subject to the Host State’s full regulatory jurisdiction. States should utilize the National Registry of Appraisers to verify credential status on applicants for temporary practice.

B. Excessive Fees or Burdensome Requirements

Title XI prohibits States from imposing excessive fees or burdensome requirements, as determined by the ASC, for temporary practice.³³ Adherence by State agencies to the following mandates and prohibitions will deter the imposition of excessive fees or burdensome requirements.

Host State agencies must:

- a. Issue temporary practice permits on an assignment basis;
- b. issue temporary practice permits within five business days of receipt of a completed application, or notify the applicant and document the file as to the circumstances justifying delay or other action;
- c. issue temporary practice permits designating the permit’s effective date;
- d. take regulatory responsibility for a temporary practitioner’s unethical, incompetent and/or fraudulent practices performed while in the State;
- e. notify the appraiser’s home State agency³⁴ in the case of disciplinary action concerning a temporary practitioner;
- f. allow at least one temporary practice permit extension through a streamlined process;
- g. track all temporary practice permits using a permit log which includes the name of the applicant, date application received, date completed application received, date of issuance, and date of expiration, if any (States are strongly encouraged to maintain this information in an electronic, sortable format); and

h. maintain documentation sufficient to demonstrate compliance with this Policy Statement.

Host State agencies may not:

- a. Limit the valid time period of a temporary practice permit to less than 6 months (unless the applicant requests a specific end date and the applicant is allowed an extension if required to complete the assignment, the applicant’s credential is no longer in active status during that period of time);
- b. limit an appraiser to one temporary practice permit per calendar year;³⁵
- c. charge a temporary practice permit fee exceeding \$250, including one extension fee;
- d. impose State appraiser qualification requirements for education, experience and/or exam upon temporary practitioners;
- e. require temporary practitioners to obtain a certification or license in the State of temporary practice;
- f. require temporary practitioners to affiliate with an in-State licensed or certified appraiser;
- g. refuse to register licensed or certified appraisers seeking temporary practice in a State that does not have a licensed or certified level credential; or
- h. prohibit temporary practice.

Home State agencies may not:

- a. Delay the issuance of a written “letter of good standing” or similar document for more than five business days after receipt of a request; or
- b. fail to consider and, if appropriate, take disciplinary action when one of its certified or licensed appraisers is disciplined by another State.

C. Summary of Requirements

1. States must recognize, on a temporary basis, appraiser credentials issued by another State if the property to be appraised is part of a federally related transaction.³⁶
2. State agencies must adhere to mandates and prohibitions as determined by the ASC that deter the imposition of excessive fees or burdensome requirements for temporary practice.³⁷

³⁵ State agencies may establish by statute or regulation a policy that places reasonable limits on the number of times an out-of-State certified or licensed appraiser may exercise his or her temporary practice rights in a given year. If such a policy is not established, a State agency may choose not to honor an out-of-State certified or licensed appraiser’s temporary practice rights if it has made a determination that the appraiser is abusing his or her temporary practice rights and is regularly engaging in real estate appraisal services within the State.

³⁶ Title XI § 1122(a)(1), 12 U.S.C. 3351.

³⁷ Title XI § 1122(a)(2), 12 U.S.C. 3351.

Policy Statement 3

National Registry of Appraisers

A. Requirements for the National Registry of Appraisers

Title XI requires the ASC to maintain a National Registry of State certified and licensed appraisers who are eligible to perform appraisals in federally related transactions (Appraiser Registry).³⁸ Title XI further requires the States to transmit to the ASC: (1) A roster listing individuals who have received a State certification or license in accordance with Title XI; (2) reports on the issuance and renewal of licenses and certifications, sanctions, disciplinary actions, revocations and suspensions; and (3) the registry fee as set by the ASC³⁹ from individuals who have received certification or licensing. States must notify the ASC as soon as practicable if a credential holder listed on the Appraiser Registry does not qualify for the credential held.

Roster and registry fee requirements apply to all individuals who receive State certifications or licenses, originally or by reciprocity, whether or not the individuals are, in fact, performing or planning to perform appraisals in federally related transactions. If an appraiser is certified or licensed in more than one State, the appraiser is required to be on each State’s roster of certified or licensed appraisers, and a registry fee is due from each State in which the appraiser is certified or licensed.

Only AQB-compliant certified and licensed appraisers in active status on the Appraiser Registry are eligible to perform appraisals in connection with federally related transactions. Only those appraisers whose registry fees have been transmitted to the ASC will be eligible to be on the Appraiser Registry for the period subsequent to payment of the fee.

Some States may give State certified or licensed appraisers an option to not pay the registry fee. If a State certified or licensed appraiser chooses not to pay the registry fee, then the Appraiser Program must ensure that any potential user of that appraiser’s services is aware that the appraiser is not eligible to perform appraisals for federally related transactions. The Appraiser Program must place a conspicuous notice directly on the face of any evidence of the appraiser’s authority to appraise

³⁸ Title XI § 1103(a)(3), 12 U.S.C. 3332.

³⁹ Title XI § 1109, *Roster of State certified or licensed appraisers; authority to collect and transmit fees*, requires the ASC to consider at least once every 5 years whether to adjust the dollar amount of the registry fees to account for inflation. (Title XI § 1109(a), 12 U.S.C. 3338.)

³¹ Title XI § 1122(a)(2), 12 U.S.C. 3351.

³² See Appendix B, *Glossary of Terms*, for the definition of “credentialed appraisers.”

³³ Title XI § 1122(a)(2), 12 U.S.C. 3351.

³⁴ See Appendix B, *Glossary of Terms*, for the definition of “home State agency.”

stating, “Not Eligible To Appraise Federally Related Transactions,” and the appraiser must not be listed in active status on the Appraiser Registry.

The ASC extranet application allows States to update their appraiser credential information directly to the Appraiser Registry. Only Authorized Registry Officials are allowed to request access for their State personnel (see section C below). The ASC will issue a User Name and Password to the designated State personnel responsible for that State’s Appraiser Registry entries. Designated State personnel are required to protect the right of access, and not share their User Name or Password with anyone. States must adopt and implement a written policy to protect the right of access, as well as the ASC issued User Name and Password. The ASC will provide detailed specifications regarding the data elements on the Appraiser Registry.

B. Registry Fee and Invoicing Policies

Each State must remit to the ASC the annual registry fee, as set by the ASC, for State certified or licensed appraisers within the State to be listed on the Appraiser Registry. Requests to prorate refunds or partial-year registrations will not be granted. If a State collects multiple-year fees for multiple-year certifications or licenses, the State may choose to remit to the ASC the total amount of the multiple-year registry fees or the equivalent annual fee amount. The ASC will, however, record appraisers on the Appraiser Registry only for the number of years for which the ASC has received payment. Nonpayment by a State of an appraiser’s registry fee may result in the status of that appraiser being listed as “inactive.” States must reconcile and pay registry invoices in a timely manner (45 calendar days after the invoice date). When a State’s failure to pay a past due invoice results in appraisers being listed as inactive, the ASC will not change those appraisers back to active status until payment is received from the State. An inactive status on the Appraiser Registry, for whatever the reason, renders an appraiser ineligible to perform appraisals in connection with federally related transactions.

C. Access to Appraiser Registry Data

The ASC Web site provides free access to the public portion of the Appraiser Registry at www.asc.gov. The public portion of the Appraiser Registry data may be downloaded using predefined queries or user-customized applications.

Access to the full database, which includes non-public data (e.g., certain

disciplinary action information), is restricted to authorized State and Federal regulatory agencies. States must designate a senior official, such as an executive director, to serve as the State’s Authorized Registry Official, and provide to the ASC, in writing, information regarding the designated Authorized Registry Official. States must ensure that the authorization information provided to the ASC is updated and accurate.

D. Information Sharing

Information sharing (routine exchange of certain information among lenders, governmental entities, State agencies and the ASC) is essential for carrying out the purposes of Title XI. Title XI requires the ASC, any other Federal agency or instrumentality, or any federally recognized entity to report any action of a State certified or licensed appraiser that is contrary to the purposes of Title XI to the appropriate State agency for disposition. The ASC believes that full implementation of this Title XI requirement is vital to the integrity of the system of State appraiser regulation. States are encouraged to develop and maintain procedures for sharing of information among themselves.

The Appraiser Registry’s value and usefulness are largely dependent on the quality and frequency of State data submissions. Accurate and frequent data submissions from all States are necessary to maintain an up-to-date Appraiser Registry. States must submit appraiser data in a secure format to the ASC at least monthly. If there are no changes to the data, the State agency must notify the ASC of that fact in writing. States are encouraged to submit data as frequently as possible.

States must report all disciplinary action⁴⁰ taken against an appraiser to the ASC via the extranet application within 5 business days after the disciplinary action is final, as determined by State law.⁴¹ States not reporting via the extranet application must provide, in writing to the ASC, a description of the circumstances preventing compliance with this requirement.⁴²

For the most serious disciplinary actions (i.e., voluntary surrenders, suspensions and revocations, or any action that interrupts a credential holder’s ability to practice), the appraiser’s status must be changed on the Appraiser Registry to “inactive,”

⁴⁰ See Appendix B, *Glossary of Terms*, for the definition of “disciplinary action.”

⁴¹ *Id.*

⁴² Title XI § 1118(a), 12 U.S.C. 3347.

thereby making the appraiser ineligible to perform appraisals for federally related transactions or other transactions requiring the use of State certified or licensed appraisers.⁴³

Title XI also contemplates the reasonably free movement of certified and licensed appraisers across State lines. This freedom of movement assumes, however, that certified and licensed appraisers are, in all cases, held accountable and responsible for their actions while performing appraisal activities.

E. Summary of Requirements

1. States must reconcile and pay registry invoices in a timely manner (45 calendar days after the invoice date).⁴⁴

2. States must report all disciplinary action taken against an appraiser to the ASC via the extranet application within 5 business days after the disciplinary action is final, as determined by State law.⁴⁵

3. States not reporting via the extranet application must provide, in writing to the ASC, a description of the circumstances preventing compliance with this requirement.⁴⁶

4. For the most serious disciplinary actions (i.e., voluntary surrenders, suspensions and revocations, or any action that interrupts a credential holder’s ability to practice), the appraiser’s status must be changed on the Appraiser Registry to “inactive,” thereby making the appraiser ineligible to perform appraisals for federally related transactions or other transactions requiring the use of State certified or licensed appraisers.⁴⁷

5. States must designate a senior official, such as an executive director, who will serve as the State’s Authorized Registry Official, and provide to the ASC, in writing, information regarding the selected Authorized Registry Official, and any individual(s) authorized to act on their behalf.⁴⁸

6. States must ensure that the authorization information provided to the ASC is updated and accurate.⁴⁹

7. States must adopt and implement a written policy to protect the right of access to the Appraiser Registry, as well as the ASC issued User Name and Password.⁵⁰

⁴³ *Id.*

⁴⁴ Title XI § 1118(a), 12 U.S.C. 3347; Title XI § 1109(a), 12 U.S.C. 3338.

⁴⁵ *Id.*

⁴⁶ Title XI § 1118(a), 12 U.S.C. 3347.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

8. States must ensure the accuracy of all data submitted to the Appraiser Registry.⁵¹

9. States must submit appraiser data (other than discipline) to the ASC at least monthly. If a State's data does not change during the month, the State agency must notify the ASC of that fact in writing.⁵²

10. If a State certified or licensed appraiser chooses not to pay the registry fee, the State must ensure that any potential user of that appraiser's services is aware that the appraiser's certificate or license is limited to performing appraisals only in connection with non-federally related transactions.⁵³

Policy Statement 4

Application Process

AQB Criteria sets forth the minimum education, experience and examination requirements applicable to all States for credentialing of real property appraisers (certified, licensed, trainee and supervisory). In the application process, States must, at a minimum, employ a reliable means of validating both education and experience credit claimed by applicants for credentialing.⁵⁴ Effective January 1, 2017, AQB Criteria also requires States to assess whether an applicant for a real property appraiser credential possesses a background that would not call into question public trust. The basis for such assessment shall be a matter left to the individual States, and must, at a minimum, be documented to the file.

A. Processing of Applications

States must process applications in a consistent, equitable and well-documented manner. Applications for credentialing should be timely processed by State agencies (within 90 calendar days after receipt of a completed application). Any delay in the processing of applications must be sufficiently documented in the file to explain the delay. States must ensure appraiser credential applications submitted for processing do not contain invalid examinations as established by AQB Criteria.

States must obtain and maintain sufficient relevant documentation pertaining to an application for issuance, upgrade and renewal of a credential so as to enable understanding of the facts and determinations in the

matter and the reasons for those determinations. Documentation must include:

1. Application receipt date;
2. Education;
3. Experience;
4. Examination;
5. Continuing education; and
6. Any administrative or disciplinary

action taken in connection with the application process, including results of any continuing education audit.

B. Qualifying Education for Initial or Upgrade Applications

States must verify that:

- (1) The applicant's claimed education courses are acceptable under AQB Criteria; and
- (2) the applicant has successfully completed courses consistent with AQB Criteria for the appraiser credential sought.

States may not accept an affidavit for claimed qualifying education from applicants for any federally recognized credential.⁵⁵ States must maintain adequate documentation to support verification of education claimed by applicants.

C. Continuing Education for Reinstatement and Renewal Applications

1. Reinstatement Applications

States must verify that:

- (1) The applicant's claimed continuing education courses are acceptable under AQB Criteria; and
- (2) the applicant has successfully completed all continuing education consistent with AQB Criteria for reinstatement of the appraiser credential sought.

States may not accept an affidavit for continuing education claimed from applicants for reinstatement. Applicants for reinstatement must submit documentation to support claimed continuing education and States must maintain adequate documentation to support verification of claimed education.

2. Renewal Applications

States must ensure that continuing education courses for renewal of an appraiser credential are consistent with AQB Criteria and that continuing

education hours required for renewal of an appraiser credential were completed consistent with AQB Criteria. States may accept affidavits for continuing education credit claimed for credential renewal so long as the State implements a reliable validation procedure that adheres to the following objectives and requirements:

a. Validation Objectives

The State's validation procedures must be structured to permit acceptable projections of the sample results to the entire population of subject appraisers. Therefore, the sample must include an adequate number of affidavits selected from each federally recognized credential level to have a reasonable chance of identifying appraisers who fail to comply with AQB Criteria, and the sample must include a statistically relevant representation of the appraiser population being sampled.

b. Minimum Standards

(1) Validation must include a prompt post-approval audit. Each audit of an affidavit for continuing education credit claimed must be completed within 60 business days from the date the credential is scheduled for renewal (based on the credential's expiration date). To ensure the audit is a statistically relevant representation, a sampling of credentials that were renewed after the scheduled expiration date and/or beyond the date the sample was selected, must also be audited to ensure that a credential holder may not avoid being selected for a continuing education audit by renewing early or late.

(2) States must audit the continuing education-related affidavit for each credentialed appraiser selected in the sampling procedure.

(3) States must determine that education courses claimed conform to AQB Criteria and that the appraiser successfully completed each course.

(4) When a State determines that an appraiser's continuing education does not meet AQB Criteria, and the appraiser has failed to complete any remedial action offered, the State must take appropriate action to suspend the appraiser's eligibility to perform appraisals in federally related transactions until such time that the requisite continuing education has been completed. The State must notify the ASC within five (5) business days after taking such action in order for the appraiser's record on the Appraiser Registry to be updated appropriately.

(5) If a State determines that a renewal applicant knowingly falsely attested to completing the continuing education

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ Includes applications for credentialing of trainee, licensed, certified residential or certified general classifications.

⁵⁵ If a State accepts education-related affidavits from applicants for initial licensure in any non-certified classification, upon the appraiser's application to upgrade to a certified classification, the State must require documentation to support the appraiser's educational qualification for the certified classification, not just the incremental amount of education required to move from the non-certified to the certified classification. This requirement applies to all federally recognized credentials.

required by AQB Criteria, the State must take appropriate administrative and/or disciplinary action and report such action, if deemed to be discipline, to the ASC within five (5) business days.

(6) If more than ten percent of the audited appraisers fail to meet the AQB Criteria, the State must take remedial action⁵⁶ to address the apparent weakness of its affidavit process. The ASC will determine on a case-by-case basis whether remedial actions are effective and acceptable.

(7) In the case of a renewal being processed after the credential's expiration date, but within the State's allowed grace period for a late renewal, the State must establish a reliable process to audit affidavits for continuing education (*e.g.*, requiring documentation of all continuing education).

c. Documentation

States must maintain adequate documentation to support its affidavit renewal and audit procedures and actions.

d. List of Education Courses

To promote accountability, the ASC encourages States accepting affidavits for continuing education credit claimed for credential renewal to require that the appraiser provide a list of courses to support the affidavit.

D. Experience for Initial or Upgrade Applications

States must ensure that appraiser experience logs conform to AQB Criteria. States may not accept an affidavit for experience credit claimed by applicants for any federally recognized credential.⁵⁷

⁵⁶ For example:

(1) A State may conduct an additional audit using a higher percentage of audited appraisers; or

(2) A State may publicly post action taken to sanction non-compliant appraisers to increase awareness in the appraiser community of the importance of compliance with continuing education requirements.

⁵⁷ See Policy Statement 1D and E for discussion of "federally recognized credential" and "non-federally recognized credential." If prior to July 1, 2013, a State accepted experience-related affidavits from applicants for initial licensure in any non-certified classification, upon the appraiser's application to upgrade to a certified classification, the State must require experience documentation to support the appraiser's qualification for the certified classification, not just the incremental amount of experience required to move from the non-certified to the certified classification. For example, if a State accepted an experience affidavit from an appraiser to support the appraiser's initial hours to qualify for the licensed classification, and subsequently that appraiser applies to upgrade to the certified residential classification, the State must require documentation to support the full experience hours required for the certified residential classification, not just the difference in hours between the two classifications.

1. Validation Required

States must implement a reliable validation procedure to verify that each applicant's experience meets AQB Criteria, including but not limited to, being USPAP compliant and containing the required number of hours and months.

2. Validation Procedures, Objectives and Requirements

a. Experience Hours Validation

States must determine the hours and time period claimed on the experience log are accurate. Appraiser Program staff or State board members must select the work product to validate the experience hours claimed; applicants may not have any role in this selection process.

b. USPAP Compliance

States must analyze a representative sample of the applicant's work product for compliance with USPAP. For appraisal experience to be acceptable under AQB Criteria, it must be USPAP compliant. States must exercise due diligence in determining whether submitted documentation of experience or work product demonstrates compliance with USPAP. Persons analyzing work product for USPAP compliance must be knowledgeable about appraisal practice and USPAP, and States must be able to document how such persons are so qualified.

c. Determination of Experience Time Periods

Experience time periods must conform to requirements set forth in the AQB Criteria for the credential sought.

d. Supporting Documentation

States must maintain adequate documentation to support validation methods. The applicant's file, either electronic or paper, must include the information necessary to identify each appraisal assignment selected to validate the experience hours claimed and each appraisal assignment analyzed by the State for USPAP compliance, notes, letters and/or reports prepared by the official(s) evaluating the report for USPAP compliance, and any correspondence exchanged with the applicant regarding the appraisals submitted. This supporting documentation may be discarded upon the completion of the first ASC Compliance Review performed after the credential issuance or denial for that applicant.

E. Examination

States must ensure that an appropriate AQB-approved qualifying examination

is administered for each of the federally recognized appraiser classifications requiring an examination.

F. Summary of Requirements

Processing of Applications

1. States must process applications in a consistent, equitable and well-documented manner.⁵⁸

2. States must ensure appraiser credential applications submitted for processing do not contain invalid examinations as established by AQB Criteria.⁵⁹

3. States must obtain and maintain sufficient relevant documentation pertaining to an application for issuance, upgrade or renewal of a credential so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations.⁶⁰

Education

1. States must verify that the applicant's claimed education courses are acceptable under AQB Criteria, whether for initial credentialing, renewal, upgrade or reinstatement.⁶¹

2. States must verify that the applicant has successfully completed courses consistent with AQB Criteria for the appraiser credential sought, whether for initial credentialing, renewal, upgrade or reinstatement.⁶²

3. States must maintain adequate documentation to support verification.⁶³

4. States may not accept an affidavit for education claimed from applicants for any federally recognized credential.⁶⁴

5. States may not accept an affidavit for continuing education claimed from applicants for reinstatement.⁶⁵

6. States may accept affidavits for continuing education credit claimed for credential renewal so long as the State implements a reliable validation procedure.⁶⁶

7. Audits of affidavits for continuing education credit claimed must be completed within sixty (60) business days from the date the credential is scheduled for renewal (based on the credential's expiration date).⁶⁷

8. In the case of a renewal being processed after the credential's

⁵⁸ Title XI § 1118(a), 12 U.S.C. 3347.

⁵⁹ Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

⁶⁰ Title XI § 1118(a), 12 U.S.C. 3347.

⁶¹ *Id.*

⁶² *Id.*

⁶³ Title XI § 1118(a), 12 U.S.C. 3347.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

⁶⁷ Title XI § 1118(a), 12 U.S.C. 3347.

expiration date, but within the State's allowed grace period for a late renewal, the State must establish a reliable process to audit affidavits for continuing education (e.g., requiring documentation of all continuing education).⁶⁸

9. States are required to take remedial action when it is determined that more than ten percent of audited appraiser's affidavits for continuing education credit claimed fail to meet the minimum AQB Criteria.⁶⁹

10. States are required to take appropriate administrative and/or disciplinary action when it is determined that an applicant knowingly falsely attested to completing continuing education.⁷⁰

11. When a State determines that an appraiser's continuing education does not meet AQB Criteria, and the appraiser has failed to complete any remedial action offered, the State must take appropriate action to suspend the appraiser's eligibility to perform appraisals in federally related transactions until such time that the requisite continuing education has been completed. The State must notify the ASC within five (5) business days after taking such action in order for the appraiser's record on the Appraiser Registry to be updated appropriately.⁷¹

Experience

1. States may not accept an affidavit for experience credit claimed from applicants for any federally recognized credential.⁷²

2. States must ensure that appraiser experience logs conform to AQB Criteria.⁷³

3. States must use a reliable means of validating appraiser experience claims on all initial or upgrade applications for appraiser credentialing.⁷⁴

4. States must select the work product to validate the experience hours claimed on all initial or upgrade applications for appraiser credentialing.⁷⁵

5. States must analyze a representative sample of the applicant's work product for compliance with USPAP on all initial or upgrade applications for appraiser credentialing.⁷⁶

6. States must exercise due diligence in determining whether submitted

documentation of experience or work product demonstrates compliance with USPAP on all initial or upgrade applications for appraiser credentialing.⁷⁷

7. Persons analyzing work product for USPAP compliance must be knowledgeable about appraisal practice and USPAP, and States must be able to document how such persons are so qualified.⁷⁸

8. Experience time periods must conform to requirements set forth in the AQB Criteria for the credential sought.⁷⁹

Examination

1. States must ensure that an appropriate AQB-approved qualifying examination is administered for each of the federally recognized credentials requiring an examination.⁸⁰

Policy Statement 5

Reciprocity

A. Reciprocity Policy

Title XI contemplates the reasonably free movement of certified and licensed appraisers across State lines. The ASC monitors Appraiser Programs for compliance with the reciprocity provision of Title XI as amended by the Dodd-Frank Act.⁸¹ Title XI requires that in order for a State's appraisers to be eligible to perform appraisals for federally related transactions, the State must have a policy in place for issuing reciprocal credentials IF:

a. The appraiser is coming from a State (Home State) that is "in compliance" with Title XI as determined by the ASC; AND

b. (i) the appraiser holds a valid credential from the Home State; AND (ii) the credentialing requirements of the Home State⁸² meet or exceed those of the reciprocal credentialing State (Reciprocal State).⁸³

An appraiser relying on a credential from a State that does not have such a policy in place may not perform appraisals for federally related transactions. A State may be more lenient in the issuance of reciprocal credentials by implementing a more open door policy. However, States cannot impose additional impediments to obtaining reciprocal credentials.

For purposes of implementing the reciprocity policy, States with an ASC

Finding⁸⁴ of "Poor" do not satisfy the "in compliance" provision for reciprocity. Therefore, States are not required to recognize, for purposes of granting a reciprocal credential, the license or certification of an appraiser credentialed in a State with an ASC Finding of "Poor."

B. Application of Reciprocity Policy

The following examples illustrate application of reciprocity in a manner that complies with Title XI. The examples refer to the reciprocity policy requiring issuance of a reciprocal credential IF:

a. The appraiser is coming from a State that is "in compliance"; AND

b. (i) the appraiser holds a valid credential from that State; AND (ii) the credentialing requirements of that State (as they currently exist) meet or exceed those of the reciprocal credentialing State (as they currently exist).

Example 1. Additional Requirements Imposed on Applicants

State A requires that prior to issuing a reciprocal credential the applicant must certify that disciplinary proceedings are not pending against that applicant in any jurisdiction. Under b.(ii) above, if this requirement is not imposed on all of its own applicants for credentialing, STATE A cannot impose this requirement on applicants for reciprocal credentialing.

Example 2. Credentialing Requirements

An appraiser is seeking a reciprocal credential in STATE A. The appraiser holds a valid credential in STATE Z, even though it was issued in 2007. This satisfies b.(i) above. However, in order to satisfy b.(ii), STATE A would evaluate STATE Z's credentialing requirements as they currently exist to determine whether they meet or exceed STATE A's current requirements for credentialing.

Example 3. Multiple State Credentials

An appraiser credentialed in several States is seeking a reciprocal credential in State A. That appraiser's initial credentials were obtained through examination in the original credentialing State and through reciprocity in the additional States. State A requires the applicant to provide a "letter of good standing" from the State of original credentialing as a condition of granting a reciprocal credential. State A may not impose such a requirement since Title XI does not

⁸⁴ See Appendix A, *Compliance Review Process*, for an explanation of ASC Findings.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

⁷⁴ Title XI § 1118(a), 12 U.S.C. 3347.

⁷⁵ Title XI § 1118(a), 12 U.S.C. 3347.

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

⁸⁰ *Id.*

⁸¹ Title XI § 1122(b), 12 U.S.C. 3351.

⁸² As they exist at the time of application for reciprocal credential.

⁸³ *Id.*

distinguish between credentials obtained by examination and credentials obtained by reciprocity for purposes of granting reciprocal credentials.

C. Appraiser Compliance Requirements

In order to maintain a credential granted by reciprocity, appraisers must comply with the credentialing State's policies, rules and statutes governing appraisers, including requirements for payment of certification and licensing fees, as well as continuing education.⁸⁵

D. Well-Documented Application Files

States must obtain and maintain sufficient relevant documentation pertaining to an application for issuance of a credential by reciprocity so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations.

E. Summary of Requirements

1. States must have a reciprocity policy in place for issuing a reciprocal credential to an appraiser from another State under the conditions specified in Title XI in order for the State's appraisers to be eligible to perform appraisals for federally related transactions.⁸⁶

2. States may be more lenient in the issuance of reciprocal credentials by implementing a more open door policy; however, States may not impose additional impediments to issuance of reciprocal credentials.⁸⁷

3. States must obtain and maintain sufficient relevant documentation pertaining to an application for issuance of a credential by reciprocity so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations.⁸⁸

Policy Statement 6

Education

AQB Criteria sets forth minimum requirements for appraiser education courses. This Policy Statement addresses proper administration of education requirements for compliance with AQB Criteria. (For requirements concerning qualifying and continuing education in the application process, see Policy Statement 4, *Application Process*.)

⁸⁵ A State may offer to accept continuing education (CE) for a renewal applicant who has satisfied CE requirements of a home State; however, a State may not impose this as a requirement for renewal, thereby imposing a requirement for the renewal applicant to retain a home State credential.

⁸⁶ Title XI § 1122(b), 12 U.S.C. 3351.

⁸⁷ *Id.*

⁸⁸ Title XI § 1118(a), 12 U.S.C. 3347.

A. Course Approval

States must ensure that approved appraiser education courses are consistent with AQB Criteria and maintain sufficient documentation to support that approved appraiser education courses conform to AQB Criteria.

States should ensure that course approval expiration dates assigned by the State coincide with the endorsement period assigned by the AQB's Course Approval Program or any other AQB-approved organization providing approval of course design and delivery. States may not continue to accept AQB approved courses after the AQB's expiration date unless the course content is reviewed and approved by the State.

States should ensure that educational providers are afforded equal treatment in all respects.⁸⁹

States are encouraged to accept courses approved by the AQB's Course Approval Program.

B. Distance Education

States must ensure that distance education courses meet AQB Criteria and that the delivery mechanism for distance education courses offered by a non-academic provider, including secondary providers, has been approved by an AQB-approved organization providing approval of course design and delivery.

States may not continue to accept courses after the AQB-approved organization's approval of course design and delivery date has expired.

C. Summary of Requirements

1. States must ensure that appraiser education courses are consistent with AQB Criteria.⁹⁰

2. States must maintain sufficient documentation to support that approved appraiser courses conform to AQB Criteria.⁹¹

3. States must ensure the delivery mechanism for distance education courses offered by a non-academic provider, including secondary providers, has been approved by an AQB-approved organization providing

⁸⁹ For example:

(1) Consent agreements requiring additional education should not specify a particular course provider when there are other providers on the State's approved course listing offering the same course; and

(2) courses from professional organizations should not be automatically approved and/or approved in a manner that is less burdensome than the State's normal approval process.

⁹⁰ Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

⁹¹ Title XI § 1118(a), 12 U.S.C. 3347.

approval of course design and delivery.⁹²

Policy Statement 7

State Agency Enforcement

A. State Agency Regulatory Program

Title XI requires the ASC to monitor the States for the purpose of determining whether the State processes complaints and completes investigations in a reasonable time period, appropriately disciplines sanctioned appraisers and maintains an effective regulatory program.⁹³

B. Enforcement Process

States must ensure that the system for processing and investigating complaints⁹⁴ and sanctioning appraisers is administered in a timely, effective, consistent, equitable, and well-documented manner.

1. Timely Enforcement

States must process complaints of appraiser misconduct or wrongdoing in a timely manner to ensure effective supervision of appraisers, and when appropriate, that incompetent or unethical appraisers are not allowed to continue their appraisal practice. Absent special documented circumstances, final administrative decisions regarding complaints must occur within one year (12 months) of the complaint filing date.⁹⁵ Special documented circumstances are those extenuating circumstances (fully documented) beyond the control of the State agency that delays normal processing of a complaint such as: complaints involving a criminal investigation by a law enforcement agency when the investigative agency requests that the State refrain from proceeding; final disposition that has been appealed to a higher court; documented medical condition of the respondent; ancillary civil litigation; and complex cases that involve multiple individuals and reports. Such special documented circumstances also include those periods when State rules require referral of a complaint to another State entity for review and the State agency is precluded from further processing of the complaint until it is returned. In that circumstance, the State agency should document the required referral and the

⁹² Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

⁹³ Title XI § 1118(a), 12 U.S.C. 3347.

⁹⁴ See Appendix B, *Glossary of Terms*, for the definition of "complaint."

⁹⁵ The one-year period for resolution of complaints is not intended to have the impact of a statute of limitation or statute of repose.

time period during which the complaint was not under its control or authority.

2. Effective Enforcement

Effective enforcement requires that States investigate allegations of appraiser misconduct or wrongdoing, and if allegations are proven, take appropriate disciplinary or remedial action. Dismissal of an alleged violation solely due to an “absence of harm to the public” is inconsistent with Title XI. Financial loss or the lack thereof is not an element in determining whether there is a violation. The extent of such loss, however, may be a factor in determining the appropriate level of discipline.

Persons analyzing complaints for USPAP compliance must be knowledgeable about appraisal practice and USPAP and States must be able to document how such persons are so qualified.

States must analyze each complaint to determine whether additional violations, especially those relating to USPAP, should be added to the complaint.

Closure of a complaint based solely on a State’s statute of limitations that results in dismissal of a complaint without the investigation of the merits of the complaint is inconsistent with the Title XI requirement that States assure effective supervision of the activities of credentialed appraisers.⁹⁶

3. Consistent and Equitable Enforcement

Absent specific documented facts or considerations, substantially similar cases within a State should result in similar dispositions.

4. Well-Documented Enforcement

States must obtain and maintain sufficient relevant documentation pertaining to a matter so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations.

a. Complaint Files

Complaint files must:

- Include documentation outlining the progress of the investigation;
- demonstrate that appraisal reports are analyzed and any USPAP violations are identified and considered, whether or not they were the subject of the complaint;
- include rationale for the final outcome of the case (*i.e.*, dismissal or imposition of discipline);
- include documentation explaining any delay in processing, investigation or adjudication;

- contain documentation that all ordered or agreed upon discipline, such as probation, fine, or completion of education is tracked and that completion of all terms is confirmed; and

- be organized in a manner that allows understanding of the steps taken throughout the complaint, investigation, and adjudicatory process.

b. Complaint Logs

States must track all complaints using a complaint log. The complaint log must record all complaints, regardless of their procedural status in the investigation and/or resolution process, including complaints pending before the State board, Office of the Attorney General, other law enforcement agencies, and/or offices of administrative hearings.

The complaint log must include the following information (States are strongly encouraged to maintain this information in an electronic, sortable format):

1. Case number
2. Name of respondent
3. Actual date the complaint was received by the State
4. Source of complaint (*e.g.*, consumer, lender, AMC, bank regulator, appraiser, hotline) or name of complainant
5. Current status of the complaint
6. Date the complaint was closed (*e.g.*, final disposition by the administrative hearing agency, Office of the Attorney General, State Appraiser Regulatory Agency or Court of Appeals)
7. Method of disposition (*e.g.*, dismissal, letter of warning, consent order, final order)
8. Terms of disposition (*e.g.*, probation, fine, education, mentorship)
9. In the case of open complaints, the most recent activity and date thereof (*e.g.*, respondent’s response to complaint received, contacted Attorney General for a status update, Board voted to offer a consent agreement)

C. Summary of Requirements

1. States must maintain relevant documentation to enable understanding of the facts and determinations in the matter and the reasons for those determinations.⁹⁷

2. States must resolve all complaints filed against appraisers within one year (12 months) of the complaint filing date, except for special documented circumstances.⁹⁸

3. States must ensure that the system for processing and investigating

complaints and sanctioning appraisers is administered in an effective, consistent, equitable, and well-documented manner.⁹⁹

4. States must track complaints of alleged appraiser misconduct or wrongdoing using a complaint log.¹⁰⁰

5. States must appropriately document enforcement files and include rationale.¹⁰¹

6. States must regulate, supervise and discipline their credentialed appraisers.¹⁰²

7. Persons analyzing complaints for USPAP compliance must be knowledgeable about appraisal practice and USPAP, and States must be able to document how such persons are so qualified.¹⁰³

Part B: AMC Program

Policy Statement 8

Statutes, Regulations, Policies and Procedures Governing State AMC Programs

A. Participating States and ASC Oversight

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 (participating States), ASC staff will informally monitor the State’s progress to implement the requirements of Title XI and the AMC Rule.¹⁰⁴ Formal ASC oversight of State AMC Programs will begin at the next regularly scheduled Compliance Review of a State after the following occurs:

1. A State decides to be a participating State pursuant to the AMC Rule;
2. A State establishes an AMC program in accordance with the AMC Rule; and
3. A State begins reporting to the National Registry of AMCs (AMC Registry).

Formal ASC oversight will consist of evaluating AMC Programs in participating States during the Compliance Review process to determine compliance or lack thereof with Title XI, and to assess implementation of the minimum requirements for State registration and supervision of AMCs as established by

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ Title XI § 1103(a)(1)(B), 12 U.S.C. 3332. AMC Rule means the interagency final rule on minimum requirements for State registration and supervision of AMCs (12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; 12 CFR 1222.20–1222.26).

⁹⁶ Title XI § 1117, 12 U.S.C. 3346.

⁹⁷ Title XI § 1118(a), 12 U.S.C. 3347.

⁹⁸ *Id.*

the AMC Rule. Upon expiration of the statutory implementation period (see Policy Statement 11, *Statutory Implementation Period*), Compliance Reviews will include ASC oversight of AMC Programs for any participating State.

B. Relation to State Law

Participating States may establish requirements in addition to those in the AMC Rule.

Participating States may also have a more expansive definition of AMCs.¹⁰⁵ However, if a participating State has a more expansive definition of AMCs than in Title XI (thereby encompassing State regulation of AMCs that are not within the Title XI definition of AMC), the State must ensure such AMCs are identified as such in the State database, just as States currently do for non-federally recognized credentials or designations. Only those AMCs that meet the Federal definition of AMC will be eligible to be on the AMC Registry.

C. Funding and Staffing

The Dodd-Frank Act amended Title XI to require the ASC to determine whether participating States have sufficient funding and staffing to meet their Title XI requirements. Compliance with this provision requires that a State must provide its AMC Program with funding and staffing sufficient to carry out its Title XI-related duties. The ASC evaluates the sufficiency of funding and staffing as part of its review of all aspects of an AMC Program's effectiveness, including the adequacy of State boards, committees, or commissions responsible for carrying out Title XI-related duties.

D. Minimum Requirements for Registration and Supervision of AMCs as Established by the AMC Rule

1. AMC Registration and Supervision

If a State chooses to participate in the registration and supervision of AMCs in accordance with the AMC Rule, the

¹⁰⁵ Title XI as amended by the Dodd-Frank Act defines "appraisal management company" to mean, in part, an external third party that oversees a network or panel of more than 15 appraisers (State certified or licensed) in a State, or 25 or more appraisers nationally (two or more States) within a given year. (12 U.S.C. 3350(11).) Title XI as amended by the Dodd-Frank Act also allows States to adopt requirements in addition to those in the AMC Rule. (12 U.S.C. 3353(b).) For example, States may decide to supervise entities that provide appraisal management services, but do not meet the size thresholds of the Title XI definition of AMC. If a State has a more expansive regulatory framework that covers entities that provide appraisal management services but do not meet the Title XI definition of AMC, the State should only submit information regarding AMCs meeting the Title XI definition to the AMC Registry.

State will be required to comply with the minimum requirements set forth in the AMC Rule. States should refer to the AMC Rule for compliance requirements¹⁰⁶ as this Policy Statement merely summarizes what the AMC Rule requires of participating States.

(a) The AMC Rule includes requirements for participating States to establish and maintain within the State appraiser certifying and licensing agency an AMC Program with the legal authority and mechanisms to:

- (1) Review and approve or deny AMC initial registration 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 to assess potential violations of appraisal-related laws, regulations, or orders;
- (5) Discipline, suspend, terminate, or deny renewal of the registration of an AMC that violates appraisal-related laws, regulations, or orders; and
- (6) Report an AMC's violation of 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.

(b) The AMC Rule includes requirements for participating States to impose requirements on AMCs that are not Federally regulated AMCs¹⁰⁷ 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 USPAP; and
- (5) Establish and comply with processes and controls reasonably

¹⁰⁶ See footnote 107.

¹⁰⁷ "Federally regulated AMCs," meaning 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, are not required to register with the State (Title XI § 1124(c), 12 U.S.C. 3353(c)).

designed to ensure that the AMC conducts its appraisal management services in accordance 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.

2. Ownership Limitations for State-Registered AMCs

A. Appraiser Certification or Licensing of Owners

An AMC subject to State registration shall not be registered by a State or included on the AMC 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 for a substantive cause,¹⁰⁸ as determined by the State appraiser certifying and licensing agency. A State's process for review could, for example, be by questionnaire, or affidavit, or background screening, or otherwise. States must document to the file the State's method of review and the result.

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 not to have good moral character; or
- (2) Fails to submit to a background investigation carried out by the State.

A State's process for review could, for example, be by questionnaire, or affidavit, or background screening, or otherwise. The ASC would expect written documentation of the State's method of review and the result.

3. Requirements for Federally Regulated AMCs

Participating States are not required to identify Federally regulated AMCs¹⁰⁹ 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.

A Federally regulated AMC shall not be included on the AMC Registry if such AMC, in whole or in part, directly or indirectly, is owned by any person who

¹⁰⁸ An AMC subject to State registration is not barred from being registered by a State or included on the AMC Registry of AMCs if the license or certificate of the appraiser with an ownership interest was not revoked for a substantive cause and has been reinstated by the State or States in which the appraiser was licensed or certified. (12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; 12 CFR 1222.20–1222.26.)

¹⁰⁹ See footnote 107.

has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any State for a substantive cause, as determined by the ASC.

E. Summary of Requirements

1. Participating States must establish and maintain an AMC Program with the legal authority and mechanisms consistent with the AMC Rule.¹¹⁰

2. Participating States must impose requirements on AMCs consistent with the AMC Rule.¹¹¹

3. Participating States must enforce and document ownership limitations for State-registered AMCs.¹¹²

4. Only those AMCs that meet the Federal definition of AMC will be eligible to be on the AMC Registry. Therefore, participating States that have a more expansive definition of AMCs than in the AMC Rule must ensure such non-Federally recognized AMCs are identified as such in the State database.¹¹³

5. States must have funding and staffing sufficient to carry out their Title XI-related duties.¹¹⁴

Policy Statement 9

National Registry of AMCs (AMC Registry)

A. Requirements for the AMC Registry

Title XI requires the ASC to maintain the AMC Registry of AMCs that are either registered with and subject to supervision of a participating State or are operating subsidiaries of a Federally regulated financial institution.¹¹⁵ Title XI further requires the States to transmit to the ASC: (1) Reports on a timely basis of supervisory activities involving AMCs, including investigations resulting in disciplinary action being taken; and (2) the registry fee as set by the ASC¹¹⁶ from AMCs that are either registered with a participating State or are Federally regulated AMCs.¹¹⁷

As with appraiser registry fees, Title XI, § 1109(a)(4)(b) requires the AMC registry fee to be collected by each participating State and transmitted to the ASC. Therefore, as with appraisers, an AMC will pay a registry fee in each participating State in which the AMC operates. As with appraisers, an AMC operating in multiple participating

States will pay a registry fee in multiple States in order to be on the AMC Registry for each State.

States must notify the ASC as soon as practicable if an AMC listed on the AMC Registry is no longer registered with or operating in the State. The ASC extranet application allows States to update their AMC information directly to the AMC Registry.

B. Registry Fee and Invoicing Policies

Each State must remit to the ASC the annual registry fee, as set by the ASC, for AMCs to be listed on the AMC Registry. Requests to prorate refunds or partial-year registrations will not be granted. If a State collects multiple-year fees for multiple-years, the State may choose to remit to the ASC the total amount of the multiple-year registry fees or the equivalent annual fee amount. The ASC will, however, record AMCs on the AMC Registry only for the number of years for which the ASC has received payment. States must reconcile and pay registry invoices in a timely manner (45 calendar days after receipt of the invoice).

C. Reporting Requirements

State agencies must report all disciplinary action¹¹⁸ taken against an AMC to the ASC via the extranet application within 5 business days after the disciplinary action is final, as determined by State law. States not reporting via the extranet application must provide, in writing to the ASC, a description of the circumstances preventing compliance with this requirement. For the most serious disciplinary actions (*e.g.*, any action that interrupts an AMCs ability to provide appraisal management services), the AMCs status must be changed on the AMC Registry to “inactive.” A Federally regulated AMC operating in a State must report to the State the information required to be submitted by the State to the ASC, pursuant to the ASC’s policies regarding the determination of the AMC Registry fee.

D. Access to AMC Registry Data

The ASC Web site provides free access to the public portion of the AMC Registry at www.asc.gov. The public portion of the AMC Registry data may be downloaded using predefined queries or user-customized applications.

Access to the full database, which includes non-public data (*e.g.*, certain disciplinary action information), is restricted to authorized State and Federal regulatory agencies. States must

designate a senior official, such as an executive director, to serve as the State’s Authorized Registry Official, and provide to the ASC, in writing, information regarding the designated Authorized Registry Official. States must ensure that the authorization information provided to the ASC is updated and accurate. States must adopt and implement a written policy to protect the right of access, as well as the ASC issued User Name and Password.

E. Summary of Requirements

1. States must reconcile and pay registry invoices in a timely manner (45 calendar days after receipt of the invoice).¹¹⁹

2. State agencies must report all disciplinary action taken against an AMC to the ASC via the extranet application within 5 business days after the disciplinary action is final, as determined by State law.¹²⁰

3. States not reporting via the extranet application must provide, in writing to the ASC, a description of the circumstances preventing compliance with this requirement.¹²¹

4. For the most serious disciplinary actions (*e.g.*, any action that interrupts an AMC’s ability to provide appraisal management services), the AMC’s status must be changed on the AMC Registry to “inactive.”¹²²

5. States must notify the ASC as soon as practicable if an AMC listed on the AMC Registry is no longer registered with or operating in the State.

6. States must designate a senior official, such as an executive director, who will serve as the State’s Authorized Registry Official, and provide to the ASC, in writing, information regarding the selected Authorized Registry Official, and any individual(s) authorized to act on their behalf.¹²³

7. States must adopt and implement a written policy to protect the right of access to the AMC Registry, as well as the ASC issued User Name and Password.¹²⁴

8. States must ensure the accuracy of all data submitted to the AMC Registry.¹²⁵

¹¹⁰ 12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; 12 CFR 1222.20–1222.26.

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ Title XI § 1118(b), 12 U.S.C. 3347.

¹¹⁴ *Id.*

¹¹⁵ Title XI § 1103(a)(6), 12 U.S.C. 3332.

¹¹⁶ Title XI § 1109(a)(4), 12 U.S.C. 3338.

¹¹⁷ Title XI § 1109(a)(3) and (4), 12 U.S.C. 3338.

¹¹⁸ See Appendix B, *Glossary of Terms*, for the definition of “disciplinary action.”

¹¹⁹ Title XI § 1118(a), 12 U.S.C. 3347; Title XI § 1109(a), 12 U.S.C. 3338.

¹²⁰ Title XI § 1118(a), 12 U.S.C. 3347.

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ *Id.*

Policy Statement 10

State Agency Enforcement

A. State Agency Regulatory Program

Title XI requires the ASC to monitor the States for the purpose of determining whether the State processes complaints and completes investigations in a reasonable time period, appropriately disciplines sanctioned AMCs and maintains an effective regulatory program.¹²⁶

B. Enforcement Process

States must ensure that the system for processing and investigating complaints¹²⁷ and sanctioning AMCs is administered in a timely, effective, consistent, equitable, and well-documented¹²⁸ manner.

1. Timely Enforcement

States must process complaints against AMCs in a timely manner to ensure effective supervision of AMCs. Absent special documented circumstances, final administrative decisions regarding complaints must occur within one year (12 months) of the complaint filing date. Special documented circumstances are those extenuating circumstances (fully documented) beyond the control of the State agency that delays normal processing of a complaint such as: Complaints involving a criminal investigation by a law enforcement agency when the investigative agency requests that the State refrain from proceeding; final disposition that has been appealed to a higher court; documented medical condition of the respondent; ancillary civil litigation; and complex fraud cases that involve multiple individuals and reports. Such special documented circumstances also include those periods when State rules require referral of a complaint to another State entity for review and the State agency is precluded from further processing of the complaint until it is returned. In that circumstance, the State agency should document the required referral and the time period during which the complaint was not under its control or authority.

2. Effective Enforcement

Effective enforcement requires that States investigate complaints, and if allegations are proven, take appropriate disciplinary or remedial action.

¹²⁶ Title XI § 1118(a), 12 U.S.C. 3347.

¹²⁷ See Appendix B, *Glossary of Terms*, for the definition of "complaint."

¹²⁸ See Appendix B, *Glossary of Terms*, for the definition of "well-documented."

3. Consistent and Equitable Enforcement

Absent specific documented facts or considerations, substantially similar cases within a State should result in similar dispositions.

4. Well-Documented Enforcement

States must obtain and maintain sufficient relevant documentation pertaining to a matter so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations.

a. Complaint Files

Complaint files must:

- Include documentation outlining the progress of the investigation;
- include rationale for the final outcome of the case (*i.e.*, dismissal or imposition of discipline);
- include documentation explaining any delay in processing, investigation or adjudication;
- contain documentation that all ordered or agreed upon discipline is tracked and that completion of all terms is confirmed; and
- be organized in a manner that allows understanding of the steps taken throughout the complaint, investigation, and adjudicatory process.

b. Complaint Logs

States must track all complaints using a complaint log. The complaint log must record all complaints, regardless of their procedural status in the investigation and/or resolution process, including complaints pending before the State board, Office of the Attorney General, other law enforcement agencies, and/or offices of administrative hearings. The complaint log must include the following information (States are strongly encouraged to maintain this information in an electronic, sortable format):

1. Case number
2. Name of respondent
3. Actual date the complaint was received by the State
4. Source of complaint (*e.g.*, consumer, lender, AMC, bank regulator, appraiser, hotline) or name of complainant
5. Current status of the complaint
6. Date the complaint was closed (*e.g.*, final disposition by the administrative hearing agency, Office of the Attorney General, State AMC Program or Court of Appeals)
7. Method of disposition (*e.g.*, dismissal, letter of warning, consent order, final order)
8. Terms of disposition (*e.g.*, probation, fine)
9. In the case of open complaints, the most recent activity and date

thereof (*e.g.* respondent's response to complaint received, contacted Attorney General for a status update, Board voted to offer a consent agreement)

C. Summary of Requirements

1. States must maintain relevant documentation to enable understanding of the facts and determinations in the matter and the reasons for those determinations.¹²⁹
2. States must resolve all complaints filed against appraisers within one year (12 months) of the complaint filing date, except for special documented circumstances.¹³⁰
3. States must ensure that the system for processing and investigating complaints and sanctioning AMCs is administered in an effective, consistent, equitable, and well-documented manner.¹³¹
4. States must track complaints of alleged appraiser misconduct or wrongdoing using a complaint log.¹³²
5. States must appropriately document enforcement files and include rationale.¹³³

Policy Statement 11

Statutory Implementation Period

Title XI and the AMC Rule set forth the statutory implementation period.¹³⁴ The AMC Rule was effective on August 10, 2015. As of 36 months from that date (August 10, 2018), an AMC may not provide appraisal management services for a federally related transaction in a non-participating State unless the AMC is a Federally regulated AMC. Appraisal management services may still be provided for federally related transactions in non-participating States by individual appraisers, by AMCs that are below the minimum statutory panel size threshold, and as noted, by Federally regulated AMCs.

The ASC, with the approval of the Federal Financial Institutions Examination Council (FFIEC), may extend this statutory implementation period for an additional 12 months if the ASC makes a finding that a State has made substantial progress toward implementing a registration and supervision program for AMCs that meets the standards of Title XI.¹³⁵

¹²⁹ Title XI § 1118(a), 12 U.S.C. 3347.

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.*

¹³⁴ Title XI § 1124(f)(1), 12 U.S.C. 3353 and 12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; 12 CFR 1222.20–1222.26.

¹³⁵ Title XI § 1124(f)(2), 12 U.S.C. 3353.

Part C: Interim Sanctions*Policy Statement 12*

Interim Sanctions

A. Authority

Title XI grants the ASC authority to impose sanctions on a State that fails to have an effective Appraiser or AMC Program.¹³⁶ The ASC may remove a State credentialed appraiser or a registered AMC from the Appraiser or AMC Registry on an interim basis, not to exceed 90 days, pending State agency action on licensing, certification, registration and disciplinary proceedings as an alternative to or in advance of a non-recognition proceeding.¹³⁷ In determining whether an Appraiser or AMC Program is effective, the ASC shall conduct an analysis as required by Title XI. An ASC Finding of Poor on the Compliance Review Report¹³⁸ issued to a State at the conclusion of an ASC Compliance Review may trigger an analysis by the ASC for potential interim sanction(s). The following provisions apply to the exercise by the ASC of its authority to impose interim sanction(s) on State agencies.

B. Opportunity To Be Heard or Correct Conditions

The ASC shall provide the State agency with:

1. Written notice of intention to impose an interim sanction; and
2. opportunity to respond or to correct the conditions causing such notice to the State.

Notice and opportunity to respond or correct the conditions shall be in accordance with section C, *Procedures*.

C. Procedures

This section prescribes the ASC's procedures which will be followed in arriving at a decision by the ASC to impose an interim sanction against a State agency.

1. Notice

The ASC shall provide a written Notice of intention to impose an interim sanction (Notice) to the State agency. The Notice shall contain the ASC's analysis as required by Title XI of the State's licensing and certification of appraisers, the registration of AMCs, the issuance of temporary licenses and certifications for appraisers, the receiving and tracking of submitted complaints against appraisers and AMCs, the investigation of complaints,

and enforcement actions against appraisers and AMCs.¹³⁹ The ASC shall verify the State's date of receipt, and publish both the Notice and the State's date of receipt in the **Federal Register**.

2. State Agency Response

Within 15 days of receipt of the Notice, the State may submit a response to the ASC's Executive Director. Alternatively, a State may submit a Notice Not to Contest with the ASC's Executive Director. The filing of a Notice Not to Contest shall not constitute a waiver of the right to a judicial review of the ASC's decision, findings and conclusions. Failure to file a Response within 15 days shall constitute authorization for the ASC to find the facts to be as presented in the Notice and analysis. The ASC, for good cause shown, may permit the filing of a Response after the prescribed time.

3. Briefs, Memoranda and Statements

Within 45 days after the date of receipt by the State agency of the Notice as published in the **Federal Register**, the State agency may file with the ASC's Executive Director a written brief, memorandum or other statement providing factual data and policy and legal arguments regarding the matters set out in the Notice and analysis.

4. Oral Presentations to the ASC

Within 45 days after the date of receipt by the State agency of the Notice as published in the **Federal Register**, the State may file a request with the ASC's Executive Director to make oral presentation to the ASC. If the State has filed a request for oral presentation, the matter shall be heard within 45 days. An oral presentation shall be considered as an opportunity to offer, emphasize and clarify the facts, policies and laws concerning the proceeding, and is not a Meeting¹⁴⁰ of the ASC. On the appropriate date and time, the State agency will make the oral presentation before the ASC. Any ASC member may ask pertinent questions relating to the content of the oral presentation. Oral presentations will not be recorded or otherwise transcribed. Summary notes will be taken by ASC staff and made part of the record on which the ASC shall decide the matter.

¹³⁹ Title XI § 1118(a), 12 U.S.C. 3347.

¹⁴⁰ The proceeding is more in the nature of a Briefing not subject to open meeting requirements. The presentation is an opportunity for the State to brief the ASC—to offer, emphasize and clarify the facts, policies and laws concerning the proceeding, and for the ASC members to ask questions. Additional consideration is given to the fact that this stage of the proceeding is pre-decisional.

5. Conduct of Interim Sanction Proceedings

(a) Written Submissions

All aspects of the proceeding shall be conducted by written submissions, with the exception of oral presentations allowed under subsection 4 above.

(b) Disqualification

An ASC member who deems himself or herself disqualified may at any time withdraw. Upon receipt of a timely and sufficient affidavit of personal bias or disqualification of such member, the ASC will rule on the matter as a part of the record.

(c) Authority of ASC Chairperson

The Chairperson of the ASC, in consultation with other members of the ASC whenever appropriate, shall have complete charge of the proceeding and shall have the duty to conduct it in a fair and impartial manner and to take all necessary action to avoid delay in the disposition of proceedings.

(d) Rules of Evidence

Except as is otherwise set forth in this section, relevant material and reliable evidence that is not unduly repetitive is admissible to the fullest extent authorized by the Administrative Procedure Act (5 U.S.C. 551–559) and other applicable law.

6. Decision of the ASC and Judicial Review

Within 90 days after the date of receipt by the State agency of the Notice as published in the **Federal Register**, or in the case of oral presentation having been granted, within 30 days after presentation, the ASC shall issue a final decision, findings and conclusions and shall publish the decision promptly in the **Federal Register**. The final decision shall be effective on issuance. The ASC's Executive Director shall ensure prompt circulation of the decision to the State agency. A final decision of the ASC is a prerequisite to seeking judicial review.

7. Computing Time

Time computation is based on business days. The date of the act, event or default from which the designated period of time begins to run is not included. The last day is included unless it is a Saturday, Sunday, or Federal holiday, in which case the period runs until the end of the next day which is not a Saturday, Sunday or Federal holiday.

8. Documents and Exhibits

Unless otherwise provided by statute, all documents, papers and exhibits filed

¹³⁶ Title XI § 1118(a), 12 U.S.C. 3347.

¹³⁷ *Id.*

¹³⁸ See Appendix A—Compliance Review Process.

in connection with any proceeding, other than those that may be withheld from disclosure under applicable law, shall be placed by the ASC's Executive Director in the proceeding's file and will be available for public inspection and copying.

9. Judicial Review

A decision of the ASC under this section shall be subject to judicial review. The form of proceeding for judicial review may include any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction in a court of competent jurisdiction.¹⁴¹

Appendices

Appendix A—Compliance Review Process

The ASC monitors State Appraiser and AMC Programs for compliance with Title XI.

The monitoring of State Programs is largely accomplished through on-site visits known as a Compliance Review (Review). A Review is conducted over a two- to four-day period, and is scheduled to coincide with a meeting of the Program's decision-making body whenever possible. ASC staff reviews the Appraiser Program and the seven compliance areas addressed in Policy Statements 1 through 7. ASC staff reviews a participating State's AMC Program and the four compliance areas addressed in Policy Statements 8 through 11. Sufficient documentation demonstrating compliance must be maintained by a State and made available for inspection during the Review. ASC staff reviews a sampling of documentation in each of the compliance areas. The sampling is intended to be representative of a State Program in its entirety.

Based on the Review, ASC staff provides the State with an ASC staff report for the Appraiser Program, and if applicable, an ASC staff report for the AMC Program, detailing preliminary findings. The State is given 60 days to respond to the ASC staff report(s). At

the conclusion of the Review, a Compliance Review Report (Report) is issued to the State for the Appraiser Program, and if applicable, a Report is also issued for the AMC Program, with the ASC Finding on each Program's overall compliance, or lack thereof, with Title XI. Deficiencies resulting in non-compliance in any of the compliance areas are cited in the Report. "Areas of Concern" which potentially expose a Program to compliance issues in the future are also addressed in the Report. The ASC's final disposition is based upon the ASC staff report, the State's response and staff's recommendation.

The following chart provides an explanation of the ASC Findings and rating criteria for each ASC Finding category. The ASC Finding places particular emphasis on whether the State is maintaining an effective regulatory Program in compliance with Title XI.

ASC finding	Rating criteria	Review Cycle (program history or nature of deficiency may warrant a more accelerated Review Cycle)
Excellent	<ul style="list-style-type: none"> State meets all Title XI mandates and complies with requirements of ASC Policy Statements. State maintains a strong regulatory Program. Very low risk of Program failure. 	2-year.
Good	<ul style="list-style-type: none"> State meets the majority of Title XI mandates and complies with the majority of ASC Policy Statement requirements. Deficiencies are minor in nature. State is adequately addressing deficiencies identified and correcting them in the normal course of business. State maintains an effective regulatory Program. Low risk of Program failure. 	2-year.
Needs Improvement	<ul style="list-style-type: none"> State does not meet all Title XI mandates and does not comply with all requirements of ASC Policy Statements. Deficiencies are material but manageable and if not corrected in a timely manner pose a potential risk to the Program. State may have a history of repeated deficiencies but is showing progress toward correcting deficiencies. State regulatory Program needs improvement. Moderate risk of Program failure. 	2-year with additional monitoring.
Not Satisfactory	<ul style="list-style-type: none"> State does not meet all Title XI mandates and does not comply with all requirements of ASC Policy Statements. Deficiencies present a significant risk and if not corrected in a timely manner pose a well-defined risk to the Program. State may have a history of repeated deficiencies and requires more supervision to ensure corrective actions are progressing. State regulatory Program has substantial deficiencies. Substantial risk of Program failure. 	1-year.
Poor ¹⁴²	<ul style="list-style-type: none"> State does not meet Title XI mandates and does not comply with requirements of ASC Policy Statements. Deficiencies are significant and severe, require immediate attention and if not corrected represent critical flaws in the Program. State may have a history of repeated deficiencies and may show a lack of willingness or ability to correct deficiencies. High risk of Program failure. 	Continuous monitoring.

The ASC has two primary Review Cycles: Two-year and one-year. Most States are

scheduled on a two-year Review Cycle. States may be moved to a one-year Review Cycle if

the ASC determines more frequent on-site Reviews are needed to ensure that the State

¹⁴¹ 5 U.S.C. 703—Form and venue of proceeding.

¹⁴² An ASC Finding of "Poor" may result in significant consequences to the State. See Policy

Statement 5, *Reciprocity*; see also Policy Statement 12, *Interim Sanctions*.

maintains an effective Program. Generally, States are placed on a one-year Review Cycle because of non-compliance issues or serious areas of concerns that warrant more frequent on-site visits. Both two-year and one-year Review Cycles include a review of all aspects of the State's Program.

The ASC may conduct Follow-up Reviews and additional monitoring. A Follow-up Review focuses only on specific areas identified during the previous on-site Review. Follow-up Reviews usually occur within 6–12 months of the previous Review. In addition, as a risk management tool, ASC staff identifies State Programs that may have a significant impact on the nation's appraiser regulatory system in the event of Title XI compliance issues. For States that represent a significant percentage of the credentials on the Appraiser Registry, ASC staff performs annual on-site Priority Contact visits. The primary purpose of the Priority Contact visit is to review topical issues, evaluate regulatory compliance issues, and maintain a close working relationship with the State. This is not a complete Review of the Program. The ASC will also schedule a Priority Contact visit for a State when a specific concern is identified that requires special attention. Additional monitoring may be required where a deficiency is identified and reports on required or agreed upon corrective actions are required monthly or quarterly. Additional monitoring may include on-site monitoring as well as off-site monitoring.

Appendix B—Glossary of Terms

Appraisal management company (AMC): Refers to, in connection with valuing properties collateralizing mortgage loans or mortgages incorporated into a securitization, any external third party authorized either 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, 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—

(A) To recruit, select, and retain appraisers;

(B) to contract with licensed and certified appraisers to perform appraisal assignments;

(C) to manage 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 underwriters, collecting fees from creditors and underwriters for services provided, and reimbursing appraisers for services performed; or

(D) to review and verify the work of appraisers.

AQB Criteria: Refers to the *Real Property Appraiser Qualification Criteria* as established by the Appraiser Qualifications Board of the Appraisal Foundation setting forth minimum education, experience and examination requirements for the licensure and certification of real property appraisers, and minimum requirements for “Trainee” and “Supervisory” appraisers.

Assignment: As referenced herein, for purposes of temporary practice, “assignment” means one or more real estate

appraisals and written appraisal report(s) covered by a single contractual agreement.

Complaint: As referenced herein, any document filed with, received by, or serving as the basis for possible inquiry by the State agency regarding alleged violation of Title XI, Federal or State law or regulation, or USPAP by a credentialed appraiser or appraiser applicant, for allegations of unlicensed appraisal activity, or complaints involving AMCs. A complaint may be in the form of a referral, letter of inquiry, or other document alleging misconduct or wrongdoing.

Credentialed appraisers: Refers to State licensed, certified residential or certified general appraiser classifications.

Disciplinary action: As referenced herein, corrective or punitive action taken by or on behalf of a State agency which may be formal or informal, or may be consensual or involuntary, resulting in any of the following:

- a. Revocation of credential or registration
- b. suspension of credential or registration
- c. written consent agreements, orders or reprimands
- d. probation or any other restriction on the use of a credential
- e. fine
- f. voluntary surrender¹⁴³
- g. other acts as defined by State statute or regulation as disciplinary

With the exception of voluntary surrender, suspension or revocation, such action may be exempt from reporting to the National Registry if defined by State statute, regulation or written policy as “non-disciplinary.”

Federally related transaction: Refers to any real estate related financial transaction which:

(a) A federal financial institutions regulatory agency engages in, contracts for, or regulates; and

(b) requires the services of an appraiser. (See Title XI § 1121(4), 12 U.S.C. 3350.)

Federal financial institutions regulatory agencies: Refers to the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the National Credit Union Administration. (See Title XI § 1121(6), 12 U.S.C. 3350.)

Home State agency: As referenced herein, State agency or agencies that grant an appraiser a licensed or certified credential. Residency in the home State is not required. Appraisers may have more than one home State agency.

Non-federally recognized credentials or designations: Refers to any State appraiser credential or designation other than trainee, State licensed, certified residential or certified general classifications as defined in Policy Statement 1, and which is not recognized by Title XI.

Real estate related financial transaction: Any transaction involving:

(a) the sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof;

(b) the refinancing of real property or interests in real property; and

(c) the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities. (See Title XI § 1121(5), 12 U.S.C. 3350.)

State: Any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, and the United States Virgin Islands. (American Samoa does not have a Program.)

State board: As referenced herein, “State board” means a group of individuals (usually appraisers, AMC representatives, bankers, consumers, and/or real estate professionals) appointed by the Governor or a similarly positioned State official to assist or oversee State Programs. A State agency may be headed by a board, commission or an individual.

Uniform Standards of Professional Appraisal Practice (USPAP): Refers to appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation establishing minimum requirements for development and reporting of appraisals, including real property appraisal. Title XI requires appraisals prepared by State certified and licensed appraisers to be performed in conformance with USPAP.

Well-documented: Means that States obtain and maintain sufficient relevant documentation pertaining to a matter so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations.

* * * * *

By the Appraisal Subcommittee.

Dated: September 13, 2017.

Arthur Lindo,
Chairman.

[FR Doc. 2017–19998 Filed 9–19–17; 8:45 am]

BILLING CODE 6700–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on the agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. A copy of the agreement is available through the Commission's Web site (www.fmc.gov) or by contacting the Office of Agreements at (202) 523–5793 or tradeanalysis@fmc.gov.

Agreement No.: 012487–001.

Title: Eastern Car Liner Ltd/Austral Asia Line Pte. Ltd Space Charter Agreement.

Parties: Eastern Car Liner, Ltd. and Austral Asia Line Pte Ltd.

¹⁴³ A voluntary surrender that is not deemed disciplinary by State law or regulation, or is not related to any disciplinary process need not be reported as discipline provided the individual's Appraiser Registry record is updated to show the credential is inactive.

(agency name),” or “Written Statement: (agency name).” The email must include the name(s), title, organization/affiliation, mailing address, email address, telephone number, of the person(s) submitting a written statement or requesting to speak, and a brief summary (not to exceed one page) of the principal points to be made during the oral presentation, if applicable. All individuals submitting an advance request in accordance with this notice will be afforded an opportunity to speak.

Method Two: Register at the meeting location on February 22, 2017, from 7:30 a.m.–8:30 a.m., to make an oral comment during NACIQI’s deliberations concerning a particular agency or institution scheduled for review. The requestor must provide his or her name, title, organization/affiliation, mailing address, email address, and telephone number. A total of up to fifteen minutes during each agency review will be allotted for oral commenters who register on February 22, 2017 by 8:30 a.m. Individuals will be selected on a first-come, first-served basis. If selected, each commenter may not exceed three minutes.

Access to Records of the Meeting: The Department will post the official report of the meeting on the NACIQI Web site within 90 days after the meeting. Pursuant to the FACA, the public may also inspect the materials at 400 Maryland Avenue SW., Washington, DC, by emailing aslrecordsmanager@ed.gov or by calling (202) 453-7110 to schedule an appointment.

Reasonable Accommodations: The meeting site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (e.g., interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although we will attempt to meet a request received after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must

have Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: 20 U.S.C. 1011c.

Gail McLarnon,

Acting Deputy Assistant Secretary for Planning, Policy, and Innovation.

[FR Doc. 2017-00306 Filed 1-9-17; 8:45 am]

BILLING CODE P

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice: 2017-3001]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB review and comments request.

Form Title: EIB 92-29 Export-Import Bank Report of Premiums Payable for Exporters Only

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. The application tool can be reviewed at: <http://exim.gov/sites/default/files/pub/pending/eib92-29.pdf>

DATES: Comments must be received on or before February 9, 2017 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on WWW.REGULATIONS.GOV or by mail to Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20038, Attn: OMB 3048-0017.

SUPPLEMENTARY INFORMATION: The Export Import Bank of the United States, pursuant to the Export Import Bank Act of 1945, as amended (12 U.S.C. 635, et.seq.), facilitates the finance of the export of U.S. goods and services. The “Report of Premiums Payable for Exporters Only” form will be used by exporters to report and pay premiums on insured shipments to various foreign buyers.

Title and Form Number: EIB 92-29 Export-Import Bank Report of Premiums Payable for Exporters Only.

OMB Number: 3048-0017.

Type of Review: Renewal.

Need and Use: The “Report of Premiums Payable for Exporters Only” form is used by exporters to report and pay premiums on insured shipments to various foreign buyers under the terms of the policy and to certify that premiums have been correctly computed and remitted. The ‘Report of Premiums Payable for Exporters Only’ is used by EXIM to determine the eligibility of the shipment(s) and to calculate the premium due to EXIM Bank for its support of the shipment(s) under its insurance program.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual number of respondents: 2,200.

Estimated time per respondent: 15 minutes.

Annual burden hours: 6,600 hours.

Frequency of reporting or use:

Monthly.

Government Expenses:

Reviewing time per year: 6,600 hours.

Average wages per hour: \$42.50.

Average cost per year: \$280,500 (time * wages).

Benefits and overhead: 20%.

Total government cost: \$336,600.

Bassam Doughman,

IT Program Manager, Office of the Chief Information Officer.

[FR Doc. 2017-00187 Filed 1-9-17; 8:45 am]

BILLING CODE 6690-01-P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION

[Docket No. AS17-01]

Appraisal Subcommittee; Proposed Revised Policy Statements

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

ACTION: Proposed revised Policy Statements.

SUMMARY: The Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council requests public comment on a proposal to revise ASC Policy Statements (proposed Policy Statements). The proposed Policy Statements provide guidance to ensure State appraiser regulatory programs comply with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, and the rules promulgated thereunder. The proposed Policy

Statements would supersede the current ASC Policy Statements.

DATES: Comments must be received on or before April 10, 2017.

ADDRESSES: Commenters are encouraged to submit comments by the Federal eRulemaking Portal or email, if possible. You may submit comments, identified by Docket Number AS17-01, by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting 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:* webmaster@asc.gov. Include the docket number in the subject line of the message.

- *Fax:* (202) 289-4101. Include docket number on fax cover sheet.

- *Mail:* Address to Appraisal Subcommittee, Attn: Lori Schuster, Management and Program Analyst, 1401 H Street NW., Suite 760, Washington, DC 20005.

- *Hand Delivery/Courier:* 1401 H Street NW., Suite 760, Washington, DC 20005.

In general, the ASC will enter all comments received into the docket and publish those comments on the Federal eRulemaking (*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. At the close of the comment period, all public comments will also be made available on the ASC’s Web site at <https://www.asc.gov> (follow link in “What’s New”) as submitted, unless modified for technical reasons.

You may review comments by any of the following methods:

- *Viewing Comments Electronically:* Go to <https://www.regulations.gov>. Enter “Docket ID AS17-01” in the Search box and click “Search.” 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 comments at the

ASC office, 1401 H Street NW., Suite 760, Washington, DC 20005. To make an appointment, please call Lori Schuster at (202) 595-7578.

FOR FURTHER INFORMATION CONTACT: James R. Park, Executive Director, at (202) 595-7575, or Alice M. Ritter, General Counsel, at (202) 595-7577, Appraisal Subcommittee, 1401 H Street NW., Suite 760, Washington, DC 20005.

SUPPLEMENTARY INFORMATION:

I. Background

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (Title XI), established the ASC.¹ The purpose of Title XI is to provide protection of Federal financial and public policy interests by upholding Title XI requirements for appraisals performed for federally related transactions.² Pursuant to Title XI, one of the ASC’s core functions is to monitor the requirements established by the States³ for certification and licensing of appraisers qualified to perform appraisals in connection with federally related transactions. This is accomplished through periodic ASC Compliance Reviews of each State appraiser regulatory program (Appraiser Program) to determine compliance or lack thereof with Title XI, and to assess implementation of minimum requirements for credentialing of appraisers as adopted by the Appraiser Qualifications Board (*The Real Property Appraiser Qualification Criteria* or AQB Criteria).

Title XI as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act)⁴ expanded the ASC’s core functions to include monitoring of the requirements established by States that elect to register and supervise the operations and activities of appraisal management companies⁵ (AMCs).

¹ The ASC Board is comprised of seven members. Five members are designated by the heads of the FFIEC agencies (Board of Governors of the Federal Reserve System [Board], Consumer Financial Protection Bureau [CFPB], Federal Deposit Insurance Corporation [FDIC], Office of the Comptroller of the Currency [OCC], and National Credit Union Administration [NCUA]). The other two members are designated by the heads of the Department of Housing and Urban Development (HUD) and the Federal Housing Finance Agency (FHFA).

² Refers to any real estate related financial transaction which: (a) A federal financial institutions regulatory agency engages in, contracts for, or regulates; and (b) requires the services of an appraiser. (Title XI § 1121(4), 12 U.S.C. 3350.)

³ The 50 States, the District of Columbia, and four Territories, which are the Commonwealth of Puerto Rico, Commonwealth of the Northern Mariana Islands, Guam, and United States Virgin Islands.

⁴ Public Law 111-203, 124 Stat. 1376.

⁵ Title XI § 1103(a)(1)(B), 12 U.S.C. 3332.

States electing to register and supervise AMCs must implement minimum requirements in accordance with the AMC Rule.⁶ As a result, States with an AMC regulatory program (AMC Program) will be evaluated during the ASC’s Compliance Review to determine compliance or lack thereof with Title XI, and to assess implementation of the minimum requirements for State registration and supervision of AMCs as established by the AMC Rule. The amendments to Title XI by the Dodd-Frank Act also allow States with an AMC Program to add information about AMCs in their State to the National Registry of AMCs (AMC Registry). The proposed Policy Statements include guidance to the States regarding how AMC Programs will be evaluated during ASC Compliance Reviews.

II. Overview of Proposed Policy Statements

The ASC is issuing these proposed Policy Statements⁷ in three parts to provide States with the necessary information to maintain their Appraiser Programs and AMC Programs in compliance with Title XI and the rules promulgated thereunder:

- Part A, *Appraiser Program*—Policy Statements 1 through 7 correspond with the categories that are: (a) Evaluated during the Appraiser Program Compliance Review; and (b) included in the *ASC’s Compliance Review Report of the Appraiser Program*.

- Part B, *AMC Program*—Policy Statements 8 through 11 correspond with the categories that are: (a) Evaluated during the AMC Program Compliance Review; and (b) included in the *ASC’s Compliance Review Report of the AMC Program*.

- Part C, *Interim Sanctions*—Policy Statement 12 sets forth required procedures in the event that interim sanctions are imposed against a State by the ASC for non-compliance in either the Appraiser Program or the AMC Program.

The proposal also includes two appendices:

⁶ The Dodd-Frank Act added section 1124 to Title XI, *Appraisal Management Company Minimum Requirements*, which required the OCC, Board, FDIC, NCUA, CFPB, and FHFA to establish, by rule, minimum requirements for the registration and supervision of AMCs by States that elect to register and supervise AMCs pursuant to Title XI and the rules promulgated thereunder. (Title XI § 1124(a), 12 U.S.C. 3353(a)). Those rules were finalized and published on June 9, 2015, at 80 **Federal Register** 32658 with an effective date of August 10, 2015. (12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; 12 CFR 1222.20–1222.26)

⁷ These Policy Statements, adopted [date to be inserted when final], supersede all previous Policy Statements adopted by the ASC.

1. Appendix A provides an overview of the Compliance Review process; and
2. Appendix B provides a glossary of terms.

III. Statement-by-Statement

The following provides a section by section highlight of changes presented in the proposed Policy Statements.

Introduction and Purpose

The ASC proposes to expand the introduction to include the monitoring of States that elect to register and supervise the operations and activities of AMCs, and to include an explanation of the proposed Policy Statements' three parts and appendices.

Part A: Appraiser Program

Policy Statement 1: Statutes, Regulations, Policies and Procedures Governing State Appraiser Programs

The ASC proposes modify Policy Statement 1 to include a definition of trainee appraiser to better reflect how changes to Title XI affect Appraiser Programs with trainee requirements.

Policy Statement 2: Temporary Practice

The ASC proposes to modify Policy Statement 2 to clarify requirements for temporary practice and includes requirements to track temporary practice permits and maintain documentation.

Policy Statement 3: National Registry of Appraisers

The ASC proposes to modify Policy Statement 3 to clarify requirements regarding States' submission of registry fees and eligibility of appraisers for the Appraiser Registry.

Policy Statement 4: Application Process

The ASC proposes to modify Policy Statement 4 to include additional guidance to States implementing AQB Criteria regarding the background of applicants for credentials and requires States to document applicant files with evidence supporting decisions made regarding individual appraisers. Policy Statement 4 as proposed also provides additional guidance on requirements for States to validate renewal requirements for appraisers and provides parameters for auditing education-related affidavits. Finally, Policy Statement 4 as proposed clarifies the requirement that States engage analysts who are knowledgeable about the *Uniform Standards of Professional Appraisal Practice* (USPAP) and document how the analysts are qualified.

Policy Statement 5: Reciprocity

The ASC proposes to modify Policy Statement 5 to include a requirement that States obtain and maintain sufficient relevant documentation pertaining to an application for issuance of a credential by reciprocity.

Policy Statement 6: Education

The ASC proposes to modify Policy Statement 6 to clarify that States may not continue to accept AQB approved courses after the AQB's expiration date unless the course content is reviewed and approved by the State.

Policy Statement 7: Enforcement

The ASC proposes to modify Policy Statement 7 to clarify the requirement that States consider USPAP violations when investigating a complaint whether or not USPAP violations were the basis for the complaint.

Part B: AMC Program

As proposed, Policy Statements 8, 9 & 10 duplicate the provisions of Policy Statements 1, 3 & 7 to every extent possible. The standard language is intentional and will create better understanding of the Policy Statements by the States as they will be able to anticipate how to comply based on their understanding of the Policy Statements they have been following. Differences are discussed below.

Policy Statement 8: Statutes, Regulations, Policies and Procedures Governing State AMC Programs

The ASC proposes a new Policy Statement 8 to reflect the statutory provision that States are not required to establish an AMC Program, but clarify for those States that establish AMC Programs the ASC oversight during ASC Compliance Reviews. As proposed, Policy Statement 8 reiterates that States with an AMC Program must: (1) Establish and maintain an AMC Program with the legal authority and mechanisms consistent with the AMC Rule; (2) impose requirements on AMCs consistent with the AMC Rule; and (3) enforce and document ownership limitations for State-registered AMCs. As proposed, Policy Statement 8 informs States that while they may have a more expansive definition of an AMC in their State statute, only AMCs that meet the federal definition in Title XI may be included on the AMC Registry.

Policy Statement 9: National Registry of AMCs (AMC Registry)

The ASC proposes a new Policy Statement 9 to clarify requirements for States with an AMC Program to maintain the AMC Registry in the same

way they maintain the Appraiser Registry.

Policy Statement 10: State Agency Enforcement

The ASC proposes a new Policy Statement 10 to clarify requirements for States' AMC enforcement programs in those States with an AMC Program.

Policy Statement 11: Statutory Implementation Period

The ASC proposes a new Policy Statement 11 to clarify the statutory implementation period and any extensions that may be granted.

Part C: Interim Sanctions

Policy Statement 12: Interim Sanctions

The ASC proposes a new Policy Statement 12 which modifies existing Policy Statement 8 to clarify interim sanctions which may be imposed on State Programs when those programs fail to be effective. The proposed procedures include due process provisions and rules of evidence, and would establish timeliness for proceedings.

IV. Request for Comment

The ASC seeks comment on all aspects of the proposed Policy Statements. In addition, the ASC requests comments on whether the proposed Policy Statements provide State Programs with the necessary information to understand the ASC's expectations during a Compliance Review.

The text of the proposed Policy Statements is as follows:

Contents

Introduction and Purpose
Part A: Appraiser Program
Policy Statement 1
Statutes, Regulations, Policies and Procedures Governing State Appraiser Programs
A. State Regulatory Structure
B. Funding and Staffing
C. Minimum Criteria
D. Federally Recognized Appraiser Classifications
E. Non-Federally Recognized Credentials
F. Appraisal Standards
G. Exemptions
H. ASC Staff Attendance at State Board Meetings
I. Summary of Requirements
Policy Statement 2
Temporary Practice
A. Requirement for Temporary Practice
B. Excessive Fees or Burdensome Requirements
C. Summary of Requirements
Policy Statement 3
National Registry of Appraisers
A. Requirements for the National Registry of Appraisers
B. Registry Fee and Invoicing Policies

- C. Access to Appraiser Registry Data
- D. Information Sharing
- E. Summary of Requirements
- Policy Statement 4
- Application Process
- A. Processing of Applications
- B. Qualifying Education for Initial or Upgrade Applications
- C. Continuing Education for Reinstatement and Renewal Applications
- D. Experience for Initial or Upgrade Applications
- E. Examination
- F. Summary of Requirements
- Policy Statement 5
- Reciprocity
- A. Reciprocity Policy
- B. Application of Reciprocity Policy
- C. Appraiser Compliance Requirements
- D. Well-Documented Application Files
- E. Summary of Requirements
- Policy Statement 6
- Education
- A. Course Approval
- B. Distance Education
- C. Summary of Requirements
- Policy Statement 7
- State Agency Enforcement
- A. State Agency Regulatory Program
- B. Enforcement Process
- C. Summary of Requirements
- Part B: AMC Program
- Policy Statement 8
- Statutes, Regulations, Policies and Procedures Governing State AMC Programs
- A. Participating States and ASC Oversight
- B. Relation to State Law
- C. Funding and Staffing
- D. Minimum Requirements for Registration and Supervision of AMCs as Established by the AMC Rule
- E. Summary of Requirements
- Policy Statement 9
- National Registry of AMCs (AMC Registry)
- A. Requirements for the AMC Registry
- B. Registry Fee and Invoicing Policies
- C. Reporting Requirements
- D. Access to AMC Registry Data
- E. Summary of Requirements
- Policy Statement 10
- State Agency Enforcement
- A. State Agency Regulatory Program
- B. Enforcement Process
- C. Summary of Requirements
- Policy Statement 11
- Statutory Implementation Period
- Part C: Interim Sanctions
- Policy Statement 12
- Interim Sanctions
- A. Authority
- B. Opportunity To Be Heard or Correct Conditions
- C. Procedures
- Appendices
- Appendix A—Compliance Review Process
- Appendix B—Glossary of Terms

Introduction and Purpose

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as amended (Title XI) established the Appraisal Subcommittee of the Federal Financial Institutions

Examination Council (ASC).⁸ The purpose of Title XI is to provide protection of Federal financial and public policy interests by upholding Title XI requirements for appraisals performed for federally related transactions. Specifically, those appraisals shall be performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.

Pursuant to Title XI, one of the ASC's core functions is to monitor the requirements established by the States⁹ for certification and licensing of appraisers qualified to perform appraisals in connection with federally related transactions.¹⁰ Title XI as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act)¹¹ expanded the ASC's core functions to include monitoring of the requirements established by States that elect to register and supervise the operations and activities of appraisal management companies¹² (AMCs).¹³

The ASC performs periodic Compliance Reviews¹⁴ of each State appraiser regulatory program (Appraiser Program) to determine compliance or lack thereof with Title XI, and to assess implementation of minimum requirements for credentialing of appraisers as adopted by the Appraiser Qualifications Board (*The Real Property Appraiser Qualification Criteria* or AQB Criteria). As a result of the Dodd-Frank Act amendments to Title XI, States with an AMC regulatory program (AMC Program) will be evaluated during the Compliance Review to determine compliance or lack thereof with Title XI, and to assess implementation of the minimum requirements for State registration and supervision of AMCs as established by the AMC Rule.¹⁵

⁸The ASC board is made up of seven members. Five members are designated by the heads of the FFIEC agencies (Board of Governors of the Federal Reserve System, Bureau of Consumer Financial Protection, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, and National Credit Union Administration). The other two members are designated by the heads of the Department of Housing and Urban Development and the Federal Housing Finance Agency.

⁹See Appendix B, Glossary of Terms, for the definition of "State."

¹⁰See Appendix B, Glossary of Terms, for the definition of "federally related transaction."

¹¹Public Law 111–203, 124 Stat. 1376.

¹²Title XI § 1103(a)(1)(B), 12 U.S.C. 3332.

¹³See Appendix B, Glossary of Terms, for the definition of "appraisal management company" or AMC.

¹⁴See Appendix A, Compliance Review Process.

¹⁵The Dodd-Frank Act required the Office of the Comptroller of the Currency; Board of Governors of

The ASC is issuing these revised Policy Statements¹⁶ in three parts to provide States with the necessary information to maintain their Appraiser Programs and AMC Programs in compliance with Title XI:

> Part A, *Appraiser Program*—Policy Statements 1 through 7 correspond with the categories that are: (a) Evaluated during the Appraiser Program Compliance Review; and (b) included in the *ASC's Compliance Review Report of the Appraiser Program*.

> Part B, *AMC Program*—Policy Statements 8 through 11 correspond with the categories that are: (a) Evaluated during the AMC Program Compliance Review; and (b) included in the *ASC's Compliance Review Report of the AMC Program*.

> Part C, *Interim Sanctions*—Policy Statement 12 sets forth required procedures in the event that interim sanctions are imposed against a State by the ASC for non-compliance in either the Appraiser Program or the AMC Program.

Part A: Appraiser Program

Policy Statement 1

Statutes, Regulations, Policies and Procedures Governing State Appraiser Programs

A. State Regulatory Structure

Title XI requires the ASC to monitor each State appraiser certifying and licensing agency for the purpose of determining whether each such agency has in place policies, practices and procedures consistent with the requirements of Title XI.¹⁷ The ASC recognizes that each State may have legal, fiscal, regulatory or other factors that may influence the structure and organization of its Appraiser Program. Therefore, a State has flexibility to structure its Appraiser Program so long as it meets its Title XI-related responsibilities.

States should maintain an organizational structure for appraiser certification, licensing and supervision

the Federal Reserve System; Federal Deposit Insurance Corporation; National Credit Union Administration; Bureau of Consumer Financial Protection; and Federal Housing Finance Agency to establish, by rule, minimum requirements to be imposed by a participating State appraiser certifying and licensing agency on AMCs doing business in the State. (Title XI § 1124(a), 12 U.S.C. 3353(a)). Those rules were finalized and published on June 9, 2015, at 80 *Federal Register* 32658 with an effective date of August 10, 2015. (12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; 12 CFR 1222.20–1222.26.)

¹⁶These Policy Statements, adopted [date to be inserted when final], supersede all previous Policy Statements adopted by the ASC.

¹⁷Title XI § 1118(a), 12 U.S.C. 3347.

that avoids conflicts of interest. A State agency may be headed by a board, commission or an individual. State board¹⁸ or commission members, or employees in policy or decision-making positions, should understand and adhere to State statutes and regulations governing performance of responsibilities consistent with the highest ethical standards for public service. In addition, Appraiser Programs using private entities or contractors should establish appropriate internal policies, procedures and safeguards to promote compliance with the State agency's responsibilities under Title XI and these Policy Statements.

B. Funding and Staffing

The Dodd-Frank Act amended Title XI to require the ASC to determine whether States have sufficient funding and staffing to meet their Title XI requirements. Compliance with this provision requires that a State must provide its Appraiser Program with funding and staffing sufficient to carry out its Title XI-related duties. The ASC evaluates the sufficiency of funding and staffing as part of its review of all aspects of an Appraiser Program's effectiveness, including the adequacy of State boards, committees, or commissions responsible for carrying out Title XI-related duties.

C. Minimum Criteria

Title XI requires States to adopt and/or implement all relevant AQB Criteria. Requirements established by a State for certified residential or certified general appraisers, as well as requirements established for licensed appraisers, trainee appraisers and supervisory appraisers must meet or exceed applicable AQB Criteria.

D. Federally Recognized Appraiser Classifications

State Certified Appraisers

"State certified appraisers" means those individuals who have satisfied the requirements for residential or general certification in a State whose criteria for certification meet or exceed the applicable minimum AQB Criteria. Permitted scope of practice and designation for State certified residential or certified general appraisers must be consistent with State and Federal laws, including regulations and supplementary guidance.

State Licensed Appraisers

"State licensed appraisers" means those individuals who have satisfied the

requirements for licensing in a State whose criteria for licensing meet or exceed the applicable minimum AQB Criteria. The permitted scope of practice and designation for State licensed appraisers must be consistent with State and Federal laws, including regulations and supplementary guidance.

Trainee Appraisers

"Trainee appraisers" means those individuals who have satisfied the requirements for credentialing in a State whose criteria for credentialing meet or exceed the applicable minimum AQB Criteria. Any minimum qualification requirements established by a State for individuals in the position of "trainee appraiser" or "supervisory appraiser" must meet or exceed the applicable minimum AQB Criteria. ASC staff will evaluate State designations such as "registered appraiser," "apprentice appraiser," "provisional appraiser," or any other similar designation to determine if, in substance, such designation is consistent with a "trainee appraiser" designation and, therefore, administered to comply with Title XI. The permitted scope of practice and designation for trainee appraisers must be consistent with State and Federal laws, including regulations and supplementary guidance.

Any State or Federal agency may impose additional appraiser qualification requirements for trainee, State licensed, certified residential or certified general classifications, if they consider such requirements necessary to carry out their responsibilities under Federal and/or State statutes and regulations, so long as the additional qualification requirements do not preclude compliance with AQB Criteria.

E. Non-Federally Recognized Credentials

States using non-federally recognized credentials or designations¹⁹ must ensure that they are easily distinguished from the federally recognized credentials.

F. Appraisal Standards

Title XI and the Federal financial institutions regulatory agencies' regulations mandate that all appraisals performed in connection with federally related transactions be in written form, prepared in accordance with generally accepted appraisal standards as promulgated by the Appraisal Standards Board (ASB) in the Uniform Standards of Professional Appraisal Practice

(USPAP), and be subject to appropriate review for compliance with USPAP.²⁰ States that have incorporated USPAP into State law should ensure that statutes or regulations are updated timely to adopt the current version of USPAP, or if State law allows, automatically incorporate the latest version of USPAP as it becomes effective. States should consider ASB Advisory Opinions, Frequently Asked Questions, and other written guidance issued by the ASB regarding interpretation and application of USPAP.

Any State or Federal agency may impose additional appraisal standards if they consider such standards necessary to carry out their responsibilities, so long as additional appraisal standards do not preclude compliance with USPAP or the Federal financial institutions regulatory agencies' appraisal regulations for work performed for federally related transactions.

The Federal financial institutions regulatory agencies' appraisal regulations define "appraisal" and identify which real estate-related financial transactions require the services of a State certified or licensed appraiser. These regulations define "appraisal" as a "written statement independently and impartially prepared by a qualified appraiser setting forth an opinion as to the market value of an adequately described property as of a specific date(s) supported by the presentation and analysis of relevant market information." Per these regulations, an appraiser performing an appraisal review which includes the reviewer providing his or her own opinion of value constitutes an appraisal. Under these same regulations, an appraisal review that does not include the reviewer providing his or her own opinion of value does not constitute an appraisal. Therefore, under the Federal financial institutions regulatory agencies' regulations, only those transactions that involve appraisals for federally related transactions require the services of a State certified or licensed appraiser.

G. Exemptions

Title XI and the Federal financial institutions regulatory agencies' regulations specifically require the use of State certified or licensed appraisers in connection with the appraisal of certain real estate-related financial

¹⁸ See Appendix B, *Glossary of Terms*, for the definition of "State board."

¹⁹ See Appendix B, *Glossary of Terms*, for the definition of "non-federally recognized credentials or designations."

²⁰ See Appendix B, *Glossary of Terms* for the definition of "Uniform Standards of Professional Appraisal Practice."

transactions.²¹ A State may not exempt any individual or group of individuals from meeting the State's certification or licensing requirements if the individual or group member performs an appraisal when Federal statutes and regulations require the use of a certified or licensed appraiser. For example, an individual who has been exempted by the State from its appraiser certification or licensing requirements because he or she is an officer, director, employee or agent of a federally regulated financial institution would not be permitted to perform an appraisal in connection with a federally related transaction.

H. ASC Staff Attendance at State Board Meetings

The efficacy of the ASC's Compliance Review process rests on the ASC's ability to obtain reliable information about all areas of a State's Appraiser Program. ASC staff regularly attends open State board meetings as part of the on-site Compliance Review process. States are expected to make available for review by ASC staff minutes of closed meetings and executive sessions. States are encouraged to allow ASC staff to attend closed and executive sessions of State board meetings where such attendance would not violate State law or regulation or be inconsistent with other legal obligations of the State board. ASC staff is obligated to protect information obtained during the Compliance Review process concerning the privacy of individuals and any confidential matters.

I. Summary of Requirements

1. States must require that appraisals be performed in accordance with the latest version of USPAP.²²
2. States must, at a minimum, adopt and/or implement all relevant AQB Criteria.²³
3. States must have policies, practices and procedures consistent with Title XI.²⁴
4. States must have funding and staffing sufficient to carry out their Title XI-related duties.²⁵
5. States must use proper designations and permitted scope of practice for certified residential; certified general; licensed; and trainee classifications.²⁶

6. State board members, and any persons in policy or decision-making positions, must perform their responsibilities consistent with Title XI.²⁷

7. States' certification and licensing requirements must meet the minimum requirements set forth in Title XI.²⁸

8. State requirements for trainee appraisers and supervisory appraisers must meet or exceed the AQB Criteria.

9. State agencies must be granted adequate authority by the State to maintain an effective regulatory Appraiser Program in compliance with Title XI.²⁹

Policy Statement 2

Temporary Practice

A. Requirement for Temporary Practice

Title XI requires State agencies to recognize, on a temporary basis, the certification or license of an out-of-State appraiser entering the State for the purpose of completing an appraisal assignment³⁰ for a federally related transaction. States are not, however, required to grant temporary practice permits to trainee appraisers. The out-of-State appraiser must register with the State agency in the State of temporary practice (Host State). A State may determine the process necessary for "registration" provided such process complies with Title XI and does not impose "excessive fees or burdensome requirements," as determined by the ASC.³¹ Thus, a credentialed appraiser³² from State A has a statutory right to enter State B (the Host State) to perform an assignment concerning a federally related transaction, so long as the appraiser registers with the State agency in State B prior to performing the assignment. Though Title XI contemplates reasonably free movement of credentialed appraisers across State lines, an out-of-State appraiser must comply with the Host State's real estate appraisal statutes and regulations and is subject to the Host State's full regulatory jurisdiction. States should utilize the National Registry of Appraisers to verify credential status on applicants for temporary practice.

B. Excessive Fees or Burdensome Requirements

Title XI prohibits States from imposing excessive fees or burdensome requirements, as determined by the ASC, for temporary practice.³³ Adherence by State agencies to the following mandates and prohibitions will deter the imposition of excessive fees or burdensome requirements.

Host State agencies must:

- a. Issue temporary practice permits on an assignment basis;
- b. issue temporary practice permits within five business days of receipt of a completed application, or notify the applicant and document the file as to the circumstances justifying delay or other action;
- c. issue temporary practice permits designating the permit's effective date;
- d. take regulatory responsibility for a temporary practitioner's unethical, incompetent and/or fraudulent practices performed while in the State;
- e. notify the appraiser's home State agency³⁴ in the case of disciplinary action concerning a temporary practitioner;
- f. allow at least one temporary practice permit extension through a streamlined process;
- g. track all temporary practice permits using a permit log which includes the name of the applicant, date application received, date completed application received, date of issuance, and date of expiration, if any (States are strongly encouraged to maintain this information in an electronic, sortable format); and
- h. maintain documentation sufficient to demonstrate compliance with this Policy Statement.

Host State agencies may not:

- a. limit the valid time period of a temporary practice permit to less than 6 months (unless the applicant requests a specific end date and the applicant is allowed an extension if required to complete the assignment, the applicant's credential is no longer in active status during that period of time);
- b. limit an appraiser to one temporary practice permit per calendar year;³⁵

²¹ Title XI § 1112, 12 U.S.C. 3341; Title XI § 1113, 12 U.S.C. 3342; Title XI § 1114, 12 U.S.C. 3343.

²² Title XI § 1101, 12 U.S.C. 3331; Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

²³ Title XI §§ 1116(a), (c) and (e), 12 U.S.C. 3345; Title XI § 1118(a), 12 U.S.C. 3347.

²⁴ Title XI § 1118(a), 12 U.S.C. 3347.

²⁵ *Id.*; Title XI § 1118(b), 12 U.S.C. 3347.

²⁶ Title XI §§ 1116(a), (c) and (e), 12 U.S.C. 3345; Title XI § 1118(a), 12 U.S.C. 3347; Title XI § 1113,

12 U.S.C. 3342; AQB *Real Property Appraiser Qualification Criteria*.

²⁷ Title XI § 1118(a), 12 U.S.C. 3347.

²⁸ Title XI §§ 1116(a), (c) and (e), 12 U.S.C. 3345.

²⁹ Title XI § 1118(b), 12 U.S.C. 3347.

³⁰ See Appendix B, *Glossary of Terms*, for the definition of "assignment."

³¹ Title XI § 1122(a)(2), 12 U.S.C. 3351.

³² See Appendix B, *Glossary of Terms*, for the definition of "credentialed appraisers."

³³ Title XI § 1122(a) (2), 12 U.S.C. 3351.

³⁴ See Appendix B, *Glossary of Terms*, for the definition of "home State agency."

³⁵ State agencies may establish by statute or regulation a policy that places reasonable limits on the number of times an out-of-State certified or licensed appraiser may exercise his or her temporary practice rights in a given year. If such a policy is not established, a State agency may choose not to honor an out-of-State certified or licensed appraiser's temporary practice rights if it has made a determination that the appraiser is abusing his or her temporary practice rights and is regularly engaging in real estate appraisal services within the State.

c. charge a temporary practice permit fee exceeding \$250, including one extension fee;

d. impose State appraiser qualification requirements for education, experience and/or exam upon temporary practitioners;

e. require temporary practitioners to obtain a certification or license in the State of temporary practice;

f. require temporary practitioners to affiliate with an in-State licensed or certified appraiser;

g. refuse to register licensed or certified appraisers seeking temporary practice in a State that does not have a licensed or certified level credential; or

h. prohibit temporary practice.

Home State agencies may not:

a. delay the issuance of a written "letter of good standing" or similar document for more than five business days after receipt of a request; or

b. fail to consider and, if appropriate, take disciplinary action when one of its certified or licensed appraisers is disciplined by another State.

C. Summary of Requirements

1. States must recognize, on a temporary basis, appraiser credentials issued by another State if the property to be appraised is part of a federally related transaction.³⁶

2. State agencies must adhere to mandates and prohibitions as determined by the ASC that deter the imposition of excessive fees or burdensome requirements for temporary practice.³⁷

Policy Statement 3

National Registry of Appraisers

A. Requirements for the National Registry of Appraisers

Title XI requires the ASC to maintain a National Registry of State certified and licensed appraisers who are eligible to perform appraisals in federally related transactions (Appraiser Registry).³⁸ Title XI further requires the States to transmit to the ASC: (1) A roster listing individuals who have received a State certification or license in accordance with Title XI; (2) reports on the issuance and renewal of licenses and certifications, sanctions, disciplinary actions, revocations and suspensions; and (3) the registry fee as set by the ASC³⁹ from individuals who have

received certification or licensing. States must notify the ASC as soon as practicable if a credential holder listed on the Appraiser Registry does not qualify for the credential held.

Roster and registry fee requirements apply to all individuals who receive State certifications or licenses, originally or by reciprocity, whether or not the individuals are, in fact, performing or planning to perform appraisals in federally related transactions. If an appraiser is certified or licensed in more than one State, the appraiser is required to be on each State's roster of certified or licensed appraisers, and a registry fee is due from each State in which the appraiser is certified or licensed.

Only AQB-compliant certified and licensed appraisers in active status on the Appraiser Registry are eligible to perform appraisals in connection with federally related transactions. Only those appraisers whose registry fees have been transmitted to the ASC will be eligible to be on the Appraiser Registry for the period subsequent to payment of the fee.

Some States may give State certified or licensed appraisers an option to not pay the registry fee. If a State certified or licensed appraiser chooses not to pay the registry fee, then the Appraiser Program must ensure that any potential user of that appraiser's services is aware that the appraiser is not eligible to perform appraisals for federally related transactions. The Appraiser Program must place a conspicuous notice directly on the face of any evidence of the appraiser's authority to appraise stating, "Not Eligible To Appraise Federally Related Transactions," and the appraiser must not be listed in active status on the Appraiser Registry.

The ASC extranet application allows States to update their appraiser credential information directly to the Appraiser Registry. Only Authorized Registry Officials are allowed to request access for their State personnel (see section C below). The ASC will issue a User Name and Password to the designated State personnel responsible for that State's Appraiser Registry entries. Designated State personnel are required to protect the right of access, and not share their User Name or Password with anyone. State agencies must adopt and implement a written policy to protect the right of access, as well as the ASC issued User Name and Password. The ASC will provide detailed specifications regarding the data elements on the Appraiser Registry.

B. Registry Fee and Invoicing Policies

Each State must remit to the ASC the annual registry fee, as set by the ASC, for State certified or licensed appraisers within the State to be listed on the Appraiser Registry. Requests to prorate refunds or partial-year registrations will not be granted. If a State collects multiple-year fees for multiple-year certifications or licenses, the State may choose to remit to the ASC the total amount of the multiple-year registry fees or the equivalent annual fee amount. The ASC will, however, record appraisers on the Appraiser Registry only for the number of years for which the ASC has received payment. Nonpayment by a State of an appraiser's registry fee may result in the status of that appraiser being listed as "inactive." States must reconcile and pay registry invoices in a timely manner (45 calendar days after the invoice date). When a State's failure to pay a past due invoice results in appraisers being listed as inactive, the ASC will not change those appraisers back to active status until payment is received from the State. An inactive status on the Appraiser Registry, for whatever the reason, renders an appraiser ineligible to perform appraisals in connection with federally related transactions.

C. Access to Appraiser Registry Data

The ASC Web site provides free access to the public portion of the Appraiser Registry at www.asc.gov. The public portion of the Appraiser Registry data may be downloaded using predefined queries or user-customized applications.

Access to the full database, which includes non-public data (e.g., certain disciplinary action information), is restricted to authorized State and Federal regulatory agencies. States must designate a senior official, such as an executive director, to serve as the State's Authorized Registry Official, and provide to the ASC, in writing, information regarding the designated Authorized Registry Official. States must ensure that the authorization information provided to the ASC is updated and accurate.

D. Information Sharing

Information sharing (routine exchange of certain information among lenders, governmental entities, State agencies and the ASC) is essential for carrying out the purposes of Title XI. Title XI requires the ASC, any other Federal agency or instrumentality, or any federally recognized entity to report any action of a State certified or licensed appraiser that is contrary to the

³⁶ Title XI § 1122(a)(1), 12 U.S.C. 3351.

³⁷ Title XI § 1122(a)(2), 12 U.S.C. 3351.

³⁸ Title XI § 1103(a) (3), 12 U.S.C. 3332.

³⁹ Title XI § 1109, *Roster of State certified or licensed appraisers; authority to collect and transmit fees*, requires the ASC to consider at least once every 5 years whether to adjust the dollar amount of the registry fees to account for inflation. (Title XI § 1109(a), 12 U.S.C. 3338.)

purposes of Title XI to the appropriate State agency for disposition. The ASC believes that full implementation of this Title XI requirement is vital to the integrity of the system of State appraiser regulation. States are encouraged to develop and maintain procedures for sharing of information among themselves.

The Appraiser Registry's value and usefulness are largely dependent on the quality and frequency of State data submissions. Accurate and frequent data submissions from all States are necessary to maintain an up-to-date Appraiser Registry. States must submit appraiser data in a secure format to the ASC at least monthly. If there are no changes to the data, the State agency must notify the ASC of that fact in writing. States are encouraged to submit data as frequently as possible.

States must report all disciplinary action⁴⁰ taken against an appraiser to the ASC via the extranet application within 5 business days after the disciplinary action is final, as determined by State law.⁴¹ States not reporting via the extranet application must provide, in writing to the ASC, a description of the circumstances preventing compliance with this requirement.⁴²

For the most serious disciplinary actions (*i.e.*, voluntary surrenders, suspensions and revocations, or any action that interrupts a credential holder's ability to practice), the appraiser's status must be changed on the Appraiser Registry to "inactive," thereby making the appraiser ineligible to perform appraisals for federally related transactions or other transactions requiring the use of State certified or licensed appraisers.⁴³

Title XI also contemplates the reasonably free movement of certified and licensed appraisers across State lines. This freedom of movement assumes, however, that certified and licensed appraisers are, in all cases, held accountable and responsible for their actions while performing appraisal activities.

E. Summary of Requirements

1. States must reconcile and pay registry invoices in a timely manner (45 calendar days after the invoice date).⁴⁴

2. States must report all disciplinary action taken against an appraiser to the ASC via the extranet application within

5 business days after the disciplinary action is final, as determined by State law.⁴⁵

3. States not reporting via the extranet application must provide, in writing to the ASC, a description of the circumstances preventing compliance with this requirement.⁴⁶

4. For the most serious disciplinary actions (*i.e.*, voluntary surrenders, suspensions and revocations, or any action that interrupts a credential holder's ability to practice), the appraiser's status must be changed on the Appraiser Registry to "inactive," thereby making the appraiser ineligible to perform appraisals for federally related transactions or other transactions requiring the use of State certified or licensed appraisers.⁴⁷

5. States must designate a senior official, such as an executive director, who will serve as the State's Authorized Registry Official, and provide to the ASC, in writing, information regarding the selected Authorized Registry Official, and any individual(s) authorized to act on their behalf.⁴⁸

6. States must ensure that the authorization information provided to the ASC is updated and accurate.⁴⁹

7. States using the ASC extranet application must implement written policies to ensure that all personnel with access to the Appraiser Registry protect the right of access and not share the User Name or Password with anyone.⁵⁰

8. States must ensure the accuracy of all data submitted to the Appraiser Registry.⁵¹

9. States must submit appraiser data (other than discipline) to the ASC at least monthly. If a State's data does not change during the month, the State agency must notify the ASC of that fact in writing.⁵²

10. If a State certified or licensed appraiser chooses not to pay the registry fee, the State must ensure that any potential user of that appraiser's services is aware that the appraiser's certificate or license is limited to performing appraisals only in connection with non-federally related transactions.⁵³

Policy Statement 4

Application Process

AQB Criteria sets forth the minimum education, experience and examination requirements applicable to all States for credentialing of real property appraisers (certified, licensed, trainee and supervisory). In the application process, States must, at a minimum, employ a reliable means of validating both education and experience credit claimed by applicants for credentialing.⁵⁴ Effective January 1, 2017, AQB Criteria also requires States to assess whether an applicant for a real property appraiser credential possesses a background that would not call into question public trust. The basis for such assessment shall be a matter left to the individual States, and must, at a minimum, be documented to the file.

A. Processing of Applications

States must process applications in a consistent, equitable and well-documented manner. Applications for credentialing should be timely processed by State agencies (within 90 calendar days after receipt of a completed application). Any delay in the processing of applications must be sufficiently documented in the file to explain the delay. States must ensure appraiser credential applications submitted for processing do not contain invalid examinations as established by AQB Criteria.

States must obtain and maintain sufficient relevant documentation pertaining to an application for issuance, upgrade and renewal of a credential so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations. Files must include documentation of:

1. Application receipt date;
2. Education;
3. Experience;
4. Examination;
5. Continuing education; and
6. Any administrative or disciplinary action taken in connection with the application process, including results of any continuing education audit.

B. Qualifying Education for Initial or Upgrade Applications

States must verify that:

(1) The applicant's claimed education courses are acceptable under AQB Criteria; and

(2) the applicant has successfully completed courses consistent with AQB

⁵⁴ Includes applications for credentialing of trainee, licensed, certified residential or certified general classifications.

⁴⁰ See Appendix B, *Glossary of Terms*, for the definition of "disciplinary action."

⁴¹ *Id.*

⁴² Title XI § 1118(a), 12 U.S.C. 3347.

⁴³ *Id.*

⁴⁴ Title XI § 1118(a), 12 U.S.C. 3347; Title XI § 1109(a), 12 U.S.C. 3338.

⁴⁵ *Id.*

⁴⁶ Title XI § 1118(a), 12 U.S.C. 3347.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

Criteria for the appraiser credential sought.

States may not accept an affidavit for claimed qualifying education from applicants for any federally recognized credential.⁵⁵ States must maintain adequate documentation to support verification of education claimed by applicants.

C. Continuing Education for Reinstatement and Renewal Applications

1. Reinstatement Applications

States must verify that:

(1) The applicant's claimed continuing education courses are acceptable under AQB Criteria; and
(2) the applicant has successfully completed all continuing education consistent with AQB Criteria for reinstatement of the appraiser credential sought.

States may not accept an affidavit for continuing education claimed from applicants for reinstatement. Applicants for reinstatement must submit documentation to support claimed continuing education and States must maintain adequate documentation to support verification of claimed education.

2. Renewal Applications

States must ensure that continuing education courses for renewal of an appraiser credential are consistent with AQB Criteria and that continuing education hours required for renewal of an appraiser credential were completed consistent with AQB Criteria. States may accept affidavits for continuing education credit claimed for credential renewal so long as the State implements a reliable validation procedure that adheres to the following objectives and requirements:

a. Validation Objectives

The State's validation procedures must be structured to permit acceptable projections of the sample results to the entire population of subject appraisers. Therefore, the sample must include an adequate number of affidavits selected from each federally recognized credential level to have a reasonable chance of identifying appraisers who fail to comply with AQB Criteria, and

⁵⁵ If a State accepts education-related affidavits from applicants for initial licensure in any non-certified classification, upon the appraiser's application to upgrade to a certified classification, the State must require documentation to support the appraiser's educational qualification for the certified classification, not just the incremental amount of education required to move from the non-certified to the certified classification. This requirement applies to all federally recognized credentials.

the sample must include a statistically relevant representation of the appraiser population being sampled.

b. Minimum Standards

(1) Validation must include a prompt post-approval audit. Each audit of an affidavit for continuing education credit claimed must be completed within 60 business days from the date the credential is scheduled for renewal (based on the credential's expiration date). To ensure the audit is a statistically relevant representation, a sampling of credentials that were renewed after the scheduled expiration date and/or beyond the date the sample was selected, must also be audited to ensure that a credential holder may not avoid being selected for a continuing education audit by renewing early or late.

(2) States must audit the continuing education-related affidavit for each credentialed appraiser selected in the sampling procedure.

(3) States must determine that education courses claimed conform to AQB Criteria and that the appraiser successfully completed each course.

(4) When a State determines that an appraiser's continuing education does not meet AQB Criteria, and the appraiser has failed to complete any remedial action offered, the State must take appropriate action to suspend the appraiser's eligibility to perform appraisals in federally related transactions until such time that the requisite continuing education has been completed. The State must notify the ASC within five (5) business days after taking such action in order for the appraiser's record on the Appraiser Registry to be updated appropriately.

(5) If a State determines that a renewal applicant knowingly falsely attested to completing the continuing education required by AQB Criteria, the State must take appropriate administrative and/or disciplinary action and report such action, if deemed to be discipline, to the ASC within five (5) business days.

(6) If more than ten percent of the audited appraisers fail to meet the AQB Criteria, the State must take remedial action⁵⁶ to address the apparent weakness of its affidavit process. The ASC will determine on a case-by-case

⁵⁶ For example:

(1) A State may conduct an additional audit using a higher percentage of audited appraisers; or
(2) a State may publicly post action taken to sanction non-compliant appraisers to increase awareness in the appraiser community of the importance of compliance with continuing education requirements.

basis whether remedial actions are effective and acceptable.

(7) In the case of a renewal being processed after the credential's expiration date, but within the State's allowed grace period for a late renewal, the State must establish a reliable process to audit affidavits for continuing education (e.g., requiring documentation of all continuing education).

c. Documentation

States must maintain adequate documentation to support its affidavit renewal and audit procedures and actions.

d. List of Education Courses

To promote accountability, the ASC encourages States accepting affidavits for continuing education credit claimed for credential renewal to require that the appraiser provide a list of courses to support the affidavit.

D. Experience for Initial or Upgrade Applications

States must ensure that appraiser experience logs conform to AQB Criteria. States may not accept an affidavit for experience credit claimed by applicants for any federally recognized credential.⁵⁷

1. Validation Required

States must implement a reliable validation procedure to verify that each applicant's experience meets AQB Criteria, including but not limited to, being USPAP compliant and containing the required number of hours and months.

2. Validation Procedures, Objectives and Requirements

a. Selection of Work Product

States must determine the hours and time period claimed on the experience log are accurate and analyze a representative sample of the applicant's

⁵⁷ See Policy Statement 1D and E for discussion of "federally recognized credential" and "non-federally recognized credential." If prior to July 1, 2013, a State accepted experience-related affidavits from applicants for initial licensure in any non-certified classification, upon the appraiser's application to upgrade to a certified classification, the State must require experience documentation to support the appraiser's qualification for the certified classification, not just the incremental amount of experience required to move from the non-certified to the certified classification. For example, if a State accepted an experience affidavit from an appraiser to support the appraiser's initial hours to qualify for the licensed classification, and subsequently that appraiser applies to upgrade to the certified residential classification, the State must require documentation to support the full experience hours required for the certified residential classification, not just the difference in hours between the two classifications.

work product for compliance with USPAP. Appraiser Program staff or State board members must select the work product to be reviewed; applicants may not have any role in selection of work product.

b. USPAP Compliance

For appraisal experience to be acceptable under AQB Criteria, it must be USPAP compliant. States must exercise due diligence in determining whether submitted documentation of experience or work product demonstrates compliance with USPAP. Persons analyzing work product for USPAP compliance must be knowledgeable about appraisal practice and USPAP, and States must be able to document how such persons are so qualified.

c. Determination of Experience Time Periods

When measuring the experience time period required by AQB Criteria, States must review each appraiser's experience log and note the dates of the first and last acceptable appraisal activity performed by the applicant. At a minimum, the time period spanned between those appraisal activities must comply with the AQB Criteria.

d. Supporting Documentation

States must maintain adequate documentation to support validation methods. The applicant's file, either electronic or paper, must include the information necessary to identify each appraisal assignment selected and analyzed by the State, notes, letters and/or reports prepared by the official(s) evaluating the report for USPAP compliance, and any correspondence exchanged with the applicant regarding the appraisals submitted. This supporting documentation may be discarded upon the completion of the first ASC Compliance Review performed after the credential issuance or denial for that applicant.

E. Examination

States must ensure that an appropriate AQB-approved qualifying examination is administered for each of the federally recognized appraiser classifications requiring an examination.

F. Summary of Requirements

Processing of Applications

1. States must process applications in a consistent, equitable and well-documented manner.⁵⁸

2. States must ensure appraiser credential applications submitted for

processing do not contain invalid examinations as established by AQB Criteria.⁵⁹

3. States must obtain and maintain sufficient relevant documentation pertaining to an application for issuance, upgrade or renewal of a credential so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations.⁶⁰

Education

1. States must verify that the applicant's claimed education courses are acceptable under AQB Criteria, whether for initial credentialing, renewal, upgrade or reinstatement.⁶¹

2. States must verify that the applicant has successfully completed courses consistent with AQB Criteria for the appraiser credential sought, whether for initial credentialing, renewal, upgrade or reinstatement.⁶²

3. States must maintain adequate documentation to support verification.⁶³

4. States may not accept an affidavit for education claimed from applicants for any federally recognized credential.⁶⁴

5. States may not accept an affidavit for continuing education claimed from applicants for reinstatement.⁶⁵

6. States may accept affidavits for continuing education credit claimed for credential renewal so long as the State implements a reliable validation procedure.⁶⁶

7. Audits of affidavits for continuing education credit claimed must be completed within sixty (60) business days from the date the credential is scheduled for renewal (based on the credential's expiration date).⁶⁷

8. In the case of a renewal being processed after the credential's expiration date, but within the State's allowed grace period for a late renewal, the State must establish a reliable process to audit affidavits for continuing education (e.g., requiring documentation of all continuing education).⁶⁸

9. States are required to take remedial action when it is determined that more than ten percent of audited appraiser's affidavits for continuing education

credit claimed fail to meet the minimum AQB Criteria.⁶⁹

10. States are required to take appropriate administrative and/or disciplinary action when it is determined that an applicant knowingly falsely attested to completing continuing education.⁷⁰

11. When a State determines that an appraiser's continuing education does not meet AQB Criteria, and the appraiser has failed to complete any remedial action offered, the State must take appropriate action to suspend the appraiser's eligibility to perform appraisals in federally related transactions until such time that the requisite continuing education has been completed. The State must notify the ASC within five (5) business days after taking such action in order for the appraiser's record on the Appraiser Registry to be updated appropriately.⁷¹

Experience

1. States may not accept an affidavit for experience credit claimed from applicants for any federally recognized credential.⁷²

2. States must ensure that appraiser experience logs conform to AQB Criteria.⁷³

3. States must use a reliable means of validating appraiser experience claims on all initial or upgrade applications for appraiser credentialing.⁷⁴

4. States must select the work product to be analyzed for USPAP compliance on all initial or upgrade applications for appraiser credentialing.⁷⁵

5. States must analyze a representative sample of the applicant's claimed hours and work product on all initial or upgrade applications for appraiser credentialing.⁷⁶

6. States must exercise due diligence in determining whether submitted documentation of experience or work product demonstrates compliance with USPAP on all initial or upgrade applications for appraiser credentialing.⁷⁷

7. Persons analyzing work product for USPAP compliance must be knowledgeable about appraisal practice and USPAP, and States must be able to document how such persons are so qualified.⁷⁸

⁵⁹ Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

⁶⁰ Title XI § 1118(a), 12 U.S.C. 3347.

⁶¹ *Id.*

⁶² *Id.*

⁶³ Title XI § 1118(a), 12 U.S.C. 3347.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

⁶⁷ Title XI § 1118(a), 12 U.S.C. 3347.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

⁷⁴ Title XI § 1118(a), 12 U.S.C. 3347.

⁷⁵ Title XI § 1118(a), 12 U.S.C. 3347.

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁵⁸ Title XI § 1118(a), 12 U.S.C. 3347.

Examination

1. States must ensure that an appropriate AQB-approved qualifying examination is administered for each of the federally recognized credentials requiring an examination.⁷⁹

Policy Statement 5

Reciprocity

A. Reciprocity Policy

Title XI contemplates the reasonably free movement of certified and licensed appraisers across State lines. The ASC monitors Appraiser Programs for compliance with the reciprocity provision of Title XI as amended by the Dodd-Frank Act.⁸⁰ Title XI requires that in order for a State's appraisers to be eligible to perform appraisals for federally related transactions, the State must have a policy in place for issuing reciprocal credentials IF:

a. The appraiser is coming from a State (Home State) that is "in compliance" with Title XI as determined by the ASC; AND

b. (i) the appraiser holds a valid credential from the Home State; AND (ii) the credentialing requirements of the Home State⁸¹ meet or exceed those of the reciprocal credentialing State (Reciprocal State).⁸²

An appraiser relying on a credential from a State that does not have such a policy in place may not perform appraisals for federally related transactions. A State may be more lenient in the issuance of reciprocal credentials by implementing a more open door policy. However, States cannot impose additional impediments to obtaining reciprocal credentials.

For purposes of implementing the reciprocity policy, States with an ASC Finding⁸³ of "Poor" do not satisfy the "in compliance" provision for reciprocity. Therefore, States are not required to recognize, for purposes of granting a reciprocal credential, the license or certification of an appraiser credentialed in a State with an ASC Finding of "Poor."

B. Application of Reciprocity Policy

The following examples illustrate application of reciprocity in a manner that complies with Title XI. The examples refer to the reciprocity policy requiring issuance of a reciprocal credential IF:

a. The appraiser is coming from a State that is "in compliance"; AND

b. (i) the appraiser holds a valid credential from that State; AND (ii) the credentialing requirements of that State (as they currently exist) meet or exceed those of the reciprocal credentialing State (as they currently exist).

Example 1. Additional Requirements Imposed on Applicants

State A requires that prior to issuing a reciprocal credential the applicant must certify that disciplinary proceedings are not pending against that applicant in any jurisdiction. Under b(ii) above, if this requirement is not imposed on all of its own applicants for credentialing, STATE A cannot impose this requirement on applicants for reciprocal credentialing.

Example 2. Credentialing Requirements

An appraiser is seeking a reciprocal credential in STATE A. The appraiser holds a valid credential in STATE Z, even though it was issued in 2007. This satisfies b(i) above. However, in order to satisfy b(ii), STATE A would evaluate STATE Z's credentialing requirements as they currently exist to determine whether they meet or exceed STATE A's current requirements for credentialing.

Example 3. Multiple State Credentials

An appraiser credentialed in several States is seeking a reciprocal credential in State A. That appraiser's initial credentials were obtained through examination in the original credentialing State and through reciprocity in the additional States. State A requires the applicant to provide a "letter of good standing" from the State of original credentialing as a condition of granting a reciprocal credential. State A may not impose such a requirement since Title XI does not distinguish between credentials obtained by examination and credentials obtained by reciprocity for purposes of granting reciprocal credentials.

C. Appraiser Compliance Requirements

In order to maintain a credential granted by reciprocity, appraisers must comply with the credentialing State's policies, rules and statutes governing appraisers, including requirements for payment of certification and licensing fees, as well as continuing education.⁸⁴

⁸⁴ A State may offer to accept continuing education (CE) for a renewal applicant who has satisfied CE requirements of a home State; however, a State may not impose this as a requirement for renewal, thereby imposing a requirement for the renewal applicant to retain a home State credential.

D. Well-Documented Application Files

States must obtain and maintain sufficient relevant documentation pertaining to an application for issuance of a credential by reciprocity so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations.

E. Summary of Requirements

1. States must have a reciprocity policy in place for issuing a reciprocal credential to an appraiser from another State under the conditions specified in Title XI in order for the State's appraisers to be eligible to perform appraisals for federally related transactions.⁸⁵

2. States may be more lenient in the issuance of reciprocal credentials by implementing a more open door policy; however, States may not impose additional impediments to issuance of reciprocal credentials.⁸⁶

3. States must obtain and maintain sufficient relevant documentation pertaining to an application for issuance of a credential by reciprocity so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations.⁸⁷

Policy Statement 6

Education

AQB Criteria sets forth minimum requirements for appraiser education courses. This Policy Statement addresses proper administration of education requirements for compliance with AQB Criteria. (For requirements concerning qualifying and continuing education in the application process, see Policy Statement 4, *Application Process*.)

A. Course Approval

States must ensure that approved appraiser education courses are consistent with AQB Criteria and maintain sufficient documentation to support that approved appraiser education courses conform to AQB Criteria.

States should ensure that course approval expiration dates assigned by the State coincide with the endorsement period assigned by the AQB's Course Approval Program or any other AQB-approved organization providing approval of course design and delivery. States may not continue to accept AQB approved courses after the AQB's expiration date unless the course content is reviewed and approved by the State.

⁸⁵ Title XI § 1122(b), 12 U.S.C. 3351.

⁸⁶ *Id.*

⁸⁷ Title XI § 1118(a), 12 U.S.C. 3347.

⁷⁹ Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

⁸⁰ Title XI § 1122(b), 12 U.S.C. 3351.

⁸¹ As they exist at the time of application for reciprocal credential.

⁸² *Id.*

⁸³ See Appendix A, *Compliance Review Process*, for an explanation of ASC Findings.

States should ensure that educational providers are afforded equal treatment in all respects.⁸⁸ States are encouraged to accept courses approved by the AQB's Course Approval Program.

B. Distance Education

States must ensure that distance education courses meet AQB Criteria and that the delivery mechanism for distance education courses offered by a non-academic provider, including secondary providers, has been approved by an AQB-approved organization providing approval of course design and delivery.

States may not continue to accept courses after the AQB-approved organization's approval of course design and delivery date has expired.

C. Summary of Requirements

1. States must ensure that appraiser education courses are consistent with AQB Criteria.⁸⁹

2. States must maintain sufficient documentation to support that approved appraiser courses conform to AQB Criteria.⁹⁰

3. States must ensure the delivery mechanism for distance education courses offered by a non-academic provider, including secondary providers, has been approved by an AQB-approved organization providing approval of course design and delivery.⁹¹

Policy Statement 7

State Agency Enforcement

A. State Agency Regulatory Program

Title XI requires the ASC to monitor the States for the purpose of determining whether the State processes complaints and completes investigations in a reasonable time period, appropriately disciplines sanctioned appraisers and maintains an effective regulatory program.⁹²

B. Enforcement Process

States must ensure that the system for processing and investigating

complaints⁹³ and sanctioning appraisers is administered in a timely, effective, consistent, equitable, and well-documented manner.

1. Timely Enforcement

States must process complaints of appraiser misconduct or wrongdoing in a timely manner to ensure effective supervision of appraisers, and when appropriate, that incompetent or unethical appraisers are not allowed to continue their appraisal practice. Absent special documented circumstances, final administrative decisions regarding complaints must occur within one year (12 months) of the complaint filing date. Special documented circumstances are those extenuating circumstances (fully documented) beyond the control of the State agency that delays normal processing of a complaint such as: Complaints involving a criminal investigation by a law enforcement agency when the investigative agency requests that the State refrain from proceeding; final disposition that has been appealed to a higher court; documented medical condition of the respondent; ancillary civil litigation; and complex cases that involve multiple individuals and reports. Such special documented circumstances also include those periods when State rules require referral of a complaint to another State entity for review and the State agency is precluded from further processing of the complaint until it is returned. In that circumstance, the State agency should document the required referral and the time period during which the complaint was not under its control or authority.

2. Effective Enforcement

Effective enforcement requires that States investigate allegations of appraiser misconduct or wrongdoing, and if allegations are proven, take appropriate disciplinary or remedial action. Dismissal of an alleged violation solely due to an "absence of harm to the public" is inconsistent with Title XI. Financial loss or the lack thereof is not an element in determining whether there is a violation. The extent of such loss, however, may be a factor in determining the appropriate level of discipline.

Persons analyzing complaints for USPAP compliance must be knowledgeable about appraisal practice and USPAP and States must be able to document how such persons are so qualified.

States must analyze each complaint to determine whether additional violations, especially those relating to USPAP, should be added to the complaint.

Closure of a complaint based solely on a State's statute of limitations that results in dismissal of a complaint without the investigation of the merits of the complaint is inconsistent with the Title XI requirement that States assure effective supervision of the activities of credentialed appraisers.⁹⁴

3. Consistent and Equitable Enforcement

Absent specific documented facts or considerations, substantially similar cases within a State should result in similar dispositions.

4. Well-Documented Enforcement

States must obtain and maintain sufficient relevant documentation pertaining to a matter so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations.

a. Complaint Files

Complaint files must:

- Include documentation outlining the progress of the investigation;
- demonstrate that appraisal reports are analyzed and any USPAP violations are identified and considered, whether or not they were the subject of the complaint;
- include rationale for the final outcome of the case (*i.e.*, dismissal or imposition of discipline);
- include documentation explaining any delay in processing, investigation or adjudication;
- contain documentation that all ordered or agreed upon discipline, such as probation, fine, or completion of education is tracked and that completion of all terms is confirmed; and
- be organized in a manner that allows understanding of the steps taken throughout the complaint, investigation, and adjudicatory process.

b. Complaint Logs

States must track all complaints using a complaint log. The complaint log must record all complaints, regardless of their procedural status in the investigation and/or resolution process, including complaints pending before the State board, Office of the Attorney General, other law enforcement agencies, and/or offices of administrative hearings.

The complaint log must include the following information (States are strongly encouraged to maintain this

⁸⁸ For example:

(1) Consent agreements requiring additional education should not specify a particular course provider when there are other providers on the State's approved course listing offering the same course; and

(2) courses from professional organizations should not be automatically approved and/or approved in a manner that is less burdensome than the State's normal approval process.

⁸⁹ Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

⁹⁰ Title XI § 1118(a), 12 U.S.C. 3347.

⁹¹ Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

⁹² Title XI § 1118(a), 12 U.S.C. 3347.

⁹³ See Appendix B, *Glossary of Terms*, for the definition of "complaint."

⁹⁴ Title XI § 1117, 12 U.S.C. 3346.

information in an electronic, sortable format):

1. Case number
2. Name of respondent
3. Actual date the complaint was received by the State
4. Source of complaint (e.g., consumer, lender, AMC, bank regulator, appraiser, hotline) or name of complainant
5. Current status of the complaint
6. Date the complaint was closed (e.g., final disposition by the administrative hearing agency, Office of the Attorney General, State Appraiser Regulatory Agency or Court of Appeals)
7. Method of disposition (e.g., dismissal, letter of warning, consent order, final order)
8. Terms of disposition (e.g., probation, fine, education, mentorship)
9. In the case of open complaints, the most recent activity and date thereof (e.g., respondent's response to complaint received, contacted AG for a status update, Board voted to offer a consent agreement)

C. Summary of Requirements

1. States must maintain relevant documentation to enable understanding of the facts and determinations in the matter and the reasons for those determinations.⁹⁵

2. States must resolve all complaints filed against appraisers within one year (12 months) of the complaint filing date, except for special documented circumstances.⁹⁶

3. States must ensure that the system for processing and investigating complaints and sanctioning appraisers is administered in an effective, consistent, equitable, and well-documented manner.⁹⁷

4. States must track complaints of alleged appraiser misconduct or wrongdoing using a complaint log.⁹⁸

5. States must appropriately document enforcement files and include rationale.⁹⁹

6. States must regulate, supervise and discipline their credentialed appraisers.¹⁰⁰

7. Persons analyzing complaints for USPAP compliance must be knowledgeable about appraisal practice and USPAP, and States must be able to document how such persons are so qualified.¹⁰¹

⁹⁵ Title XI § 1118(a), 12 U.S.C. 3347.

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

Part B: AMC Program

Policy Statement 8

Statutes, Regulations, Policies and Procedures Governing State AMC Programs

A. Participating States and ASC Oversight

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 (participating States), ASC staff will informally monitor the State's progress to implement the requirements of Title XI and the AMC Rule.¹⁰² Formal ASC oversight of State AMC Programs will begin at the next regularly scheduled Compliance Review of a State after the following occurs:

1. A State decides to be a participating State pursuant to the AMC Rule;
2. A State establishes an AMC program in accordance with the AMC Rule; and
3. A State begins reporting to the National Registry of AMCs (AMC Registry).

Formal ASC oversight will consist of evaluating AMC Programs in participating States during the Compliance Review process to determine compliance or lack thereof with Title XI, and to assess implementation of the minimum requirements for State registration and supervision of AMCs as established by the AMC Rule. Upon expiration of the statutory implementation period (see Policy Statement 11, *Statutory Implementation Period*), Compliance Reviews will include ASC oversight of AMC Programs for any participating State.

B. Relation to State Law

Participating States may establish requirements in addition to those in the AMC Rule.

Participating States may also have a more expansive definition of AMCs.¹⁰³

¹⁰² Title XI § 1103(a)(1)(B), 12 U.S.C. 3332. AMC Rule means the interagency final rule on minimum requirements for State registration and supervision of AMCs (12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; 12 CFR 1222.20–1222.26).

¹⁰³ Title XI as amended by the Dodd-Frank Act defines “appraisal management company” to mean, in part, an external third party that oversees a network or panel of more than 15 appraisers (State certified or licensed) in a State, or 25 or more appraisers nationally (two or more States) within a given year. (12 U.S.C. 3350(11)). Title XI as amended by the Dodd-Frank Act also allows States to adopt requirements in addition to those in the AMC Rule. (12 U.S.C. 3353(b)). For example, States may decide to supervise entities that provide appraisal management services, but do not meet the

However, if a participating State has a more expansive definition of AMCs than in Title XI (thereby encompassing State regulation of AMCs that are not within the Title XI definition of AMC), the State must ensure such AMCs are identified as such in the State database, just as States currently do for non-federally recognized credentials or designations. Only those AMCs that meet the Federal definition of AMC will be eligible to be on the AMC Registry.

C. Funding and Staffing

The Dodd-Frank Act amended Title XI to require the ASC to determine whether participating States have sufficient funding and staffing to meet their Title XI requirements. Compliance with this provision requires that a State must provide its AMC Program with funding and staffing sufficient to carry out its Title XI-related duties. The ASC evaluates the sufficiency of funding and staffing as part of its review of all aspects of an AMC Program's effectiveness, including the adequacy of State boards, committees, or commissions responsible for carrying out Title XI-related duties.

D. Minimum Requirements for Registration and Supervision of AMCs as Established by the AMC Rule

1. AMC Registration and Supervision

If a State chooses to participate in the registration and supervision of AMCs in accordance with the AMC Rule, the State will be required to comply with the minimum requirements set forth in the AMC Rule. States should refer to the AMC Rule for compliance requirements¹⁰⁴ as this Policy Statement merely summarizes what the AMC Rule requires of participating States.

(a) The AMC Rule includes requirements for participating States to establish and maintain within the State appraiser certifying and licensing agency an AMC Program with the legal authority and mechanisms to:

(1) Review and approve or deny AMC initial registration 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;

size thresholds of the Title XI definition of AMC. If a State has a more expansive regulatory framework that covers entities that provide appraisal management services but do not meet the Title XI definition of AMC, the State should only submit information regarding AMCs meeting the Title XI definition to the AMC Registry.

¹⁰⁴ See footnote 102.

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

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

(6) Report an AMC's violation of 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.

(b) The AMC Rule includes requirements for participating States to impose requirements on AMCs that are not Federally regulated AMCs¹⁰⁵ 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 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) through (i) of the Truth in Lending Act, 15 U.S.C. 1639e(a) through (i), and regulations thereunder.

2. Ownership Limitations for State-Registered AMCs

A. Appraiser Certification or Licensing of Owners

An AMC subject to State registration shall not be registered by a State or included on the AMC 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 for a substantive

¹⁰⁵ "Federally regulated AMCs," meaning 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, are not required to register with the State (Title XI § 1124(c), 12 U.S.C. 3353(c)).

cause,¹⁰⁶ as determined by the State appraiser certifying and licensing agency. A State's process for review could, for example, be by questionnaire, or affidavit, or background screening, or otherwise. States must document to the file the State's method of review and the result.

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 not to have good moral character; or

(2) Fails to submit to a background investigation carried out by the State.

A State's process for review could, for example, be by questionnaire, or affidavit, or background screening, or otherwise. The ASC would expect written documentation of the State's method of review and the result.

3. Requirements for Federally Regulated AMCs

Participating States are not required to identify Federally regulated AMCs¹⁰⁷ 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.

A Federally regulated AMC shall not be included on the AMC 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 for a substantive cause, as determined by the ASC.

E. Summary of Requirements

1. Participating States must establish and maintain an AMC Program with the legal authority and mechanisms consistent with the AMC Rule.¹⁰⁸

2. Participating States must impose requirements on AMCs consistent with the AMC Rule.¹⁰⁹

3. Participating States must enforce and document ownership limitations for State-registered AMCs.¹¹⁰

¹⁰⁶ An AMC subject to State registration is not barred from being registered by a State or included on the AMC Registry of AMCs if the license or certificate of the appraiser with an ownership interest was not revoked for a substantive cause and has been reinstated by the State or States in which the appraiser was licensed or certified. (12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; 12 CFR 1222.20–1222.26).

¹⁰⁷ See footnote 105.

¹⁰⁸ 12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; 12 CFR 1222.20–1222.26.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

4. Only those AMCs that meet the Federal definition of AMC will be eligible to be on the AMC Registry. Therefore, participating States that have a more expansive definition of AMCs than in the AMC Rule must ensure such non-Federally recognized AMCs are identified as such in the State database.¹¹¹

5. States must have funding and staffing sufficient to carry out their Title XI-related duties.¹¹²

Policy Statement 9

National Registry of AMCs (AMC Registry)

A. Requirements for the AMC Registry

Title XI requires the ASC to maintain the AMC Registry of AMCs that are either registered with and subject to supervision of a participating State or are operating subsidiaries of a Federally regulated financial institution.¹¹³ Title XI further requires the States to transmit to the ASC: (1) Reports on a timely basis of supervisory activities involving AMCs, including investigations resulting in disciplinary action being taken; and (2) the registry fee as set by the ASC¹¹⁴ from AMCs that are either registered with a participating State or are Federally regulated AMCs.¹¹⁵

As with appraiser registry fees, Title XI, § 1109(a)(4)(b) requires the AMC registry fee to be collected by each participating State and transmitted to the ASC. Therefore, as with appraisers, an AMC will pay a registry fee in each participating State in which the AMC operates. As with appraisers, an AMC operating in multiple participating States will pay a registry fee in multiple States in order to be on the AMC Registry for each State.

States must notify the ASC as soon as practicable if an AMC listed on the AMC Registry is no longer registered with or operating in the State. The ASC extranet application allows States to update their AMC information directly to the AMC Registry.

B. Registry Fee and Invoicing Policies

Each State must remit to the ASC the annual registry fee, as set by the ASC, for AMCs to be listed on the AMC Registry. Requests to prorate refunds or partial-year registrations will not be granted. If a State collects multiple-year fees for multiple-years, the State may choose to remit to the ASC the total amount of the multiple-year registry fees

¹¹¹ Title XI § 1118(b), 12 U.S.C. 3347.

¹¹² *Id.*

¹¹³ Title XI § 1103(a)(6), 12 U.S.C. 3332.

¹¹⁴ Title XI § 1109(a)(4), 12 U.S.C. 3338.

¹¹⁵ Title XI § 1109(a)(3) and (4), 12 U.S.C. 3338.

or the equivalent annual fee amount. The ASC will, however, record AMCs on the AMC Registry only for the number of years for which the ASC has received payment. States must reconcile and pay registry invoices in a timely manner (45 calendar days after receipt of the invoice).

C. Reporting Requirements

State agencies must report all disciplinary action¹¹⁶ taken against an AMC to the ASC via the extranet application within 5 business days after the disciplinary action is final, as determined by State law. States not reporting via the extranet application must provide, in writing to the ASC, a description of the circumstances preventing compliance with this requirement. For the most serious disciplinary actions (e.g., any action that interrupts an AMCs ability to provide appraisal management services), the AMCs status must be changed on the AMC Registry to “inactive.” A Federally regulated AMC operating in a State must report to the State the information required to be submitted by the State to the ASC, pursuant to the ASC’s policies regarding the determination of the AMC Registry fee.

D. Access to AMC Registry Data

The ASC Web site provides free access to the public portion of the AMC Registry at *www.asc.gov*. The public portion of the AMC Registry data may be downloaded using predefined queries or user-customized applications.

Access to the full database, which includes non-public data (e.g., certain disciplinary action information), is restricted to authorized State and Federal regulatory agencies. States must designate a senior official, such as an executive director, to serve as the State’s Authorized Registry Official, and provide to the ASC, in writing, information regarding the designated Authorized Registry Official. States must ensure that the authorization information provided to the ASC is updated and accurate.

E. Summary of Requirements

1. States must reconcile and pay registry invoices in a timely manner (45 calendar days after receipt of the invoice).¹¹⁷

2. State agencies must report all disciplinary action taken against an AMC to the ASC via the extranet application within 5 business days after

the disciplinary action is final, as determined by State law.¹¹⁸

3. States not reporting via the extranet application must provide, in writing to the ASC, a description of the circumstances preventing compliance with this requirement.¹¹⁹

4. For the most serious disciplinary actions (e.g., any action that interrupts an AMC’s ability to provide appraisal management services), the AMC’s status must be changed on the AMC Registry to “inactive.”¹²⁰

5. States must notify the ASC as soon as practicable if an AMC listed on the AMC Registry is no longer registered with or operating in the State.

6. States must designate a senior official, such as an executive director, who will serve as the State’s Authorized Registry Official, and provide to the ASC, in writing, information regarding the selected Authorized Registry Official, and any individual(s) authorized to act on their behalf.¹²¹

7. States using the ASC extranet application must implement written policies to ensure that all personnel with access to the AMC Registry protect the right of access and not share the User Name or Password with anyone.¹²²

8. States must ensure the accuracy of all data submitted to the AMC Registry.¹²³

Policy Statement 10

State Agency Enforcement

A. State Agency Regulatory Program

Title XI requires the ASC to monitor the States for the purpose of determining whether the State processes complaints and completes investigations in a reasonable time period, appropriately disciplines sanctioned AMCs and maintains an effective regulatory program.¹²⁴

B. Enforcement Process

States must ensure that the system for processing and investigating complaints¹²⁵ and sanctioning AMCs is administered in a timely, effective, consistent, equitable, and well-documented¹²⁶ manner.

1. Timely Enforcement

States must process complaints against AMCs in a timely manner to

¹¹⁸ Title XI § 1118(a), 12 U.S.C. 3347.

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Id.*

¹²⁴ Title XI § 1118(a), 12 U.S.C. 3347.

¹²⁵ See Appendix B, *Glossary of Terms*, for the definition of “complaint.”

¹²⁶ See Appendix B, *Glossary of Terms*, for the definition of “well-documented.”

ensure effective supervision of AMCs. Absent special documented circumstances, final administrative decisions regarding complaints must occur within one year (12 months) of the complaint filing date. Special documented circumstances are those extenuating circumstances (fully documented) beyond the control of the State agency that delays normal processing of a complaint such as: Complaints involving a criminal investigation by a law enforcement agency when the investigative agency requests that the State refrain from proceeding; final disposition that has been appealed to a higher court; documented medical condition of the respondent; ancillary civil litigation; and complex fraud cases that involve multiple individuals and reports. Such special documented circumstances also include those periods when State rules require referral of a complaint to another State entity for review and the State agency is precluded from further processing of the complaint until it is returned. In that circumstance, the State agency should document the required referral and the time period during which the complaint was not under its control or authority.

2. Effective Enforcement

Effective enforcement requires that States investigate complaints, and if allegations are proven, take appropriate disciplinary or remedial action.

3. Consistent and Equitable Enforcement

Absent specific documented facts or considerations, substantially similar cases within a State should result in similar dispositions.

4. Well-Documented Enforcement

States must obtain and maintain sufficient relevant documentation pertaining to a matter so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations.

a. Complaint Files

Complaint files must:

- Include documentation outlining the progress of the investigation;
- include rationale for the final outcome of the case (i.e., dismissal or imposition of discipline);
- include documentation explaining any delay in processing, investigation or adjudication;
- contain documentation that all ordered or agreed upon discipline is tracked and that completion of all terms is confirmed; and
- be organized in a manner that allows understanding of the steps taken

¹¹⁶ See Appendix B, *Glossary of Terms*, for the definition of “disciplinary action.”

¹¹⁷ Title XI § 1118(a), 12 U.S.C. 3347; Title XI § 1109(a), 12 U.S.C. 3338.

throughout the complaint, investigation, and adjudicatory process.

b. Complaint Logs

States must track all complaints using a complaint log. The complaint log must record all complaints, regardless of their procedural status in the investigation and/or resolution process, including complaints pending before the State board, Office of the Attorney General, other law enforcement agencies, and/or offices of administrative hearings. The complaint log must include the following information (States are strongly encouraged to maintain this information in an electronic, sortable format):

1. Case number
2. Name of respondent
3. Actual date the complaint was received by the State
4. Source of complaint (e.g., consumer, lender, AMC, bank regulator, appraiser, hotline) or name of complainant
5. Current status of the complaint
6. Date the complaint was closed (e.g., final disposition by the administrative hearing agency, Office of the Attorney General, State AMC Program or Court of Appeals)
7. Method of disposition (e.g., dismissal, letter of warning, consent order, final order)
8. Terms of disposition (e.g., probation, fine)
9. In the case of open complaints, the most recent activity and date thereof (e.g. respondent's response to complaint received, contacted Attorney General for a status update, Board voted to offer a consent agreement)

C. Summary of Requirements

1. States must maintain relevant documentation to enable understanding of the facts and determinations in the matter and the reasons for those determinations.¹²⁷
2. States must resolve all complaints filed against appraisers within one year (12 months) of the complaint filing date, except for special documented circumstances.¹²⁸
3. States must ensure that the system for processing and investigating complaints and sanctioning AMCs is administered in an effective, consistent, equitable, and well-documented manner.¹²⁹
4. States must track complaints of alleged appraiser misconduct or wrongdoing using a complaint log.¹³⁰

5. States must appropriately document enforcement files and include rationale.¹³¹

Policy Statement 11

Statutory Implementation Period

Title XI and the AMC Rule set forth the statutory implementation period.¹³² The AMC Rule was effective on August 9, 2015. As of 36 months from that date (August 9, 2018), an AMC may not provide appraisal management services for a federally related transaction in a non-participating State unless the AMC is a Federally regulated AMC. Appraisal management services may still be provided for federally related transactions in non-participating States by individual appraisers, by AMCs that are below the minimum statutory panel size threshold, and as noted, by Federally regulated AMCs.

The ASC, with the approval of the Federal Financial Institutions Examination Council (FFIEC), may extend this statutory implementation period for an additional 12 months if the ASC makes a finding that a State has made substantial progress toward implementing a registration and supervision program for AMCs that meets the standards of Title XI.¹³³

Part C: Interim Sanctions

Policy Statement 12

Interim Sanctions

A. Authority

Title XI grants the ASC authority to impose sanctions on a State that fails to have an effective Appraiser or AMC Program.¹³⁴ The ASC may remove a State credentialed appraiser or a registered AMC from the Appraiser or AMC Registry on an interim basis, not to exceed 90 days, pending State agency action on licensing, certification, registration and disciplinary proceedings as an alternative to or in advance of a non-recognition proceeding.¹³⁵ In determining whether an Appraiser or AMC Program is effective, the ASC shall conduct an analysis as required by Title XI. An ASC Finding of Poor on the Compliance Review Report¹³⁶ issued to a State at the conclusion of an ASC Compliance Review may trigger an analysis by the ASC for potential interim sanction(s). The following provisions apply to the

exercise by the ASC of its authority to impose interim sanction(s) on State agencies.

B. Opportunity To Be Heard or Correct Conditions

The ASC shall provide the State agency with:

1. Written notice of intention to impose an interim sanction; and
2. opportunity to respond or to correct the conditions causing such notice to the State. Notice and opportunity to respond or correct the conditions shall be in accordance with section C, *Procedures*.

C. Procedures

This section prescribes the ASC's procedures which will be followed in arriving at a decision by the ASC to impose an interim sanction against a State agency.

1. Notice

The ASC shall provide a written Notice of intention to impose an interim sanction (Notice) to the State agency. The Notice shall contain the ASC's analysis as required by Title XI of the State's licensing and certification of appraisers, the registration of AMCs, the issuance of temporary licenses and certifications for appraisers, the receiving and tracking of submitted complaints against appraisers and AMCs, the investigation of complaints, and enforcement actions against appraisers and AMCs.¹³⁷ The ASC shall verify the State's date of receipt, and publish both the Notice and the State's date of receipt in the **Federal Register**.

2. State Agency Response

Within 15 days of receipt of the Notice, the State may submit a response to the ASC's Executive Director. Alternatively, a State may submit a Notice Not to Contest with the ASC's Executive Director. The filing of a Notice Not to Contest shall not constitute a waiver of the right to a judicial review of the ASC's decision, findings and conclusions. Failure to file a Response within 15 days shall constitute authorization for the ASC to find the facts to be as presented in the Notice and analysis. The ASC, for good cause shown, may permit the filing of a Response after the prescribed time.

3. Briefs, Memoranda and Statements

Within 45 days after the date of receipt by the State agency of the Notice as published in the **Federal Register**, the State agency may file with the ASC's Executive Director a written brief,

¹³¹ *Id.*

¹³² Title XI § 1124(f)(1), 12 U.S.C. 3353 and 12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; 12 CFR 1222.20–1222.26.

¹³³ Title XI § 1124(f)(2), 12 U.S.C. 3353.

¹³⁴ Title XI § 1118(a), 12 U.S.C. 3347.

¹³⁵ *Id.*

¹³⁶ See Appendix A—Compliance Review Process.

¹³⁷ Title XI § 1118(a), 12 U.S.C. 3347.

¹²⁷ Title XI § 1118(a), 12 U.S.C. 3347.

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*

memorandum or other statement providing factual data and policy and legal arguments regarding the matters set out in the Notice and analysis.

4. Oral Presentations to the ASC

Within 45 days after the date of receipt by the State agency of the Notice as published in the **Federal Register**, the State may file a request with the ASC's Executive Director to make oral presentation to the ASC. If the State has filed a request for oral presentation, the matter shall be heard within 45 days. An oral presentation shall be considered as an opportunity to offer, emphasize and clarify the facts, policies and laws concerning the proceeding, and is not a Meeting¹³⁸ of the ASC. On the appropriate date and time, the State agency will make the oral presentation before the ASC. Any ASC member may ask pertinent questions relating to the content of the oral presentation. Oral presentations will not be recorded or otherwise transcribed. Summary notes will be taken by ASC staff and made part of the record on which the ASC shall decide the matter.

5. Conduct of Interim Sanction Proceedings

(a) Written Submissions

All aspects of the proceeding shall be conducted by written submissions, with the exception of oral presentations allowed under subsection 4 above.

(b) Disqualification

An ASC member who deems himself or herself disqualified may at any time withdraw. Upon receipt of a timely and sufficient affidavit of personal bias or disqualification of such member, the ASC will rule on the matter as a part of the record.

(c) Authority of ASC Chairperson

The Chairperson of the ASC, in consultation with other members of the ASC whenever appropriate, shall have complete charge of the proceeding and shall have the duty to conduct it in a fair and impartial manner and to take all necessary action to avoid delay in the disposition of proceedings.

(d) Rules of Evidence

Except as is otherwise set forth in this section, relevant material and reliable evidence that is not unduly repetitive is admissible to the fullest extent authorized by the Administrative Procedure Act (5 U.S.C. 551–559) and other applicable law.

6. Decision of the ASC and Judicial Review

Within 90 days after the date of receipt by the State agency of the Notice as published in the **Federal Register**, or in the case of oral presentation having been granted, within 30 days after presentation, the ASC shall issue a final decision, findings and conclusions and shall publish the decision promptly in the **Federal Register**. The final decision shall be effective on issuance. The ASC's Executive Director shall ensure prompt circulation of the decision to the State agency. A final decision of the ASC is a prerequisite to seeking judicial review.

7. Computing Time

Time computation is based on business days. The date of the act, event or default from which the designated period of time begins to run is not included. The last day is included unless it is a Saturday, Sunday, or Federal holiday, in which case the period runs until the end of the next day which is not a Saturday, Sunday or Federal holiday.

8. Documents and Exhibits

Unless otherwise provided by statute, all documents, papers and exhibits filed in connection with any proceeding, other than those that may be withheld from disclosure under applicable law, shall be placed by the ASC's Executive Director in the proceeding's file and will be available for public inspection and copying.

9. Judicial Review

A decision of the ASC under this section shall be subject to judicial review. The form of proceeding for judicial review may include any applicable form of legal action,

including actions for declaratory judgments or writs of prohibitory or mandatory injunction in a court of competent jurisdiction.¹³⁹

Appendices

Appendix A—Compliance Review Process

The ASC monitors State Appraiser and AMC Programs for compliance with Title XI. The monitoring of State Programs is largely accomplished through on-site visits known as a Compliance Review (Review). A Review is conducted over a two- to four-day period, and is scheduled to coincide with a meeting of the Program's decision-making body whenever possible. ASC staff reviews the Appraiser Program and the seven compliance areas addressed in Policy Statements 1 through 7. ASC staff reviews a participating State's AMC Program and the four compliance areas addressed in Policy Statements 8 through 11. Sufficient documentation demonstrating compliance must be maintained by a State and made available for inspection during the Review. ASC staff reviews a sampling of documentation in each of the compliance areas. The sampling is intended to be representative of a State Program in its entirety.

Based on the Review, ASC staff provides the State with an ASC staff report for the Appraiser Program, and if applicable, an ASC staff report for the AMC Program, detailing preliminary findings. The State is given 60 days to respond to the ASC staff report(s). At the conclusion of the Review, a Compliance Review Report (Report) is issued to the State for the Appraiser Program, and if applicable, a Report is also issued for the AMC Program, with the ASC Finding on each Program's overall compliance, or lack thereof, with Title XI. Deficiencies resulting in non-compliance in any of the compliance areas are cited in the Report. "Areas of Concern" which potentially expose a Program to compliance issues in the future are also addressed in the Report. The ASC's final disposition is based upon the ASC staff report, the State's response and staff's recommendation.

The following chart provides an explanation of the ASC Findings and rating criteria for each ASC Finding category. The ASC Finding places particular emphasis on whether the State is maintaining an effective regulatory Program in compliance with Title XI.

ASC finding	Rating criteria	Review cycle *
Excellent	<ul style="list-style-type: none"> • State meets all Title XI mandates and complies with requirements of ASC Policy Statements. • State maintains a strong regulatory Program. • Very low risk of Program failure. 	Two-year.

¹³⁸ The proceeding is more in the nature of a Briefing not subject to open meeting requirements. The presentation is an opportunity for the State to

brief the ASC—to offer, emphasize and clarify the facts, policies and laws concerning the proceeding, and for the ASC members to ask questions.

Additional consideration is given to the fact that this stage of the proceeding is pre-decisional.

¹³⁹ 5 U.S.C. 703—*Form and venue of proceeding.*

ASC finding	Rating criteria	Review cycle *
Good	<ul style="list-style-type: none"> • State meets the majority of Title XI mandates and complies with the majority of ASC Policy Statement requirements. • Deficiencies are minor in nature. • State is adequately addressing deficiencies identified and correcting them in the normal course of business. • State maintains an effective regulatory Program. • Low risk of Program failure. 	Two-year.
Needs Improvement	<ul style="list-style-type: none"> • State does not meet all Title XI mandates and does not comply with all requirements of ASC Policy Statements. • Deficiencies are material but manageable and if not corrected in a timely manner pose a potential risk to the Program. • State may have a history of repeated deficiencies but is showing progress toward correcting deficiencies. • State regulatory Program needs improvement. • Moderate risk of Program failure. 	Two-year with additional monitoring.
Not Satisfactory	<ul style="list-style-type: none"> • State does not meet all Title XI mandates and does not comply with all requirements of ASC Policy Statements. • Deficiencies present a significant risk and if not corrected in a timely manner pose a well-defined risk to the Program. • State may have a history of repeated deficiencies and requires more supervision to ensure corrective actions are progressing. • State regulatory Program has substantial deficiencies. • Substantial risk of Program failure. 	One-year.
Poor ¹⁴⁰	<ul style="list-style-type: none"> • State does not meet Title XI mandates and does not comply with requirements of ASC Policy Statements. • Deficiencies are significant and severe, require immediate attention and if not corrected represent critical flaws in the Program. • State may have a history of repeated deficiencies and may show a lack of willingness or ability to correct deficiencies. • High risk of Program failure. 	Continuous monitoring.

*(Program history or nature of deficiency may warrant a more accelerated Review Cycle.)

The ASC has two primary Review Cycles: Two-year and one-year. Most States are scheduled on a two-year Review Cycle. States may be moved to a one-year Review Cycle if the ASC determines more frequent on-site Reviews are needed to ensure that the State maintains an effective Program. Generally, States are placed on a one-year Review Cycle because of non-compliance issues or serious areas of concerns that warrant more frequent on-site visits. Both two-year and one-year Review Cycles include a review of all aspects of the State's Program.

The ASC may conduct Follow-up Reviews and additional monitoring. A Follow-up Review focuses only on specific areas identified during the previous on-site Review. Follow-up Reviews usually occur within 6–12 months of the previous Review. In addition, as a risk management tool, ASC staff identifies State Programs that may have a significant impact on the nation's appraiser regulatory system in the event of Title XI compliance issues. For States that represent a significant percentage of the credentials on the Appraiser Registry, ASC staff performs annual on-site Priority Contact visits. The primary purpose of the Priority Contact visit is to review topical issues, evaluate regulatory compliance issues, and maintain a close working relationship with the State. This is not a complete Review of the Program. The ASC will also schedule a Priority Contact visit for a State when a specific concern is identified that requires special attention. Additional monitoring may

be required where a deficiency is identified and reports on required or agreed upon corrective actions are required monthly or quarterly. Additional monitoring may include on-site monitoring as well as off-site monitoring.

Appendix B—Glossary of Terms

Appraisal management company (AMC): Refers to, in connection with valuing properties collateralizing mortgage loans or mortgages incorporated into a securitization, any external third party authorized either 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, 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—

- (A) To recruit, select, and retain appraisers;
- (B) to contract with licensed and certified appraisers to perform appraisal assignments;
- (C) to manage 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 underwriters, collecting fees from creditors and underwriters for services provided, and reimbursing appraisers for services performed; or
- (D) to review and verify the work of appraisers.

AQB Criteria: Refers to the *Real Property Appraiser Qualification Criteria* as established by the Appraiser Qualifications Board of the Appraisal Foundation setting forth minimum education, experience and examination requirements for the licensure

and certification of real property appraisers, and minimum requirements for “Trainee” and “Supervisory” appraisers.

Assignment: As referenced herein, for purposes of temporary practice, “assignment” means one or more real estate appraisals and written appraisal report(s) covered by a single contractual agreement.

Complaint: As referenced herein, any document filed with, received by, or serving as the basis for possible inquiry by the State agency regarding alleged violation of Title XI, Federal or State law or regulation, or USPAP by a credentialed appraiser or appraiser applicant, for allegations of unlicensed appraisal activity, or complaints involving AMCs. A complaint may be in the form of a referral, letter of inquiry, or other document alleging misconduct or wrongdoing.

Credentialed appraisers: Refers to State licensed, certified residential or certified general appraiser classifications.

Disciplinary action: As referenced herein, corrective or punitive action taken by or on behalf of a State agency which may be formal or informal, or may be consensual or involuntary, resulting in any of the following:

- a. Revocation of credential or registration
- b. suspension of credential or registration
- c. written consent agreements, orders or reprimands
- d. probation or any other restriction on the use of a credential
- e. fine
- f. voluntary surrender¹⁴¹

¹⁴⁰ An ASC Finding of “Poor” may result in significant consequences to the State. See Policy Statement 5, *Reciprocity*; see also Policy Statement 12, *Interim Sanctions*.

¹⁴¹ A voluntary surrender that is not deemed disciplinary by State law or regulation, or is not related to any disciplinary process need not be reported as discipline provided the individual's

g. other acts as defined by State statute or regulation as disciplinary

With the exception of voluntary surrender, suspension or revocation, such action may be exempt from reporting to the National Registry if defined by State statute, regulation or written policy as "non-disciplinary."

Federally related transaction: Refers to any real estate related financial transaction which:

(a) A federal financial institutions regulatory agency engages in, contracts for, or regulates; and

(b) requires the services of an appraiser. (See Title XI § 1121(4), 12 U.S.C. 3350.)

Federal financial institutions regulatory agencies: Refers to the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the National Credit Union Administration. (See Title XI § 1121(6), 12 U.S.C. 3350.)

Home State agency: As referenced herein, State agency or agencies that grant an appraiser a licensed or certified credential. Residency in the home State is not required. Appraisers may have more than one home State agency.

Non-federally recognized credentials or designations: Refers to any State appraiser credential or designation other than trainee, State licensed, certified residential or certified general classifications as defined in Policy Statement 1, and which is not recognized by Title XI.

Real estate related financial transaction: Any transaction involving:

(a) The sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof;

(b) the refinancing of real property or interests in real property; and

(c) the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities. (See Title XI § 1121(5), 12 U.S.C. 3350.)

State: Any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, and the United States Virgin Islands. (American Samoa does not have a Program).

State board: As referenced herein, "State board" means a group of individuals (usually appraisers, AMC representatives, bankers, consumers, and/or real estate professionals) appointed by the Governor or a similarly positioned State official to assist or oversee State Programs. A State agency may be headed by a board, commission or an individual.

Uniform Standards of Professional Appraisal Practice (USPAP): Refers to appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation establishing minimum requirements for development and reporting of appraisals, including real property appraisal. Title XI requires appraisals prepared by State certified and licensed appraisers to be performed in conformance with USPAP.

Well-documented: Means that States obtain and maintain sufficient relevant

Appraiser Registry record is updated to show the credential is inactive.

documentation pertaining to a matter so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations.

* * * * *

By the Appraisal Subcommittee.

Dated: January 3, 2017.

Arthur Lindo,
Chairman.

[FR Doc. 2017-00262 Filed 1-9-17; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 3, 2017.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528. Comments can also be sent electronically to

Comments.applications@rich.frb.org:

1. **Bay Banks of Virginia, Inc.**, Kilmarnock, Virginia, to acquire 100 percent of the voting securities of Virginia BanCorp, Inc., Petersburg, Virginia, and thereby indirectly acquire

Virginia Commonwealth Bank, Petersburg, Virginia.

Board of Governors of the Federal Reserve System, January 4, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017-00176 Filed 1-9-17; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice for comment regarding the Federal Reserve proposal to extend without revision, the clearance under the Paperwork Reduction Act for the following information collection activity.

SUMMARY: The Board of Governors of the Federal Reserve System (Board or Federal Reserve) invites comment on a proposal to extend for three years, without revision, the Registration of Mortgage Loan Originators.

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

DATES: Comments must be submitted on or before March 13, 2017.

ADDRESSES: You may submit comments, identified by *CFPB Reg G*, by any of the following methods:

- **Agency Web site:** <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/apps/foia/proposedregs.aspx>.

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

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

- **FAX:** (202) 452-3819 or (202) 452-3102.

- **Mail:** Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and

CERTIFICATE OF SERVICE

I hereby certify that on February 6, 2018, I filed the foregoing document electronically using the FTC's E-Filing System and served the following via email:

Donald S. Clark
Secretary
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-113
Washington, DC 20580
ElectronicFilings@ftc.gov

The Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-110
Washington, DC 20580

I also certify that I delivered via electronic mail a copy of the foregoing document to:

W. Stephen Cannon
Constantine Cannon LLP
1001 Pennsylvania Avenue, NW
Suite 1300N
Washington, DC 20004
scannon@constantinecannon.com

Counsel for Respondent Louisiana Real Estate Appraisers Board.

Dated: February 6, 2018

By: /s/ Geoffrey M. Green
Geoffrey M. Green, Attorney

CERTIFICATE FOR ELECTRONIC FILING

I certify that the electronic copy sent to the Secretary of the Commission is a true and correct copy of the paper original and that I possess a paper original of the signed document that is available for review by the parties and the adjudicator.

Date: February 6, 2018

By: /s/ Geoffrey M. Green
Geoffrey M. Green, Attorney